Foreign Policy Tools in the South China Sea Confrontation

Noah Coco

7 December 2018

China’s relative economic and military power in the international system have rapidly increased in the past few decades. One manner in which this power has been manifested is in China’s greater assertion of military capabilities in the South China Sea. China has increased its military presence and made territorial claims to islands in the region within the nine-dashed line, a region that China claims has historically been Chinese sovereign territory. These actions have led to territorial disputes with neighboring countries in the region to the southeast over islands like the Spratly Islands or Scarborough Shoals, as well as over general conduct in international waters. China has also been constructing its own artificial islands in the region, a practice contested by the United States and neighboring nations. China’s presence threatens the historical U.S. military predominance in the region. The U.S. has defended the sea route to maintain its economic interests in the region as a major shipping lane for international trade. The emergence of Chinese military power as a rival to U.S. and regional military and security forces naturally makes the South China Sea a point of contention for all of these nations. Each respective side has foreign policy tools at its disposal to influence the outcome in their favor. The purpose of this paper is to identify four of these policy tools and discuss their effectiveness within the context of the South China Sea dispute. The four policy tools that will be discussed can be summarized by upholding international law, renewing a transpacific trade/investment deal, and committing to security alliances on the part of the U.S. China has a policy tool of pursuing bilateral negotiations with neighboring states it is in dispute with.

The first foreign policy tool that is available to the U.S. to curb Chinese military assertions in the region is to facilitate the arbitration of territorial disputes and reaffirm existing international law concerning maritime and territorial disputes. The primary feature of international law that dictates behavior in this situation is the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS articulates the rights and responsibilities of nations regarding their use of the world’s oceans. It articulates that country’s have sovereign rights within 12 nautical miles from the coast and control of economic activities up to 200 nautical miles from its coast. These regulations define sovereign territory around national lands, so China’s right to conduct activities within the nine-dash line only holds to the extent that they can confirm their disputed territorial assertions in the region.[1] Otherwise, they are interfering with the sovereign rights of other nations. The United States can encourage and support claims against China from nations in Southeast Asia like the Philippines and Malaysia under UNCLOS. This soft power action would uphold the validity of international law in these maritime disputes. This would provide an opportunity to contest China’s dubious territorial claims and defend national sovereignty of neighboring countries. Weakened Chinese claims over the South China Sea would strengthen the United States’ role in the region as the benevolent military power acting in accordance with international law.

This policy option was already attempted when officials from the Philippines took a claim against China to an international tribunal in the Hague in 2013.[2] The Philippines filed a complaint that China took control of a reef at Scarborough Shoal about 140 miles from the coast of the Philippines. They also cited in their complaint China’s claim to sovereignty within the nine-dash line, and their practice of building artificial islands in the South China Sea within Philippine waters. The tribunal overwhelmingly ruled in favor of the Philippines that China had no legal claim to territory within the nine-dash line and illegally constructed islands within Philippine waters. China, however, rejected this conclusion and announced it would not abide by the ruling.[3] The weakness of this foreign policy tool is that it carries no enforcement mechanism, so China can react in this manner without legal consequences. China’s behavior in the region has remained relatively unchanged since the decision in 2016. The strength of this tool, however, is that it gives the United States and other nations in the region a legitimate claim against China that is backed by an international institution and a treaty that China even signed. This does not necessarily ease tensions in the region, but it strengthens the United States relative to China.

The second foreign policy tool that is available to the United States in countering the power of China in the region is economic in nature. The Trans-Pacific Partnership (TPP) was a multilateral free trade deal between Pacific countries that excluded China. It would have been the largest free trade deal in the world encompassing 40% of the global economy. The commitment to the TPP was reaffirmed by President Obama as a facet of his “Pivot to Asia” policy. As a trade deal that did not include China, the TPP would have been an effective foreign policy tool that the United States could have used to reaffirm its economic interests in the region and its commitment to regional partners. However, President Donald Trump withdrew from the TTP in 2017.[4]

The United States could renew negotiations for a trade deal similar in structure to the TPP. This is not an argument for the merits of the specific details of such an agreement, but it is an argument for the impact reaching an agreement at all would produce. A multilateral trans-Pacific deal that included the United States and China’s regional neighbors would reaffirm the United States’ interests in the region. It would serve as a sign to its Pacific partners that it still had strategic interests in the region and was committed to engaging with its partners.[5] This multilateral deal could strengthen the position of China’s regional neighbors in partnership with the United States against China. It could connect an association of nations capable of challenging China’s rise. As an economic tool, this certainly would not challenge China’s military presence in the region; however, it would reaffirm the collective economic interests that binds the United States to the region and provide further benefit in the political environment through the multilateral partnership.

In the absence of such a multilateral agreement, China has its own foreign policy tool available: pursuing bilateral negotiations with aggrieved nations. Bilateral negotiations allow China to prevent multilateral action in the region. This benefits China because it can exploit relative power asymmetries to command the negotiations. A unified and multilateral challenge to China reduces China’s bargaining power and decreases the relative power differential. This does not mean that China will not offer concessions in its bilateral negotiations. Rather, China can offer concessions on its own terms, and often in ways that still benefit its own actors. For instance, a bilateral negotiation between China and Malaysia can result in Malaysia abandoning or toning down its complaints against China’s territorial and military assertions in the region in exchange for trade or investment deals. This hypothetical facilitation of greater trade or investment flows between the countries would allow China to also receive greater access to their markets.

This is an extremely effective tool because it allows China to use its power to negotiate deals that benefit themselves and their negotiating partner and prevent multilateral challenges to its military and territorial assertions. It also discourages countries from filing complaints against China through the UN and international institutions that could yield more normative challenges against China’s behavior. Finally, it is also in the interests of the negotiating countries to reach an agreement because of the concessions that China would be willing to offer in exchange. This gives China a strong bargaining position, which will contribute to stronger and legitimized regional assertions of power. China has, in fact, begun to employ this strategy. Following the tribunal decision on the Philippines, China began negotiations directly with the Philippines and encouraged other countries to pursue the same route. Vietnam, Malaysia, and Brunei have similar complaints against China’s activities in the South China Sea, but China has encouraged bilateral actions to resolve each nation’s respective complaint. For instance, China agreed with Vietnam to “‘properly manage’ their differences over territorial disputes in the South China Sea and ‘safeguard stability.’”[6] The two countries signed an agreement on trade, infrastructure, and education that would benefit both nations. Through these actions China is creating peace and stability in the region without the United States playing a role. The only role left to play by the United States in this context is military actions.

Military actions constitute the fourth foreign policy tool that can be used in the dispute over the South China Sea. Both the United States and China have several military foreign policy options, but only one of the United States’ options will be discussed in this paper. The United States could credibly communicate its resolve by committing to existing alliance partners in the region.[7] The two nations most relevant to this context are the Philippines and Japan who are in dispute with China over Chinese claims to territories in the Senkaku islands (Japan) and the Spratly Islands (Philippines). The United States could publicly announce its commitments to its allies in the event of Chinese military adventurism in disputed territories. This would signal the United States’ resolve regarding military confrontations. However, the United States must also be prepared to back those announcements with credible actions. This can be done by increasing the number of joint military exercises conducted with regional allies.

This hard policy tool can be very effective if the United States can credibly commit to its allies. The United States has the most powerful military and Navy in the world. Considering China also has a formidable fleet, the costs of any open conflict would be too severe to both sides to consider. Rather than increase military tensions in the region, this behavior could actually decrease hostilities. If the United States makes a credible commitment, it will be clear where it stands on issues of Chinese power assertions, and the Chinese will not test those limits and risk open conflict. Instead, if both military positions and capabilities are clearly defined, and firm resolves are credibly communicated, this could foster stability in the region and open the possibility of diplomatic resolutions to negotiate the future rebalancing of power in the region.

Each of these policy tools have strengths and limitations in positioning the major powers in the South China Sea confrontation. The tools are also not mutually exclusive or exclusive to one actor. For instance, China could pursue a multilateral trade deal or military exercises, just as the United States can. However, this paper has argued for tools that would seem to be most effective if conducted by the respective nation, and they often reflect actual foreign policy decisions that have been employed to date. None of these tools alone can resolve the confrontation because it is fundamentally about the rising Chinese power challenging the predominance the United States has enjoyed in the region. However, any of these tools, exercised effectively, could posture one or both of the nations to dictate negotiations that could lead to a longer term resolution.

[1] Black, Ben. "The South China Sea Disputes: A Clash of International Law and Historical Claims." Journal of Law and International Affairs. March 22, 2018. Accessed December 07, 2018. https://sites.psu.edu/jlia/the-south-china-sea-disputes-a-clash-of-international-law-and-historical-claims/.

[2] Perlez, Jane. "Tribunal Rejects Beijing's Claims in South China Sea." The New York Times. July 12, 2016. Accessed December 07, 2018. https://www.nytimes.com/2016/07/13/world/asia/south-china-sea-hague-ruling-philippines.html?\_r=0.

[3] Perlez, Jane. "Philippines v. China: Q. and A. on South China Sea Case." The New York Times. July 10, 2016. Accessed December 07, 2018. https://www.nytimes.com/2016/07/11/world/asia/south-china-sea-philippines-hague.html.

[4] "What Is the Trans-Pacific Partnership (TPP)?" Council on Foreign Relations. Accessed December 07, 2018. https://www.cfr.org/backgrounder/what-trans-pacific-partnership-tpp.

[5] Frasure, William G. "The Best US Response to the South China Sea Case? Ratify TPP." The Diplomat. July 15, 2016. Accessed December 07, 2018. https://thediplomat.com/2016/07/the-best-us-response-to-the-south-china-sea-case-ratify-tpp/.

[6] "China Pleads with Vietnam, Malaysia and Brunei to Resolve South China Sea Issues Bilaterally." The Economic Times. July 12, 2018. Accessed December 07, 2018. https://economictimes.indiatimes.com/news/defence/china-pleads-with-vietnam-malaysia-and-brunei-to-resolve-south-china-sea-issues-bilaterally/articleshow/54312000.cms.

[7] O'Hanlon, Michael E., and James Steinberg. "Don't Be a Menace to South (China Sea)." Brookings.edu. July 28, 2016. Accessed December 07, 2018. https://www.brookings.edu/opinions/dont-be-a-menace-to-south-china-sea/.