Extending Domestic Governance Over the Seas

*China’s State Oceanic Administration*

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“China is establishing itself as a maritime strong power (海洋强国 Haiyang qiangguo) at a time when forces of multipolarization and economic globalization are being reinforced in the world, and also when peace, development and cooperation are still the existing trends. We must ... learn from historical experiences, avoid the war model of rising powers, make use of the trends of multipolarization and globalization, ... break down various containments and constraints, and realize the strategic aim of becoming a maritime strong power with relatively small costs...”

(China’s Ocean Development Report, 2014, p. 323)
Introduction

In 2012, contestations by East Asian countries over isolated islands were widely reported in the world. Most media called them territorial disputes, but if we focus on China as the main actor of the issue, it is more accurate to recognize them as maritime disputes. China claims the area inside of a nine-dashed line in the South China Sea as its “historical water.” She also claims most of the East China Sea, but through a different logic—saying China holds sovereign rights over all of the “continental shelf” up to the Okinawa Trough, a ditch that runs right along the Ryukyu Islands. It should be noted that China, after two decades of silence, resumed advertising domestically that she has held sovereignty over the “Diaoyu Dao” (Senkaku Islands) since 1996, the same year she ratified the United Nations Convention on the Law of the Sea (UNCLOS). However, if Japan legitimately owns the Senkaku Islands, the territory that sits on the “continental shelf” claimed by China, Chinese logic does not stand.

In 1982, General Liu Huaqing of China proposed the strategy of “offshore defense” and drew a line through the Kurile Islands, Japan and the Ryukyu Islands, Taiwan, the Philippines, Borneo, and Natuna Besar. He set the year 2000 as the goal for establishing Chinese control inside this “First Island Chain.” The current waters China claims are essentially following the strategic plan that General Liu suggested.

However, the People’s Liberation Army Navy (PLAN) is not the only force that is active in China’s maritime expansion. In fact, to minimize costs, China has been taking various actions to reduce the possibility of a clash with the United States. Taking advantage of American passiveness to intervene in territorial disputes in Asia, China has been trying to expand its area of actual control by extending domestic governance over the seas. Over the last decade, the State Oceanic Administration (SOA) under the State Council, along with its maritime law-enforcement body, has assumed more responsibility in the oceanic administration and developed a clearer division of labor within PLAN.

To understand the nature of China’s maritime expansion, this paper will first examine Chinese understanding of maritime zones and how this differs from that of other countries. Then, it will trace the organizational history of the SOA based on its publications and based on observations from Japan in order to extract some characteristics of the SOA’s behavior toward the sea.

State Oceanic Administration’s Expandable Zones

Japanese scholar Shigeo Hiramatsu has pointed out that China has a different understanding of borders than the Westphalian international system developed in Europe. In 1987, the People’s Liberation Army (PLA) raised the idea of “strategic periphery” during the discussion of its own restructuring. Strategic periphery is defined as “the limitation of geographical extent where one country’s military power effectively controls, and where it is related to the country’s national interests.” In contrast to the internationally recognized geographical borders surrounding territory and territorial waters, the strategic periphery can expand and contract depending on the state’s comprehensive national power. The PLA
underlined the importance of defending and expanding its strategic periphery further than the geographical border so that China can secure enough space for national survival. However, continental borders have been set under the existing international order, and there was not much room for expansion. Naturally, Chinese efforts turned to maritime borders. Within the next year, China forcibly took over six Spratly islands in the South China Sea from Vietnam.

In international law, Exclusive Economic Zones (EEZs) and continental shelves are very different from territorial waters where coastal states hold sovereign rights. However, China has been trying to emphasize coastal state’s rights over its EEZs and continental shelves, and often refers to those waters as “blue territory” or “sub-territory” of China together with its territorial waters. That is to say, Chinese understanding throughout those waters is very inflexible, regardless of clear differences defined in international law.

Let us take a look at China’s neighboring maritime environment. There is no disputed island in the Yellow Sea, a body of water surrounded by China and the two Koreas. However, the demarcation of territorial waters and EEZs (including the area surrounding Socotra Rock between Jeju Island and Shanghai) has yet to be established among those countries. China has claimed a large area there, but in this case, Beijing seeks to avoid discussing geological formations in the sea such as the shape of continental shelf because these conditions are more advantageous for Koreans.

Recently, leading Chinese scholars in international law have claimed that the nine-dashed line in the South China Sea represents Chinese historical rights. However, since no parties have solid administrative proof of those islands from the past, the territorial and maritime disputes are complicated and far from being solved.

The status of East China Sea, where China is in a de-facto dispute with Japan, falls somewhere between statuses of the South China Sea and the Yellow Sea. As mentioned above, China is reluctant to share the sea equally with Japan and uses its claim to the continental shelf to demand most of the area. Regardless of the situational variations in the seas surrounding China, the SOA claims that all of these areas are “jurisdiction waters”—areas where China can implement semi-exclusive sovereignty.

More than half of Chinese EEZs (perhaps including continental shelves and historical waters) are said to be in disputes with foreign parties. Thanks to her increased national power, China is now trying to extend domestic governance further into the disputed waters and expand her effective control by rapidly strengthening the SOA and its paramilitary force. Currently, the SOA document gives leeway for China to take over more islands militarily. There is no doubt that China sees her actual jurisdictional waters as expandable depending on her perception of national strength.

China emphasizes the importance of defending the rights and interests of its waters, not only for economic purposes but also for strategic purposes—as if they truly are territorial waters. China also sees the status of these areas as unsettled in international law, and believes it is still permissible to prohibit the operations of the foreign military vessels in such waters in the future. When it comes to the administration of these waters, it is the SOA—not the PLAN—that plays a key role in Chinese reinforcement efforts.
Ratification of United Nations Convention on the Law of the Sea (UNCLOS) and the Development of SOA

Under the United Nations Convention on the Law of the Sea (UNCLOS), nations shore up their rights and responsibilities to waters and resources. As such, it was natural for China to pursue gains under this new framework. But the problem was that she neglected that neighboring countries also had interests that needed to be mutually respected. In the case of Japan, tensions have been rising since the 1990s over the East China Sea. In 1992, China established the “Law on the Territorial Sea and Contiguous Zone,” and specified “Diaoyu Dao,” along with the Paracel and the Spratly Islands, as a part of its territory for the first time in its history. With this law, China created its own domestic legal justification for taking various administrative measures over the islands despite not having any effective control of the islands. With this move, China was clearly focusing on the territorial issue again (it had been off the table since the late 1970s, after China began to claim the islands for the first time in December 1971). When the 14th Congress of the Communist Party of China (CPC) was held in October 1992, General Secretary Jiang Zemin stated in his report that "protecting maritime rights and interests" was one of the responsibilities of the military.

The SOA was established in July 1964 under the direct control of the State Council. After being affiliated with the PLA Navy for ten years in the 1970s, SOA was placed again under the State Council and was put under the control of the National Science Commission in the fall of 1980. During this time, its major task was to carry out scientific research related to the ocean. Starting in 1994, Chinese research vessels belonging to the SOA were observed in "the surrounding water of Japan," conducting research activities. A few approached Japanese territorial waters around the Senkakus as well. Japan gradually became concerned that the China was unilaterally conducting dubious research activity in the contested EEZs in the East China Sea.

When China and Japan ratified UNCLOS almost simultaneously in 1996, Japan was optimistic about demarcating the surrounding waters through negotiations. Since the East China Sea is less than 400 nautical miles in width, Japan expected it to be divided equally by the median line. This idea proved to be unrealistic by the tough attitude of the Chinese, who claimed all the water west of the Okinawa Trough, including the Senkakus. In early 1996, China carried out large military exercises and launched missiles over the Taiwan Strait to put pressure on the first direct presidential election in Taiwan. After being restrained by the U.S. aircraft carriers dispatched to the Taiwan Strait, China began to realize the importance of Anti-Access/Area Denial (A2/AD) strategies for its military interests.

Meanwhile, with the SOA as the organizer, the government of China announced the "Chinese Maritime Protocol for Twenty-first Century" (中国海洋 21 世纪议定) and "Administrative Rules for Oceanographic Studies Concerning External Affairs" (涉外海洋科学研究
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These documents demonstrated Chinese domestic determination to maximize its rights and interests over the surrounding waters, with intimations of new measures to improve maritime administration by non-military means.

To Japan’s surprise, the Chinese research vessel, Haiyang No. 13, owned by the SOA, entered into the territorial waters around the Senkakus twice in April 1997. This occurred while negotiations on a new fisheries agreement were ongoing between the two countries, and was most likely carried out to pressure Japan. After the fisheries agreement was signed in November 1997 with Japan, China delayed its domestic ratification. Instead of ratifying the new agreement, the SOA had another vessel, Fendou No. 7, enter the territorial water three times in April 1998. It was not until June 2000 that China finally ratified the agreement after repeated requests by Japanese leaders.

“The National Defense Law” (国防法) announced in March 1997 stipulated that the protection of marine rights and interests was subject to national defense measures. Accordingly, the SOA began to put more emphasis on protecting national economic interests in the waters in the late 1990s and early 2000s. To reinforce administrative and effective control over the sea, the SOA focused on domestic legislation and maritime law-enforcement.

In March 1998, the SOA was placed under the Ministry of National Resources as a part of a restructuring effort by the State Council. In that same year, China Maritime Surveillance (CMS; 中国海监总队) was officially established within the SOA as a general maritime law-enforcement body. Subsequently, China passed the "Law on Exclusive Economic Zone and Continental Shelf" (专属经济区和大陆架法) in June. Since then, China has used the domestic law as justification for putting a vast stretch of the East China Sea under her jurisdiction. Sino-Japanese negotiations over the demarcation of the EEZs soon stagnated due to repeated scientific research efforts by the Chinese in the disputed area. Although the preliminary notification system in the disputed waters was finally established between the two countries in 2001, a few years later the SOA resumed the same activities without prior notification to Japan.

At the beginning of the 21st century, the Chinese government increased its economic expectations for the ocean. The ocean was believed to be one of the few frontiers in the contemporary international system where the Chinese economy could legally expand without inviting interruptions from major powers. In March 2001, the SOA received its first directive from the party secretary, Jiang Zemin, to strengthen the comprehensive oceanic administration. The summary of the tenth five-year-plan submitted the same month included the protection of maritime rights and interests in the national planning framework for the first time. The national plan also set the goal that the SOA would perform planned patrols and surveillance on Chinese EEZs and continental shelves. A CMS vessel made an irregular patrol in the southern part of the South China Sea in August 2000 for the first time, but it did not have enough capacity to carry out daily patrols far from the Chinese coast.
In October 2001, China passed the “Law on Usage and Administration of the Sea” (海域使用管理法). Referring to the SOA, China stated that “the major department on maritime administration in the State Council” took national responsibility for the supervision and management on the usage of the sea. In this law, the SOA was also requested to work closely with the military to ensure PLA’s use of those waters for national security. In 2003, the State Council announced the “Summary of National Development Planning for Ocean Economy” (全国海洋经济发展计划要纲), and set forth the national strategic goal for China to become a strong maritime power and provided the guiding principles for utilizing the ocean for the CPC’s economic development plans. The SOA has been the earliest and largest advocate for China to develop into a maritime strong power.14

Utilizing Nationalism for Organizational Expansion

In late 2001, an interesting accident concerning Japan, North Korea and China took place. On December 21, the Japanese Coast Guard (JCG) received a report from the Japanese Defense Agency that there was a dubious vessel in the East China Sea, which was subsequently chased by three JCG vessels. The ship, later found to be used by the North Korean military for smuggling, tried to escape, fired two rocket bombs against the Japanese vessels, and then self-exploled after crossing the median lane between Japan and China in the high sea.15 The event took place during a period when the SOA was trying to expand its maritime law enforcement capacity in accordance with the “Law on Usage and Administration of the Sea.” The SOA understood the accident as a violation of Chinese sovereignty and interests by Japan, and the CMS conducted its surveillance campaign in nearby waters for as long as nine-months.16 Since then, the SOA began to take measures against foreign activities in the Chinese “jurisdiction water” in the name of law enforcement. For example, in September 2003, the SOA sent a report on U.S. military activities in Chinese “jurisdiction water” to the PRC Ministry of Foreign Affairs, General Staff Department, and the PLA Navy.

Tensions over the East China Sea between Japan and China were reinforced toward the end of Prime Minister Koizumi Jun’ichiro’s term. In June 2004, the Japanese government disclosed that a Chinese petroleum company was constructing a gas mining facility in the East China Sea at a location close to the west side of the median line between the two countries. Over the next month, the Japanese government dispatched its own research vessels on the Japanese side of the median line to study the underground structure. To counter this “unilateral” action made by Japan, the CMS exercised surveillance for twelve months.17 Starting in 2005, the SOA-affiliated journal, Taipingyang Xuebao (Pacific Journal), published articles on organizations and activities conducted by the South Korean Maritime Police, which were understood to have accomplished strong maritime law enforcement against Japan. The restructuring of the SOA in 2013 was most likely based on the South Korean model.

On the Japanese side, new Prime Minister Shinzo Abe pledged not to visit the Yasukuni Shrine while in office and visited China in October 2006 to initiate the “Strategic and Mutually-
Beneficial Partnership” with Beijing. After continuous requests by the Japanese government for talks and the disclosure of related information and following President Hu Jintao’s visit to Japan, the two countries finally agreed upon joint exploration of the gas mines in two areas in the East China Sea in June 2008. It was reported in Japan that the two countries aimed to sign a “Treaty on East China Sea” in further talks, with China agreeing to halt exploration until the final conclusion of the talks. Despite these activities, China resumed independent exploration within a few months.

Originally established in 2006, CMS’s patrolling system inflicted serious damage on relations between China and Japan. In April 2006, the State Council ratified the SOA’s maritime law enforcement plan to protect gas resource interests in the East China Sea. In July, with military support, the CMS began to exercise a regular patrolling system for the protection of national rights and interests (定期维权巡航执法制度) within the entire Chinese “jurisdiction water” in East China Sea. This was done in the name of observing research activities and preventing offshore petroleum exploration by foreign parties. The patrolling system was soon applied in the South China Sea in February 2007. In April 2008, the SOA agreed to establish new special branches to carry out these responsibilities in both the East and South China Seas.

The CMS, under direction of the SOA, began to “patrol” the contested waters in the East and South China Seas as if to flaunt its national power. Consequently, CMS patrolling vessels entered into the territorial waters of the Senkakus in December 2008 and stayed for nine hours. This prompted the JCG to deploy patrol vessels to nearby waters continuously in order to tighten surveillance and maintain Japan’s effective control over the islands. The Japanese government recognized that the “partnership” between the two countries had now been shattered by Chinese action.

Rising tensions with China resulted in a collision between the Chinese fishing boat and JCG vessels in September 2010. Before this incident, most official Chinese vessels that intended to pass through the territorial waters of the Senkakus would send word to JCG vessels to signal innocent passage, indirectly admitting Japanese sovereignty over the islands. However, after the incident, Chinese official vessels approached the Senkakus more frequently and entered into territorial waters, ignoring warnings from the Japanese side. According to CMS statistics, its vessels had carried out 1,668 patrols and navigated 1.6 million nautical miles, while its aircraft flew 1,944 times and 1.98 million kilometers by December 2010.

Chinese law-enforcement activities expanded rapidly in a short period of time. In April 2012, Japanese politician Ishihara Shintaro announced his plan to purchase three of the Senkaku Islands from its private owner. To prevent the purchase, the Japanese government bought the islands at a higher price to maintain quiet effective control over the islands. This time, China claimed that Japan broke the bilateral consensus “to solve the issue later” and thus justified its provocative behaviors beginning from a few years earlier. China began to pour CMS vessels and aircraft into the area in order to break Japan’s effective control over the islands.

The SOA again made good use of the tension with Japan. In March 2013, the CMS absorbed three other maritime law-enforcement bodies and renamed itself the “China Coast Guard” (中国海警局, literally “Maritime Police Bureau”). This change implied that China would
upgrade its administration over the contested “jurisdiction water” by reinforcing policing capacity in its maritime law-enforcement force. In fact, the new CCG director was concurrently serving for the SOA and the Ministry of Police as vice-minister. The SOA was also entrusted to carry the administrative function of the newly established “National Oceanic Committee” responsible for coordinating overall maritime related matters. The new set up for the SOA and the CCG was somewhat awkward: a bureau (the SOA) had another bureau (the CCG) inside its organization as its subordinate. It was also strange that the SOA’s director at the time had a higher ranking (a member of Central Commission for Discipline Inspection) than most bureau-level directors in the party. The SOA, as a result, was then promoted to the de-facto ministry level in order to strengthen the protection of maritime interests.

Chinese behavior in the maritime domain continued to escalate. In early 2013, the PLA Navy provoked Japan in the East China Sea by locking a firearms control radar on a vessel and a helicopter operated by the Japan Maritime Self-Defense Force (JMSDF). In November, without any prior consultation with related countries, China established an Air Defense Identification Zone (ADIZ) over a vast area of the East China Sea to challenge Japanese air control over the Senkakus. In 2014, Chinese aircraft repeatedly flew less than 10 meters away from Japanese and American aircraft and carried out regular patrols in the East China Sea. In the South China Sea, China deployed a large petroleum platform, the Haiyang Shiyou 981, near the Paracel Islands in May 2014, and subsequently launched an unprecedented level of land reclamation efforts in the summer on seven islands in the South China Sea. With the support of the enhanced SOA, the Chinese military will now be able to focus on expanding China’s strategic periphery.

Conclusion

Many U.S. experts on China have recently argued that Chinese foreign policy has not become more aggressive in recent years, or that China has returned to a moderate track since the fall of 2013. However, it is important to note that China’s external behavior related to the ocean is significantly different from their behavior on land, with activities relatively more cooperative and moderate in general. The SOA is clearly aware that China needs to establish a softer image in the world in order to minimize the cost for establishing its “maritime strong power.” In reality, China has put a priority on building effective control in all the “jurisdiction waters” it claims, utilizing various means including military and paramilitary forces. While doing so, China has delayed negotiations with Japan, tried to dispatch her own vessels, and exercised sovereignty-related activities unilaterally in the disputed water since the mid 1990s.

Japan did not perform any countermeasures while Chinese vessels were still in its potential EEZ, but only took action when China showed an intention to violate Japan’s sovereignty in the territorial waters. It is clear that China tends be hypersensitive about protecting its sovereignty, often exaggerating Japan’s (or other countries’) responses by calling them unilateral or aggressive actions, while attempting to punish others by demonstrating its force. These developments show that China has no intentions to become less aggressive on its territorial or maritime claims and is likely to escalate activities. According to the National People’s Congress report in 2015, bureaucratic formulation and implementation of the new “maritime strategic program” (海洋战略规划), which was likely proposed by the SOA for the
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The SOA is constructing many new vessels right now and is expected to surpass the JCG not only in number but also in capacity in the near future.

For the SOA, anti-Japan (as well as anti-foreign) sentiments have been an important resource for its rapid organizational expansion. It regularly reports to political leaders and other organizations, often depicting Japanese actions as aggressive and Chinese actions as just and peaceful. For instance, while the SOA stressed that Japan attacked the North Korean vessel on the Chinese side of the median line in 2001, it failed to mention that North Koreans fired rocket bombs against Japan and exploded itself in the sea. They also argued that Japan violated Chinese interests by carrying out scientific research on an underground structure in 2004 (research which had been ongoing since the mid-1990s), but failed to mention that this incident took place in the disputed area between the two countries. In this way, the SOA continues to incite deeper fears over Japanese behavior in the East China Sea within the Chinese government. This behavior is likely to continue or even be reinforced under Wang Hong, the new SOA director who was promoted internally from the SOA itself in January 2015. Without widespread anti-Japanese sentiments associated with prevailing Chinese nationalism, and without the SOA fully utilizing this nationalism for its own sake, it would have been difficult for the SOA to expand its organization at such a rapid pace, especially during a time when the Chinese government was trying to streamline its overall bureaucratic structure.

Although the SOA’s main focus has been on how to compete with Japan, it also tries to implement new measures in the South China Sea because other claimants are much weaker than China and because of its domestic bureaucratic responsibility to supervise all of its “jurisdiction waters.” Once a new system is launched in China, it has to be applied to all areas equally. Therefore, the East and South China Seas are closely interconnected under the SOA.

Around the same time that the Chinese Foreign Ministry made serious efforts to improve relations with ASEAN countries in regard to the South China Sea in the early half of the 2000s and still worked with Japan for the joint exploration of the East China Sea, the State Council approved the SOA plan to launch regular patrols in disputed areas in both the East and South China Seas in 2006 and 2007, respectively. It is difficult to find rational reasons for China to dampen positive developments with neighboring countries and take provocative actions unilaterally. It is well known that the policy coordination between the State Council and the PLA is not always so smooth, but even in the State Council, the decline of the Ministry of Foreign Affairs is relatively clear, especially when it is compared to a newly-rising organization such as the SOA. The State Council’s decision making has been tilted more toward over-defensive nationalism than toward negotiating with foreign counterparts during the last decade.
Endnotes


9 Foreign research activities that relate to coastal countries’ economic interests are not allowed without permission in one’s EEZs under UNCLOS.

10 In March 1996, four months before the ratification of UNCLOS in Japan, the ruling parties had set a target for concluding the negotiations on demarking the nearby water with China and Korea within one year from its ratification.


12 Ibid.


16 Zhongguo Haijian Zongdui, pp. 75-76.

17 Ibid., p. 112.

18 It is noteworthy that China’s relationships with Vietnam and Philippines deteriorated rapidly since then, regardless of positive developments in their ties in early 2000s.

19 Zhongguo Haijian Zongdui, p. 160.


22 China stresses today that there was the “consensus” over the islands between the two countries agreed in 1978 to “put aside the issue, and resolve it later”. However, this has become another source of Japanese mistrust about China. According to *Selected Works of Deng Xiaoping (vol. 3)*, Deng mentioned that he had “proposed to put it aside, and jointly explore” the area when he visited Japan, but he didn’t say that the Japanese side agreed to it. According to the People’s Daily database, the second phrase of Chinese understanding was changed from “jointly explore” to “resolve it later” between 1996 to 2004, and the word “consensus” instead of “proposal” was also began to use only after 2000s. Furthermore, as understood in Japan, even if there were some kind of “consensus” between the two countries to keep the issue quiet, it was clear the Chinese side that had been challenging to overturn the Japanese effective control over the islands since 1992.