



# Trouble on the Chinese Seas

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Media coverage of the June 7-8 "shirt sleeves" summit between President Obama and new Chinese president Xi Jinping in Rancho Mirage, California has largely focused on the two issues that dominated the official agenda. The first was China's extensive intellectual property theft and hacking activities in cyberspace. The second was the threat posed by the regime of reckless "young leader" Kim Jong Un in North Korea.

Both are undoubtedly serious matters, and a real, substantive bilateral discussion of them is sorely overdue. But so is attention to another topic that may yet prove to be the most intractable and dangerous in relations between the two countries — Beijing's attempts to systematically exclude the U.S. Navy from a large portion of Asia's waters.

In recent years, Beijing has become increasingly assertive in insisting that American military vessels not travel within 200 nautical miles of its coasts — and that they ask permission if they even think about doing so. China's official line, reiterated repeatedly to visitors to Beijing, is that America "cannot carry out military activities [there] without the prior consent of the coastal countries."

China's demands amount to a sweeping reconception of existing international law. The U.N. Convention of the Law of the Sea, the main treaty that governs the conduct of states in international waters, stipulates that countries have exclusive sovereignty and broad powers over their "territorial sea," which measures twelve nautical miles from their coasts. Beyond that, out to 200 nautical miles, is a country's Exclusive Economic Zone, where the sovereign state has primacy in economic activities (such as mining and exploration) and ecological preservation, but where other countries can operate peacefully for "navigation and overflight."

China, however, doesn't agree. Instead, Beijing has steadily articulated a different and more expansive interpretation of its sovereign rights—one that would effectively grant it veto power over U.S. maritime activity in much of the South China Sea, as well as in the East China and Yellow Seas.

This stance is a reflection of China's growing regional ambitions. In recent years, it has adopted an increasingly assertive posture toward various territories throughout the Asia-Pacific region. These claims are not new; China has coveted these areas since at least 1947, when the Kuomintang government in Beijing first issued maps including the South China Sea in a "9-dash line" that demarcated the region's waters in its favor.

What is new is that Beijing is increasingly willing to act upon these impulses. Today, China has escalating territorial disputes with a host of its regional neighbors, including the Philippines, Japan, South Korea, Brunei and Vietnam. In these conflicts, China has exercised the international legal equivalent of "adverse possession"—claiming property as its own and daring others to try and take it back.

Asia's smaller states are understandably loathe to face off with a militarily superior — and rising — China. Nonetheless, military tensions between China and Japan have risen precipitously over the Senkakus, a set of islets claimed by both countries but administered by Japan. China has also skirmished with South Korea over maritime fishing rights.

Still others have sought legal recourse. Earlier this year, the Philippines served official notice that it was taking China to arbitration before an U.N. tribunal over competing claims to the Scarborough Shoal. But China has rejected the tribunal's jurisdiction, claiming that it is not bound by the provisions of a convention that it itself ratified back in 1996.

So far, Beijing's attempts to refashion the legal order in the Asia-Pacific in its own favor have not faced a serious, sustained challenge from China's neighbors — or from the United States, which remains leery of truly contesting China's claims. As a result, Beijing's vision for the region has crept steadily closer to becoming a reality.

That represents a real danger for China's neighbors, which fear that Beijing's growing territorial appetite could very well lead to a significant erosion of their sovereignty — or even to a new regional war. It is also a challenge to the Obama administration's plans for a grand strategic "rebalancing" toward Asia. That effort, unveiled by the White House in early 2012, entails plans for new economic and political bonds and a reinvigorated alliance system in the region.

But China's territorial ambitions, if unchecked, could eventually create realities on the ground in Asia which will provide it with the legal basis to truly deny America strategic access. If that happens, we might find that — for all of our plans for a pivot toward Asia — Beijing actually has succeeded in shutting Washington out of large parts of it.