

Pondering Chinese actions in Vanguard Bank

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As history has shown, appeasement begets more aggression if the aggressor knows no bounds for its action. If anything, Vanguard Bank should not become Sudetenland of South China Sea.

The standoff between China and Vietnam has dragged on without any immediate sight to an end. With Hanoi's open call for Beijing to pull out its vessels, including the survey ship *Haiyang Dizhi 08*, from its exclusive economic zone, it does appear that Vietnam is standing firm. Adding to that is the latest US State Department press statement¹ which criticised China's resort to coercion that imperils foreign energy exploration activities.

It might have appeared puzzling to many: why would China be carrying out such a unlawful survey, and obstruct Malaysia's legitimate energy activities off Luconia Shoals off Sarawak? The recent ASEAN Defence Ministers Meeting (ADMM) declaration² in Bangkok had been tame on the South China Sea, without mentioning Beijing's continued militarisation of the disputed waters. It would have appeared as if China has successfully gained the upper hand in asserting its narrative that all has been peaceful and stable in the South China Sea, which therefore brooks no external interference. Will the Vanguard Bank stand-off not shatter this leverage for Beijing?

The first step towards understanding China's action is to go back to the very basis of those claims. Vanguard Bank lies within Vietnam's EEZ, but also within China's Nine Dashed Line claim. Clearly, the Permanent Court of Arbitration ruling of 12 July 2016,³ which effectively invalidated the 9DL claim, has no impact on Beijing's calculations behind its moves. In this respect, it only shows that China's policy has not changed contrary to what some commentaries had earlier claimed. Beijing neither recognises nor adheres to the PCA ruling.

Nine Dashed Line Remains Very Much Alive

As far as China is concerned, energy work undertaken by other claimants within the 9DL - including Vanguard Bank and Luconia Shoal - are illegal since those areas are considered disputed waters, never mind that the very premise of the claim, the 9DL, is already invalidated 3 years ago. However, as far as the provisions of UNCLOS - which forms a primary basis of international maritime legal order and which is also a document that Beijing repeatedly purports to uphold - are concerned, coastal states such as Vietnam are exercising their legitimate sovereign rights in their EEZs.

Clearly, China would have no more of the PCA argument - any concession on that score would mean undermining the very basis of political legitimacy around which the Chinese political elites, not least with President Xi Jinping at the helm and having pledged to assert China's maritime sovereignty and rights, have built using the SCS. Rolling back becomes politically costly to say the least, not just for Xi, but for the Communist Party of China which has long recognised the growing need to play to the public gallery while tampering with domestic nationalism.

But Beijing's narrative behind its recent moves would have always a moral element - one that paints Chinese moves, even if that involve threat or use of force, as purely a reaction to the other parties' provocations. In this case, China's justification for its action in Vanguard Bank has been couched in terms of a reaction to Vietnam's energy activities in the area. The message behind China's Vanguard Bank action was intended to be anything but ambiguous: nobody shall seek to explore and exploit energy resources in the "disputed waters", not least without Chinese consent, and regardless whether Beijing carries out similar activities. Put simply: even if China could not lay its hands on those resources, the others could not either. It is akin to so-called "mutually assured denial" of those resource rights.

Changed Facts on the Ground

However, there is nothing new in this behaviour. The previous major standoff with Vietnam over the Chinese oil rig HYSY981 in 2014 was justified by Beijing

as a reaction to Hanoi's unilateral energy work in what it deemed as disputed waters, with Indian involvement through state-owned firm ONGC Videsh Limited. Both China and Vietnam learned valuable lessons from the months-long standoff, and since agreed to "bear the big picture in mind, properly handle the maritime issues", a codeword likely to imply that both parties would seek to put a lid on nationalistic sentiments and resolve any flare-ups in a quiet manner.⁴

That is one change since 2014. But there is also another major change that has become evident in this Vanguard Bank standoff. China's island construction and militarisation program has borne fruit. Chinese government vessels, especially the coastguard and maritime militia, could sustain their presence in Vanguard Bank by tapping those facilities in those artificial island outposts without having to return to mainland bases for replenishment and rest.

Beijing's Calculations?

Beijing might have assessed several factors which could allow it unfettered resort to coercion to achieve its objectives in the SCS. The first would be the enabling factor of those Spratlys outposts to facilitate coercive presence. The second factor would be China's assessment that those Southeast Asian rivals would not attempt to openly publicise instances of Chinese maritime coercion for the sake of not wanting to "rock the boat", especially when ASEAN and Beijing have acknowledged recently to be making good progress on the proposed Code of Conduct in the SCS, not to mention there has been some politically symbolic gains from the optics of last August's inaugural ASEAN-China Maritime Exercise.

Finally, if anything, China believes it can still get away simply by sticking to the long-held script that justifies all actions to be mere reactions to provocations, including counteraccusations that the other claimants are the ones undermining goodwill in the SCS peace processes.

Beijing might have thought it guessed correctly at the start, for the coercion against Malaysia over the rig Sapura Esperanza off Luconia was not reported by any Malaysian mainstream press but social media. It was likewise not being picked up for republication in the local press either. Hanoi imposed a virtual blackout on local media reporting of the Vanguard Bank standoff until late last

week. All these amounted to conscious effort by both Southeast Asian governments not to blow up the situation and to manage the incidents in a quiet manner. These incidents came to light because of Western reporting, not least that published by Washington D.C.-based Asia Maritime Transparency Initiative (AMTI).⁵

But this changed with the sterner press statement by the Vietnamese Ministry of Foreign Affairs and the lifting of media blackout on this incident - in what appears to be growing frustration in Hanoi over China's persistence in sticking around Vanguard Bank. Will this alter China's next steps? Probably not. Beijing would likely not withdraw its vessels from Vanguard Bank without a face-saving formula. But there is at least now an added strategic complication for China - the nationalistic uproar in Vietnam that would entrench Hanoi's measures in Vanguard Bank. The risk of escalation would become increasingly clear to Beijing, prompting it to be cautious.

This means those vessels may remain in Vanguard Bank, but there would be unambiguous political directives to refrain from any incendiary actions that might escalate tensions. At the same time, probably similar to what happened in 2014, back-channel diplomacy, especially those between the respective ruling parties, would also be taking place.

Internationalising the Dispute?

One interesting observation is Vietnam Ministry of Foreign Affairs' mention in its press statement⁶ for "all relevant parties and the international community" to "contribute to the joint effort to protect and ensure our common interest". This mention is significant insofar that implies Hanoi appears keen willing to internationalise the Vanguard Bank incident, which may carry a spill-over into the whole of the SCS disputes. This move would effectively run counter to Beijing's long-standing resistance against external interference in the SCS. Any worsening of the Vanguard Bank flare-up might attract the interest and active involvement of these outside parties in the name of safeguarding rules-based order and freedom of navigation in the area. In other words, Beijing might construe Vietnam's statement as an open invitation to external meddling.

This move may not prompt Beijing to roll back immediately from Vanguard Bank, but it may at least deter China from resorting to anything more drastic than just maintaining its vessels on station in those waters. But clearly this is not enough. So long as Beijing remains conscious not to breach the threshold of its coercive activities into the realm of using outright armed force, it might be assured of no external action that would drive its ships out of Vanguard Bank.

Prompting a Chinese Rollback?

What then could possibly compel Beijing to call a truce and pull out from Vanguard Bank? At the very least, ASEAN first needs to take a unified, unambiguous position on this issue. The draft ASEAN statement according to *Nikkei* would mention that China's action in the SCS "erodes trust".⁷ Such a language would be strong and clearly directed at Beijing. But the last thing ASEAN would need is intramural division over the language and tone of such a statement that could dilute its declaratory impact on China's actions.

For further effect, ASEAN political elites need to warn Beijing that any coercion of the type seen in Vanguard Bank, which goes against established international norms and rules, would imperil those gains ASEAN and China have made in the course of the past two years including the CoC process. Vanguard Bank should be a litmus test for ASEAN's centrality and continued relevance in the regional security architecture. It is timely to put up a proper show, after the bloc failed to do what it was supposed to back in July 2012.

Major external powers and key international institutions such as EU, which have long championed for rules-based order, could also weigh in. The US has become the first major power to respond to China's recent actions. The Senate bill, South China Sea and East China Sea Sanctions Act of 2019⁸, proposed late this May may potentially be given a fillip by this incident. Once legislated, such punitive measures may raise the costs for China and compel it to reverse course.

Making a Clear Case against Coercion

It is time for the international community, not least ASEAN member states, to recognise that trying to socialise China over SCS has not borne fruit after repeated attempts. On the one hand, China openly advocates diplomacy, as

seen in its push for the CoC. On the other hand, it continues to utilise coercive tools at its disposal to attain its objectives, at the detriment of other parties' legitimate rights. China's geographical advantage being a resident SCS littoral state, and its force build-up in and around SCS give it unprecedented ability to exercise coercion.

Unless there is a firm international response against Chinese actions in Vanguard Bank, there could be similar repeats in the coming years simply because Beijing realises to its glee that coercion pays. It will thereby embolden not only China, but other potential state actors in the region or elsewhere, to normalise coercion as the standard toolkit of statecraft, where might makes right.

As history has shown, appeasement begets more aggression if the aggressor knows no bounds for its action. If anything, Vanguard Bank should not become Sudetenland of SCS.

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Notes

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² "Joint Declaration of The ASEAN Defence Ministers on Sustainable Security", ASEAN website, July 11, 2019, accessed July 22, 2019, <https://asean.org/joint-declaration-asean-defence-ministers-sustainable-security/>

³ The South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China), PCA Press Release, July 12, 2019, accessed July 22, 2019, <https://pca-cpa.org/en/news/pca-press-release-the-south-china-sea-arbitration-the-republic-of-the-philippines-v-the-peoples-republic-of-china/>

⁴ "China, Vietnam eye closer industrial, trade cooperation," *Xinhua*, October 19, 2018, accessed July 22, 2019, http://www.xinhuanet.com/english/2018-10/19/c_137542627.htm

⁵ "China risks flare-up over Malaysian, Vietnamese gas resources," *AMTI*, July 16, 2019, accessed July 22, 2019, <https://amti.csis.org/china-risks-flare-up-over-malaysian-vietnamese-gas-resources/>

⁶ "Remarks by MOFA Spokesperson Le Thi Thu Hang on comments on the remarks made by the Spokesperson of the Ministry of Foreign Affairs of China on 17 July 2019 regarding the developments in the East Sea," Ministry of Foreign Affairs of Vietnam, July 17, 2019, accessed July 22, 2019, http://www.mofa.gov.vn/en/tt_baochi/tcbc/ns190719190308

⁷ Marimi Kishimoto, "Beijing 'erodes trust' with South China Sea reclamations: ASEAN," *Nikkei*, July 20, 2019, accessed July 22, 2019, <https://asia.nikkei.com/Politics/International-relations/Beijing-erodes-trust-with-South-China-Sea-reclamations-ASEAN>

⁸ "S. 1634: South China Sea and East China Sea Sanctions Act of 2019," GovTrack.us, accessed July 22, 2019, <https://www.govtrack.us/congress/bills/116/s1634>