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`Security environment in the East Asian sea areas from a European point of view`

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INTRODUCTION

The SCS is not only geographically but also in terms of political awareness rather far away from Europe which has been preoccupied with the integration of Eastern Europe, the search for a *modus vivendi* with Russia, its involvement in the Middle East particularly since December 2010, and last but not least the management of the Euro crisis. The only active security involvement in Asia has been the NATO-led ISAF (International Security Assistance Forces) involvement in Afghanistan. More relevant to our subject of the SCS is that Britain has been a member state since the 1970s in the Five Power Defence Arrangement (FPDA), together with Australia and New Zealand as well as the two littoral countries of the ECS, Malaysia and Singapore. As a result of the Shangri La Dialogue, the member states decided to include in their maritime activities also non-conventional security threats, including maritime terrorism. The first FDPDA exercise involving a counter-terrorism dimension took place in 2005 (Hong 2009, p. 44). The EU is also since the beginning a member of the ASEAN Regional Forum which also deliberates security issues pertaining to the SCS. The EU was e.g. one of the participants in ASEAN's first Voluntary Demonstration of Response (VDR) exercise in the Philippines. The EU provided assets for it which was set up as a response to the devastation of a major typhoon (East Asian Strategic Review 2010 p. 167).

This contribution looks first at European interests in the SCS and how major issues and developments in the ECS impact these interests. The issues range from the safety of sea lanes, the ecology of the SCS and the impact of the changing strategic balance on the EU's allies and partners. In the case of piracy and the safety of the Malacca and Singapore Straits the

EU is very concretely involved. However, it makes also a substantial contribution to the security and welfare of the SCS in a more indirect way as a major shaper and supporter of international norms.

European interests in the South China Sea

European states had been actively involved in areas around the SCS for several hundreds of years, starting with the arrival of the Portuguese and the Spaniards in the 16th century. As a result of imperialism, France and Britain became also involved in the Spratlys and Paracel islands. Interestingly, and to cut a long and convoluted story short, as of 2005 'neither Britain nor France seems to have officially abandoned their claim in the Spratlys, although no one expects them to pursue it'. (Tonnesson 2006, p. 56).

These claims are today only relevant as legal history. However, Europe as part of the globalised world shares concern about many other issues and developments in the SCS area:

- Safety of sea lanes of communications: Legal uncertainties, unclear delimitation of sea borders, rising maritime armament efforts etc do concern Europe if they endanger sea-based trade or overflight rights. The proper policing of any sea area has increasingly become important in an age of terrorism and piracy. The challenge of the Indian warship *Airavat* on its way from Vietnam to India by the Chinese side in the SCS was noted in the European press with considerable concern about the true intentions of China concerning the freedom of the SLOCs in the SCS (*Financial Times* 1 September 2011). Although it was only a radio contact and no confrontation ensued, an expert of the Chinese Navy declared that 'China has indisputable sovereignty over the South China Sea islands and adjacent waters, and that any foreign warship sailing through the area is not in accordance with international law' (<http://www.globaltimes.cn/NEWS/tabid/99/ID/673749/China-India-deny-naval-confrontation.aspx>).
- The ecological balance as a common good is important to Europe. Fishing resources have to be properly managed and be accessible

Access to hydrocarbon resources and other raw materials, particularly in an age of incipient seabed mining which is managed by the International Seabed Authority (ISA) established under UNCLOS (ratified by China in 1996). China concluded its first exploration contract for polymetallic nodules in the northeast Pacific Ocean with ISA in 2001 and its first application for polymetallic sulphide exploration in the Indian Ocean was approved in July 2011. The latter is seen with considerable concern by the Indian military and by environmentalists (<http://www.orfonline.org/cms/sites/orfonline/html/chnwkrp/cwr37.html>).

However, it has been reported that Western oil companies interested in oil exploration with PetroVietnam, including BP, have been pressured by China not to proceed (Clive Schofield and Ian Storey 'The South China Sea Dispute: Increasing Stakes and Rising Tensions' Jamestown Foundation, Nov 2009, p 39).

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- Impact of the strategic balance on Europe's allies and partners which is in the first instance the US, Japan and South Korea, but also the other littoral states of the SCS which are increasingly important as EU trade partners. Some of these countries are also recipients of EU arms exports. France is e.g. selling to Malaysia 2 Scorpene SSKs, and Brunei patrol boats from Germany (Jane's Naval Construction and Retrofit Markets 11 February 2010, in: <http://articles.janes.com/articles/Janes-Naval-Construction-and-Retrofit-Markets/Brunei-Brunei.html>). Singapore has acquired four old Swedish Challenger class submarines, its first ever submarines, and adding two newer A-17 submarines.

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Any European consideration of China-related issues in the SCS is influenced by apparently two juxtaposed interests: on the one hand is the safety of sea lanes of communication (as well as the other above mentioned issues), and on the other hand the growing trade relationship with China. China's growing importance for Europe's immediate neighboring regions – the Middle East and Africa – will increasingly mediate Europe's position on the SCS. Most recently China has also become a non-negligible actor in helping with the Euro crisis, further conditioning Europe's stance on the growing tensions in the SCS. In sum Europe's position on the ECS as well

as other issues in East Asia with a Chinese component like Taiwan, North Korea, Central Asia, Pakistan is to some extent a dependent variable of the European-Chinese relationship. The result is a policy which recommends to all concerned SCS states to find a peaceful solution and apply the international law of the sea. A policy at EU level is not only hampered by the diverse levels of interest but also by the weak foreign policy apparatus and leadership of the incipient EU foreign policy.

The most important problem in the SCS is the dispute among some of the littoral states over sovereignty and sea borders. This has potentially a direct impact on European interests as mentioned above. However, it is well known that China refuses any multilateral discussions of the territorial disputes in the SCS in order to gain greater leverage over the various Asian claimants. As a result the dispute could not be addressed in ASEAN institutions where China is a member. Moreover the disputes are not dealt with in the multilateral meetings of the ASEAN Post-Ministerial Conferences (PMC). This also is the case for ASEM and ARF where Europe is a member.

Europe has recently become aware of China's rising naval capabilities and an accelerating naval arms modernization in Southeast Asia in reaction to this development (Rahman/Tsamenyi 2010, p. 319). The evacuation of 30,000 Chinese workers from Libya earlier in 2011 did not only demonstrate to the Europeans how much China is already involved in what some Europeans still consider Europe's back garden, but it also made European observers of China aware of the growing deployment abilities of the Chinese navy. Other eye opening events of China's growing naval power and its projection capabilities have been the PLAN's participation in the anti-piracy operations in the Gulf of Aden alongside though separately from EU forces and the Chinese official announcement in 2011 to build several aircraft carriers.

Anti-piracy

One problem which directly also concern the European countries is piracy which has become a considerable challenge to international sea trade. The

problem is most acute in the Gulf of Aden and along the East African coast. In response to this threat so close to Europe the EU has become involved in the anti-piracy operation in that area. Clearly this is the geographic area of greatest concern for Europe today. But European involvement in anti-piracy has also occurred in the ECS although as a result of the improved regional cooperation the situation has improved: Several European states have become members of the Cooperative Mechanism which was established in 2007 at the initiative the IMO for the safety of the Straits area. It brings together the littoral states of the Straits, the user states and the skippers. Australia, US, Germany, Japan, India, South Korea, the UK, Greece and the UAE are all supporting it. The key pillars of the Cooperative Mechanism has been in 2011 the fourth Cooperation Forum, in Malaysia on 10 and 11 October 2011, the fourth Project Coordination Committee Meeting, in Malaysia on 12 October 2011, and the seventh Aids to Navigation Fund Committee Meeting, in Malaysia on 17 and 18 October 2011. Most important is the Information Sharing Centre of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, based in Singapore. Norway and the Netherlands are member of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) which was established under the aegis of the International Maritime Organisation (Email from the German Foreign Ministry 31 January 2012).

The German government launched in 2011 an investigation into the possibility of licensing private security forces to be deployed on German ships (<http://www.tagesschau.de/inland/piraten482.html>). However, this would require the change of several domestic laws and the responsible ministeries have now agreed on how to licence such private security agents. It is expected that by summer this year a bill can be submitted to the German parliament (http://www.maritimesecurity.eu/fileadmin/content/news_events/newsletters/Newsletter_PiraT_30_01-2012_de.pdf). The EU Commission in Brussels as well as the International Maritime Union in London declared that the deployment of private security forces was is up to the individual member states (<http://af.reuters.com/article/topNews/idAFJOE77M0K120110823?pageNu>

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Other EU contributions

The EU member states individually as well as through the EU make also a substantial contribution to the welfare and thus stability of the ESC region through their development aid for economic as well as political development. Strengthening ASEAN is a key policy of the EU. German foundations close to the various German political parties like the Konrad Adenauer Stiftung or the Friedrich Ebert Stiftung are all represented with offices in the region. The German Agency for Cooperation (GIZ) is currently conducting a 5-year programme to promote regional cooperation between China and several adjacent subregions, including the Panbeibu region which encompasses three provinces of China (Guangxi, Guandong, Hainan), Vietnam, Malaysia, Singapore, Indonesia, the Philippines, Thailand and Brunei. The aim are practical steps towards economic cooperation through the development of transport logistics, border trade facilitation, port cooperation etc.

The ASEAN Regional Forum is for the EU the most important forum to discuss the freedom and security of navigation. The EU has particularly made contributions in ARF seminars on confidence-building measures, post disaster needs assessments or the security implications of climate change and encourages ARF to learn from the experience of the Organisation for Security and Cooperation in Europe.

The EU has developed considerable normative power as a result of its concentration of economic power and political and economic integration. Whereas this normative power is in the first instance globally felt as the EU's ability to set industrial and product standards, it also influences the strength of international norms in the political sphere. Without strong EU support any international norm would either not be established or existing norms would be weakened and hollowed out. In our context it is therefore extremely important that the EU strongly supports the UN Convention of the Law of the Sea, and the resolution of territorial disputes in accordance with international law through peaceful and cooperative solutions. This

support is given through the EU's adherence to international law, the incantation of the principles of international law, its own example of the application of international law (e.g. use of international arbitration to resolve the delimitation of the EEZ in the North Sea), and the participation in international activities to create the conditions for the implementation of international norms. Through its own integration efforts, the harmonization of European national norms and the pooling of national sovereignty the EU has become a standard for what is possible in international cooperation. While the EU example may not be transferable in its entirety, nothing prevents other states and organizations to cherry-pick from the vast array of the EU experience. In the context of the ECS, the EU's experience of organizing fishing while protecting fishing resources would certainly provide some useful information how to go about this issue in the ECS where millions of people depend on fishing for food and employment.

As mentioned above China opposes any internationalization of the territorial disputes in the ECS. Nevertheless, there is the possibility that the EU could help as a go-between. Such a proposal was e.g. made in November 2011 by Philippe van Amersfoort, the deputy head of the European External Action Service's Southeast Asia Division (<http://www.philstar.com/Article.aspx?articleId=751783&publicationSubCategoryId=63>). I do not know to what extent this was backed by the EU Council of Foreign Ministers and what was the follow-up, but it gives an indication in principle of what the EU could do.

Conclusions

Without any doubt the stability and welfare of the SCS has a direct impact on the interests of the EU. The main issues and developments are the stability and safety of the maritime transport corridors, access to the natural resources and hydrocarbon resources of the ESC, and the impact of the strategic balance shifts on the EU's allies and partners. These interests and concerns keep growing with the rise of China and the economic development of the whole region. Europe is contributing in many different ways to promote the stability, economic development, and ability for the peaceful resolution of conflicts in the region. While a direct involvement in

the resolution of territorial conflicts seems difficult in view of China's opposition to multilateral approaches, the EU is contributing to the creation of an environment more amenable to peaceful conflict resolution by actively upholding and supporting relevant international norms and international law. However, the EU is still predominantly in the position of an 'observer' (F.E.Stiftung 2011, p. 3)

EU member states as well as the EU could contribute even more to a better acceptance of UNCLOS and particularly of international arbitration by holding more seminars and providing more internships for Asian academics and practitioners. The International Tribunal for the Law of the Sea (ITLOS) in Hamburg organizes such seminars, capacity building and internships (<http://www.itlos.org/index.php?id=29&L=0>). The work of the Organisation for Security and Cooperation in Europe should also offer more learning opportunities to Asians since it has valuable lessons to offer on international approaches to cross-border problems and conflict resolution among rather diverse countries.

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