



A Corral in a Chinese Coral Lake? Territorial Sovereignty, Maritime Interests, Power Allocation As Defined by China's Supreme People's Court, and Its Impact on Foreign Private Sector Management Across and Beyond the East and South China Seas

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Abstract

In response to the decision of the United Nations Tribunal Decision in *The Philippines vs. China*, announced on 12 July 2016, three weeks later on 02 August 2016 China's Supreme People's Court declared "judicial power is an important component of national sovereignty. People's courts will actively exercise jurisdiction over China's territorial waters, support administrative departments to legally perform maritime management duties, equally protect the legal rights of Chinese and foreign parties involved and safeguard Chinese territorial sovereignty and maritime interests."¹ Does this reflect an advancing China portraying itself as a peace keeper, or a regressing China, determined to minimize international laws and customs as well as the laws of foreign nations in favour of its own parochial interpretations? Countries including the United States assert jurisdiction over their own nationals and companies they have chartered, abroad as at home, in the Foreign Corrupt Practices Act (FCPA), amongst other laws, generally with domestic and international judicial approval. With its recent declaration, China's highest court appears to have gone well beyond this convention, vowing to exercise Chinese jurisdiction over land and waters beyond its homeland to "safeguard Chinese territorial sovereignty and maritime interests." This paper will reflect on that holding that seemingly goes against both letter and spirit of the United Nations Tribunal determination, and almost certainly conflicts with the domestic laws of a great many other sovereign states that border the East and South China Seas, potentially fan out globally across Eurasia, the Indian Ocean, and the Mediterranean Sea, wherever China's "One Belt, One Road" (OBOR) goes. What then will be expected of shipping companies, insurance carriers, purchasers and sellers of goods transported over the high seas, particularly in destination contracts? Should Chinese laws prevail? If China openly defies the holding of a United Nations court, should it continue to hold its United Nations Security Council permanent seat?

Key Words: China, Philippines, Conflict of laws, Maritime interests, "ring" encirclement, Territorial sovereignty.

INTRODUCTION

Tensions have arisen and appear to be escalating on the waters of the Western Pacific Ocean rim, exacerbated by the People's Republic of China ("China") and its bald face claims to "sovereignty" of the waterways and of rock islands that emerge therefrom, together with valuable minerals that include energy resources contained or imagined to be contained thereunder. Most neighbouring countries take exception to the Chinese posture, and The Philippines sought judicial intervention before the United Nations (U.N.) Permanent Court of Arbitration at The Hague, The Netherlands, that ruled in favour of The Philippines in a case captioned as *The Philippines vs. China*, announced on 12 July 2016. That determination is

final, no direct or collateral appeal is possible, but China contends it must be ignored, largely because China opted not to appear or defend itself. This possibility is anticipated in Annex VII, Article 9 clause 2 of the United Nations Convention on the Law of the Sea (1982) that states categorically in text: "Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings." No ambiguity exists on this matter, and China is simply wrong in its argument. It had every right and obligation to appear and defend against the action brought by the Philippines and in which Vietnam joined. It did not appear, it did not defend. Neither constitutes a bar to the proceedings going forward or to legality of the resulting determination, provided that, pursuant to clause 3 of the same Annex and Article: "[b]efore making its award, the arbitral panel must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law." That Tribunal held that both required elements were present: it possessed jurisdiction and the claim by The Philippines was well founded both in law and in fact. That determination was unanimous, notwithstanding some evidence of China endeavouring inappropriately to sway the judges toward its position.

Anyway one approaches it, "Asia's new battlefield" is becoming the East and South China Sea region as the United States and China "struggle for the Western Pacific." Less clear are the reasons for that struggle. Chinese policy makers and scholars feel the United States has "targeted" China by significantly increased naval and air patrols in the Asia-Pacific region as part of a strategy aimed at threatening China's sovereignty, evidenced by America's carrying out more than 700 patrols in the region during 2015, more than anywhere else in the world, evidencing a trend that unless altered would forecast 60 percent of America's naval and air forces deployed to the region by 2020. Late in 2016, the United Kingdom announced through its ambassador to the United States, Sir (Nigel) Kim Darroch, K.C.M.G., that by 2020 also it will deploy fighters and its new aircraft carriers to join forces with the United States to ensure freedom of navigation. Although the breadth of the U.N. Arbitration Court opinion may have exacerbated tensions arising from that struggle, clearly it did not precipitate that struggle itself because the conflict preceded the determination. Cast as "America's pivot to Asia," recent changes in United States foreign policy in the Western Pacific seem to be inspiring what some have called an "Asian pivot from Washington," meaning that the American deployment of assets into the Western Pacific rim may be causing more harm than good. This assessment seems to be shared by the prevailing number of commentators and scholars, confirmed recently when in a surprise move Vietnam announced its decision to delay joining the Trans-Pacific Partnership (TPP) because both U.S. Presidential candidates opposed it, made all the more confusing when as President Elect Donald J. Trump announced the United States will not join it, potentially rendering it questionably viable much as the United States failure to ratify the League of Nations doomed that organisation, first by falling one vote short of the required 56 votes in the United States Senate (55 to 39) on 19 November 1919, then missing the two-thirds majority by seven votes (49 to 35) when reconsidered on 19 March 1920. Probably more nations will jump ship on alliances related to the South China Sea region in 2017 and afterwards.

On the other hand, China is not waiting until 2020 to arm islands it has grabbed in the South China Sea region, and near the end of 2016 even displayed those armaments proudly, as video surveillance published in the middle of December 2016 by the China Maritime Transparency Institute (CMTI) documents. An important question arises from what weaponry is visible: is it geared toward "defending" the disputed rock formations against a United States assault or reconnaissance, or only as a Halloween mask intended to frighten China's East Asian

neighbours? Weaponry that is visible seems rudimentary at best, no match for the United States Air Force or Navy with accelerated arrival of the USS Gerald R. Ford aircraft carrier soon (Sciro, 2017). Very early in 2017, Philippine president Rodrigo Duterte announced his plan for his nation to “split” with China some seven billion barrels of proven oil reserves plus World Bank estimates of 900 trillion cubic feet of natural gas contained beneath disputed waters of the South China Sea, leading some Western analysts to conclude that Beijing provided a “bottom line: Beijing offered Manila something Washington couldn’t: the promise of peace and a partnership for prosperity.” That is simply nonsense, China cannot promise peace to anyone, not even to itself, and any prosperity to be realised China would keep, be very unlikely to share, much less equally. Duterte is a pawn in a game of Chinese chess only.

Some observers have articulated various reasons why Western nations and their leaders must take action to stop China from maintaining its scofflaw posture in the East and South China seas. Reasons range from China’s unwillingness to compel transparency of its athletes on anti-drug enforcement to its lack of enforcement on intellectual property rights to its disobedience toward World Trade Organisation (WTO) regulations, but in the final analysis it is China’s escalating contempt for international standards in general. Frightening is the prospect of just what is next. Some fear that China’s eagerness to “corral” part of the South China Sea casts what they believe to be an emerging Chinese posture endeavouring to blockade Taiwan, and included among the followers of this scenario appear to be Rex Tillerson, formerly Exxon Mobil chairman and chief executive, from testimony he provided to the U.S. Senate Foreign Relations Committee at his confirmation hearing to become President Donald J. Trump’s secretary of state (Buszynski, 2017). On a conciliatory note, China appears to be complying functionally with most of the Tribunal’s decision by ordering its coast guard to desist from further harassments of Philippine fishing fleets along the Scarborough Shoal in the wake of Duterte’s October 2016 visit to Beijing, although China continues to maintain entitlement to “sovereignty” over that region.

“Lopsided” Award?

Some scholars have criticised the United Nations Tribunal determination as being “lopsided” in the sense that ruled almost entirely against China and in favour of The Philippines, instead of articulating a more balanced decision. Chinese leaders criticized that decision initially in five official communications, four on the day the Tribunal announced its decision, one the next day: (1) a statement by the Foreign Ministry declaring China’s position objecting to the award, (2) remarks by China’s foreign minister, Wang Yi, condemning the United Nations Arbitration Court determination, (3) remarks more carefully criticizing the award made by China’s President Xi Jinping in conversation with Council of Europe President Donald Tusk and European Parliament President Jean-Claude Juncker, (4) a CPC government declaration unilaterally reasserting maritime rights and territorial sovereignty across the South China Sea, and (5) the first white paper China has issued about the South China Sea, in form of a China State Council proposal to settle maritime disputes generally and those between China and The Philippines particularly through negotiation. Chinese scholar Feng Zhang remarked that the arbitration tribunal award in *The Philippines vs. China* was “breathtaking but counterproductive,” arguing that collectively the five papers that China issued “show that the Foreign Ministry is engineering important policy changes in this vital area. ... [i]n particular, the PRC government statement makes an important step in clarifying China’s claims, stating that those include four areas: sovereignty over all the islands in the South China Sea; internal waters, territorial seas and contiguous zones of those islands; EEZs and continental shelves of these islands; and historical rights.” That award is truly breathtaking, but it is not

counterproductive in any respect because it clarifies sovereignty in the East and South China Seas for most of the world other than the Chinese, holding that the “nine-dash-line” on which China appears to rely is invalid under prevailing international laws to construct any rights in either Mainland China or Chinese Taiwan, that “nine-dash-line” being the legacy of the Kuomintang (KMT) or Chinese Nationalist Party that constructed that “line” before it relocated from Nanjing to Taipei in 1947. Taiwan’s primary interest, or so it appears, is Itu Aba (Taiping Island), largest of all naturally formed land protruding from the South China Sea and long claimed by Republic of China (Taiwan), because the United Nations arbitration tribunal ruled that it is merely a “rock” and not an “island,” thereby affording it only a 12 nautical mile “territorial sea” protection instead of a 200 nautical mile Exclusive Economic Zone (EEZ) plus a continental shelf that both Beijing and Taipei agree belongs to historical “China,” although they do not agree upon much if anything else, such as which “China” would manage that EEZ in the event that it would have received, or in future may receive, international recognition.

American scholars have suggested since 2015 that United States diplomatic efforts involving the East and South China Seas should be more innovative, and involve at a minimum “multinational engagement to establish new norms” for establishing and maintaining maritime harmony and for maritime conflict resolution once conflict arises. Additionally, diplomatic researchers have proposed that the United States craft its own “National Strategy for the South China Sea,” or “NSSCS,” quite visibly absent during the administration of President Barack H. Obama, arguably present but only translucently during administrations of his three predecessors, and the authors of this NSSCS suggest changing course from a strategy “of vigilant maintenance of the status quo to a position that will foster the peaceful management and ultimately permanent resolution of issues affecting U.S. navigational rights and interests in the region.” Because this has been slow to happen, American strategy on the South China Sea is beginning to founder, which can lead to escalation of tensions and even outright conflict by accident or by design of either party or both. In other words, this pattern of inaction can lead to unforeseen, unplanned, as well as unwanted action.

Rumours have abounded for months that China would commence action one way or another to gain control of Scarborough Shoal once China’s hosting of the G20 Summit Meeting in Hangzhou, Zhejiang Province capital, concluded on 05 September 2016, having already constructed operational air strips at Mischief, Fiery Cross and Subi reefs in the Spratlys, and having discussed fishing rights in the area with former Philippine President Fidel Ramos at a meeting in Hong Kong with Madame Fu Ying, chairwoman of the foreign affairs committee of China’s National People’s Congress. An explanation as to why China awaited conclusion of the G20 Summit is China’s announced wish that the G20 meeting be about economics, not politics. China’s G20 proposal touted the wisdom and value of free trade to shore-up “inclusive growth” amidst globalisation. Meanwhile, both China and the United States have continued to deploy more heavy weaponry to fortify the region, uncharacteristic of good diplomacy at work. As but one example, on 10 August 2016 a month before the G20 Summit the United States deployed its B2 Spirit stealth aircraft to Guam to join B52 Stratofortresses and B1 Lancers, neither “stealthy,” within striking distance of DPRK and the Chinese mainland, in what some have described as “an extraordinary show of force in the Pacific region, because for the first time ever, America has based all three heavy bomber types on the island at once,” although the U.S. secretary of the Air Force downplayed that as a “valuable opportunity for our bomber crews to integrate and train together, as well as with our allies and partners through the region in a variety of missions” as part of America’s rotational “Continuous Bomber Presence” as well as its “Bomber Assurance and Deterrence” (BAAD) Program. At the same, China commenced to

mobilise its latest array of assets in the region for what seems to be the same purpose: to deter the United States from escalating its presence in the region. As a former U.S. assistant secretary of state has written, will China adopt 21st century diplomatic rules or revert back to 19th century spheres of influence? If China selects the second option, then what will ensue is a new "Great Game" reminiscent of that between Great Britain and Imperial Russia in the 19th century. As Chinese Admiral Wu Shengli said, compromise is "the only correct solution." Admiral Wu is correct, but both sides however seem to be in a heated rush to deploy as many assets and grasp as much influence as possible in the fastest time feasible, before arriving at that inevitable compromise. Recently leaked is a set of statements United States Presidential candidate and former secretary of state Hillary Clinton made proposing to "ring China with missile defense" unless it reins in the "Democratic" Peoples' Republic of Korea [North Korea] to curtail its nuclear testing. In separate "leaks" also Clinton threatened to deploy surface and sub-surface warships to encircle the South China Sea if China does not cease trying to dominate it, providing an interesting analogy to suggest that "by China's logic, the U.S. after World War II could have labeled the Pacific Ocean the 'American Sea'":

"My counterpart sat up very straight and goes, 'Well, you can't do that,'" she said. "And I said, 'Well, we have as much right to claim that as you do. I mean, you claim (the South China Sea) based on pottery shards from, you know, some fishing vessel that ran aground in an atoll somewhere'.

Such rhetoric, leaked in 2015 but spoken in 2013, potentially to be followed by action, reinforces an analysis made in a late 2015 book, *Four Eagles and a Dragon*. In that work and elsewhere, the paradox is clear: Hillary Clinton talks about a post-Obama "missile defense" encircling China, but an actual "Missile Defense" system the United States designed and commenced to implement in Eastern Europe to protect the United Kingdom from Iran the Obama administration aborted as a concession to the Russian Federation. Against that background, Chinese leaders perched with their Russian counterparts easily could be imagined to scoff at American sincerity. Leaders of smaller ASEAN bloc nations such as President Rodrigo Duterte of The Philippines have "pivoted" away from the West, toward China, seeming to welcome the latter to Panatag (Scarborough) Shoal in return for Chinese relaxation of quarantine restrictions on Philippine fruit such as bananas and pineapples. Western analysts have concluded that with this concession the South China Sea will become a functional "Chinese lake," because it is the last strategic link it requires to piece together the "nine-dash-line" and corral much of the maritime region.

In question are what parts of the East and South China Seas are "international waters" and then, as to parts that are not to what nation(s), if any, do they belong legally? On 02 August 2016, the Supreme People's Court of China, that nation's court of last resort, enunciated a new standard, extending Chinese sovereignty and territorial waters to include inland waters, territorial seas, contiguous zones, exclusive economic zones and continental shelves, functionally extending its judicial jurisdiction across most of the South China Sea, by declaring that anyone fishing or hunting, and anyone killing endangered wildlife within that territory may be prosecuted for trespass (apparently *quare clausum fregit*) under Chinese domestic laws. This ruling expressly applies to Chinese citizens as well as to "organizations engaged in fishing in fishing zones or the open sea under co-management between China and other countries," functionally declaring China to be *primus inter pares*. Some scholars have termed this situation to be "ominous" and "worrisome." In addition China's highest court announced

enhanced punishment for recidivism by declaring a “standard of conviction and punishment for illegal marine fishing: Those who illegally enter Chinese territorial waters and refuse to leave after being driven away, or who re-enter after being driven away or being fined in the past year, will be considered to have committed “serious” criminal acts and will be fined and sentenced to less than a year of imprisonment, detention or surveillance.” Functionally, the Supreme People’s Court enlarged Sovereignty of China across almost the entirety of the South China Sea, although whether that is a court of stare decisis or precedent is itself questionable, the subject of debate currently. If so, this holding applies to everyone and is as over-broad as it claims The Philippines vs. China case to be. As the U.N. Tribunal remarked in obiter dicta within that case, the increase of Chinese vessels in the area has caused a “serious risk of collision” with ships from The Philippines and elsewhere. This poses an increased risk of conflict escalation. To make matters worse, although comically so to be sure, China has threatened to declare a “no sail zone” across international waters. This step takes the draconian into the absurd. International waters are open to shipping by all nations, that is international law that neither China alone nor China in collaboration with any other nation(s) possesses the power to change.

Hostile rhetoric of this sort fractures the peace in the area, of course, because merchant vessels, pleasure craft and even warships will steer clear of harm’s way whenever possible unless bent on deliberately baiting China to match its mouth with muscle. From all appearances, China wants to decide unilaterally what will become of mineral deposits beneath the South China Sea, keep them to itself if possible, split them with one or more neighbours if it deems that expedient, possibly to hoard some or all resources until a future point in time to use in strategic bargaining.

Figure 1.



SOURCE: U.S. Senator Daniel S. Sullivan (R., Alaska)

Through Freedberg, jr., Sydney J. 2016. “Chinese Scarborough Shoal Base Would Threaten Manila,” *Breaking Defense*.

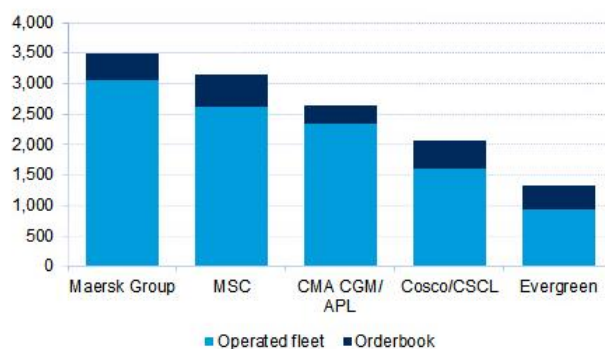
28 Apr. <http://breakingdefense.com/2016/04/chinese-scarborough-shoal-base-would-threaten-manila/>

At a United States Senate Armed Services Committee meeting held on 28 April 2016, U.S. Senator Daniel S. Sullivan (R., Alaska) warned grimly that if China is able to construct a base on Scarborough Shoal (Panatag) near The Philippines, “it will complete a ‘strategic triangle’ of bases that can dominate the South China Sea. In October 2016, Senator Sullivan’s ominous prophecy appeared to be rapidly concretising.

Business Decision: More Ships Or Mergers?

Following China’s lead in the strategy of merging numerous shipping lines into one or two huge shipping conglomerates, Japanese shipping firms Nippon Yusen KK, Mitsui O.S.K. Lines Ltd. and Kawasaki Kisen Kaisha Ltd. said on 31 October 2016 they plan to merge to gain control of seven percent of the world’s container-shipping trade, generating praise from the world’s largest shipping company, A.P. Moller-Maersk A/S, that said it favours mergers and acquisitions amidst declining rates blamed on overcapacity. This raises the likelihood that shipping consultant Drewry was correct a year ago when it predicted the future of global shipping will come in the form of mergers and acquisitions, as Figure 2 below reflects. From that, an important research question emerges in turn” Is it possible that shipping firm consolidation will be able to defeat China’s transparent intent to dominate the seas.

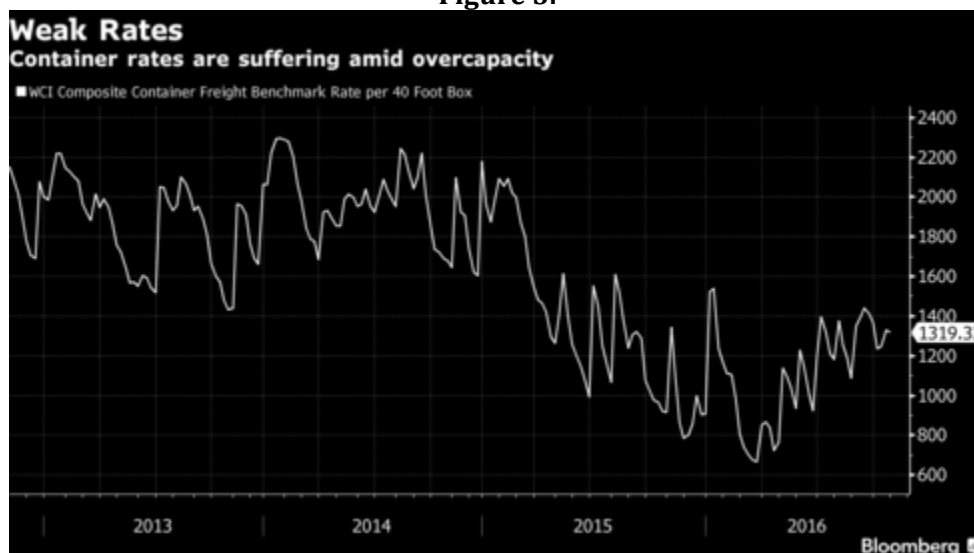
Figure 2.
How the top 5 carriers fleets will shape up (‘000 teu)



SOURCE: “Mergers & Acquisitions in Container Shipping to Cause Operational Headaches,” World Maritime News.

14 December 2015. <http://worldmaritimeweb.com/archives/178703/mergers-acquisitions-in-container-shipping-to-cause-operational-headaches/>

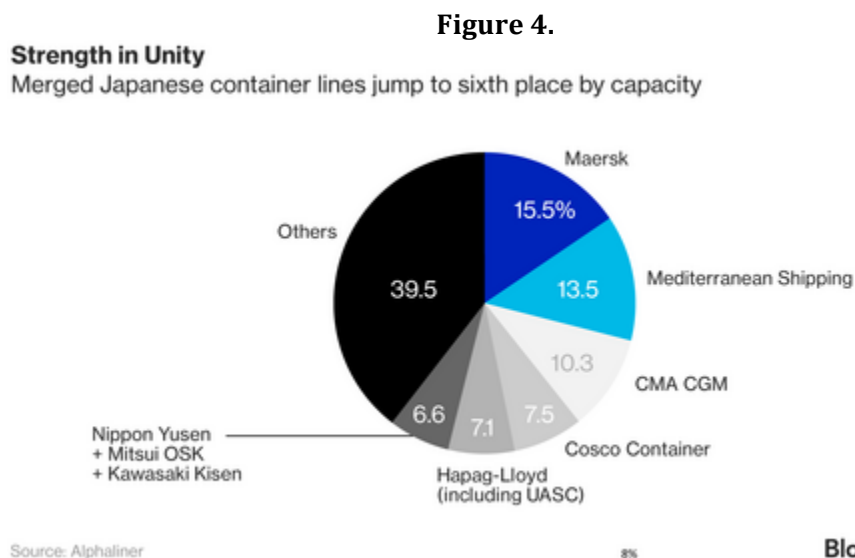
Figure 3.



SOURCE: Wienberg, Christian, and Nicholas Brautlecht. 2016. “World’s Biggest Shipping Company Wants More Mergers After Japan,” Bloomberg. 01 Nov.

<http://www.bloomberg.com/news/articles/2016-10-31/maersk-says-mergers-are-needed-as-biggest-japan-rivals-team-up>

As Figure 3 above reflects, beginning in the last quarter of 2014 container rates have fallen and failed to rise since, allegedly on account of overcapacity. With their decision to merge, shares jumped on all three publicly traded Japanese shipping lines: “Nippon Yusen shares surged 6.4 percent to 215 yen in Tokyo on [31 October 2016], the biggest gain in almost two months. Mitsui OSK jumped 5.6 percent, the most since [05 September 2016]. Kawasaki Kisen ended the day 0.4 percent higher after earlier climbing as much as 10 percent.” Together, the three lines advanced to sixth place in the world by capacity, as Figure 4 below reflects. Expansion of market share by Asian nations besides China is likely to become a valuable deterrent to further Chinese aggression in the region, because the Chinese leadership should know full well that as neighbor state market share in shipping rises, China’s market share will fall. Although perhaps not the only reason, amongst other reasons why China has sought to “corral” the South China Sea is to facilitate its own domination of global shipping in the region. This is on account of China’s desire to replace the manufacturing behemoth it used to enjoy but does no longer with a shipping monopoly, telling the world in effect: pay us to make (or assemble) your products, alternatively pay us to deliver your products to the West. Either way, pay us, keep the inbound cash flowing.



SOURCE: Cooper, Chris, and Kiyotaka Matsuda. 2016. “Japanese Shippers to Merge Container Operations; Shares Surge,” Bloomberg. 31 Oct.

<http://www.bloomberg.com/news/articles/2016-10-31/japan-s-largest-shipping-lines-said-to-brief-on-container-merger>
Ultimate Purposes.

In the ultimate analysis, China’s purpose in seeking to control sea lanes appears to be to strengthen its “New Silk Road” into its emerging global financial network, using as a vehicle its “New Maritime Silk Route,” from East Asia to Western Europe, as Figure 5 below reflects, in key industries that include infrastructure construction, energy, tourism, industrial networks, and financial networks themselves, as Table 1 below reflects. By itself, this expansion is not adverse to Western interests, if but only if China plays by conventional rules, which does not appear to be the case from witnessing its behavior in the East and South China Seas. In some respects, integration of these industries into “one global value chain” makes sense, improves efficiency, but in other ways it is likely to sharply reduce competition. If but only if the Chinese global financial network is competitive, becomes an incentive for companies from other nations to purchase Chinese products voluntarily, then it exerts positive value in the form of

efficiency. Otherwise, it will be inefficient and become a hindrance to and then a burden on global trading patterns.

Figure 5.



SOURCE: “China’s belt and road is integrating countries in Asia, Africa and Europe into China’s financial, industrial and infrastructure model into one global value chain,” NextBigFuture.com. 10 November 2016.

<http://www.nextbigfuture.com/2016/11/chinas-belt-and-road-is-integrating.html>

Table 1.

Chart 7: Key industries of the “One Belt, One Road” initiative

<p>Infrastructure</p>	<ul style="list-style-type: none"> The Asian Development Bank (ADB) has predicted that Asia’s infrastructure construction will see a financing gap of US\$8.3t during 2010-2020. China’s advantages in infrastructure construction, such as capital and technical advantages, will be extended to less-developed Asian countries The construction of several projects will be accelerated, including the transportation channels linking Asia and Europe, the high-speed railway of Southeast Asia, Central Southeast Asia and South Asia ports and information infrastructure construction According to government work reports of provinces, the value of the infrastructure construction investment related to the “One Belt, One Road” initiative has amounted to US\$1.04t, while the amount of transnational investment has amounted to US\$52.4b In May 2015, the State Council decided to further boost international cooperation in production capacity and machinery manufacturing in railway and electricity infrastructure, thus bringing a new wave of outbound investment
<p>Energy & power</p>	<ul style="list-style-type: none"> Many countries along the Belt and Road are rich in energy resources but have financial and technological constraints. The joint exploration, development, and construction of energy pipelines and power facilities offer vast potential for future development China will promote the construction of a national energy resource distribution system and accelerate the export of power generation machinery
<p>Cultural tourism</p>	<ul style="list-style-type: none"> Along the Belt and Road, there are approximately 500 world cultural and natural heritage sites, but the development of tourism has been restricted by problems such as transportation, visa approvals, promotion and security China is encouraging enterprises to invest in tourism and improve infrastructure in the roadside countries. The China National Tourism Administration is developing over 200 key tourism projects for the “One Belt, One Road” initiative for the next three years and expects to send 150 million tourists to these countries in the next five years, which could contribute more than US\$200b in revenue
<p>Industry cooperation</p>	<ul style="list-style-type: none"> China has advantages in information technology, new materials and high-tech manufacturing (such as high-speed railways and nuclear power) so some less-developed neighboring countries are expected to benefit from China’s manufacturing technology According to Ministry of Commerce statistics, Chinese entities are currently constructing more than 70 economic and industrial cooperation zone projects in roadside countries, with an annual production value of more than US\$20b
<p>Financial cooperation</p>	<ul style="list-style-type: none"> The “One Belt, One Road” initiative will create a huge demand for financing, bonds, insurance and asset management The government has recently unveiled a series of policies to encourage the financial sectors to help enterprises to implement the “going out” strategy. In April 2015, the Silk Road Infrastructure Fund announced its first investment and in June 2015, 50 countries led by China entered into an AIIB agreement

Source: STCN, www.gov.cn

SOURCE: STCN, www.gov.cn, through “China’s belt and road is integrating countries in Asia, Africa and Europe into China’s financial industrial and infrastructure model into one global value chain,” NextBigFuture.com. 10 November 2016.

<http://www.nextbigfuture.com/2016/11/chinas-belt-and-road-is-integrating.html>

Consider an analysis published by accounting giant Ernest and Young in 2015, for a facial evaluation in which this global accounting giant reached the conclusion: "China's overseas investment offers a promising future" in large measure because, starting from 2015, China is expected to be a net capital exporting country. With the gradual implementation of favorable policies and the development of Chinese enterprises, China's capital is able to take advantage of the unprecedented opportunities for 'going out'. The stars certainly seem to be aligned for Chinese outbound investment: the conditions are right, the opportunities are there and the world is waiting.

That evaluation is elusive, and deeper probing is required because, whilst the world waits, China's economy seems to be faltering. As China becomes increasingly belligerent alongside of its maritime expansion, its neighbouring Asian countries and the West in general are likely to be wary of its motives for investment. Much more than anything else, United States foreign policy in relation to China and its occupation international waters and/or of territory widely recognized under international laws as rightfully belonging to other nations, together with fortification of rock islands in the South China Sea, should be a cautious bridge between isolationism and interventionism, much as Sweeney has argued recently in his article advocating a similar approach to the Middle East. America can ill afford to back out and walk away, but this does not mean that it should feel confident in proceeding full speed ahead, either.

CONCLUSION

Both opportunity and risk await the new administration of United States President Donald Trump, as it grapples with China's bold aggression in the waterways of the Western Pacific rim, to the consternation of most other Asian nations and the entire West. Nations respecting international law and the traditional world order need to be wary of China's claims to territorial sovereignty, maritime interests, and power allocation, each presently being expanded in the South China Sea, before this expansion accompanies China's vast "investment" along its "One Belt, One Road" or "OBOR" corridor between Pakistan in Southwest Asia and Belarus in Eastern Europe. Initial response to this ominous behavior must come from China's Asian neighbours. Better yet, initial response should come from the Asian private sector including especially shipping companies that otherwise will be the most affected. Economically robust Asian nations such as India, Japan, South Korea, and the territory of Chinese Taiwan should be encouraged to join in a robust and sustainable alliance with the United States and the United Kingdom to thwart Chinese aggression with one voice, which the European Community also should, but perhaps will not, join because it appears to be courting Chinese investment. As China constructs a "corral" in the South China Sea by enticement or intimidation or both, the West must awaken to what this behavior portends for itself and its Allies elsewhere, to what may be adumbrative of a future Sino-Russian relation. Relatively small encirclement of maritime territory along the Western Pacific rim can and likely will, if left unchecked, expand into Eurasia and beyond, complicating the destinies of provinces that once were part of the Soviet Union, and endangering the Pax Europa that has existed since 1945 functionally, at least between 1991 and 2014 (with the Russian invasion of Ukraine) actually. At the very least, the Trump Administration appears to be convinced that, if unchecked, is likely to result in further Chinese maritime expansion and fortification including a maritime blockade of Taiwan. Further escalation should be avoided, if possible, but if further Chinese escalation is seen to be inevitable, United States and Allied intervention will become necessary.

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