



The '21st Century Maritime Silk Road Initiative' and naval diplomacy in China

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ABSTRACT

The '21st Century Maritime Silk Road Initiative' indicates China's intention to create a peaceful and harmonious environment, for cooperating with other States. Naval craft, together with their inherent advantages and special legal status under international law, can have their tradition adapted by the government, for diplomatic purposes. Naval diplomacy, which is generally conducted by appropriate naval craft, could be employed to promote, the 'Maritime Silk Road Initiative'. This paper focuses on a definition of naval diplomacy and draws attention to China's naval diplomatic practice. The discussion also extends to consider the challenges under current international status, including uncertain maritime zone delimitation and divarication of explanation regarding UNCLOS. This paper concludes by suggesting that it is necessary to formulate detailed rules of law for naval operations in peacetime, strengthen the utility of UNCLOS in regular training and enhance political mutual trust, for meaningful security cooperation.

1. Introduction

The 'Maritime Silk Road' could be dated back to the Qin or Han Dynasties (Xinhua News Agency, 2017). In the middle and late Tang Dynasty, the inland silk Road was blocked by wars, together with the economic centre of China shifting to the south, thus, the maritime road became the main passage for foreign trade, replacing the overland road. In the Song and Yuan Dynasties, due to navigation technological breakthroughs and unprecedented economic growth, the utilisation of the, 'Maritime Silk Road' reached its peak (Zeng, 2016). By the time of the Ming Dynasty, in spite of the grand voyage of Zhenghe to the Western world, his main purpose was to propagate the superiority of Ming China, rather than the promotion of commercial trade, the result being that trade was not sustained (Menzies, 2003). The ban on maritime trade during the Ming and Qing Dynasties led to a surge in illegal trade and smuggling and conflicts between people demanding foreign trade and the government implementing its, 'Close-Door Policy' and this situation persisted throughout the whole period (Chang, 2016). When the Chinese President, Xi Jinping, visited the Association of South-East Nations (ASEAN) in October 2013, he proposed initiating a

21st Century Maritime Silk Road (Xinhua News Agency, 2015).¹ The ancient, 'Maritime Silk Road', has been an important bridge for Eastern and Western economic and cultural exchanges, since the Qin and Han Dynasties and Southeast Asia has always been an important hub and an essential part of the, 'Maritime Silk Road'. Based on history and taking the tenth anniversary of China-ASEAN strategic partnership as a new starting point, President Xi Jinping proposed the above mentioned strategic vision, in order to strengthen China-ASEAN cooperation and build a more cooperative community (Xinhua News Agency, 2015). The aim of a '21st Century Maritime Silk Road' is China's initiative to create a peaceful and harmonious environment for further cooperation with other countries (Xinhua News Agency, 2015). The scope covers 6 island States with maritime transport, and 40 coastal States with multiple transport choices (Yu and Chang, 2018) (See Fig. 1). The fundamental fact is that the implementation of such initiative requires the support of a detailed and sound legal system.

Human civilisation evolved through the transition from the traditional hegemonic power to diplomatic trade-off and further, to appreciation for the need for international law. The trade-off of maritime interests was also gradually developed, in like fashion. Even although

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¹ The Silk Road Economic Belt focuses on bringing together China, Central Asia, Russia and Europe (the Baltic) and linking China with the Persian Gulf and the Mediterranean Sea through Central Asia and the Indian Ocean. The 21st Century Maritime Silk Road is designed to go from China's coast to Europe through the South China Sea and the Indian Ocean on one route, and from China's coast through the South China Sea to the South Pacific on the other. Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road, jointly released by the National Development and Reform Commission, the Ministry of Foreign Affairs and the Ministry of Commerce with the authorisation of the State Council, the People's Republic of China.



Fig. 1. The Scope of “One Belt, One Road” Initiative.

Source: <http://n.cztv.com/news2014/1082149.html>, last visited: 2017/12/12.

international rule of law is now granted more importance by States, there is little doubt that the balance of interest is still largely affected by a State's economic strength and military power, which also significantly affect the, ‘power of discourse’ in international society. The four conventions on the law of the sea launched in 1958² and the 1982 United Nations Convention on the Law of the Sea (hereinafter UNCLOS),³ were drafted to regulate the use of the oceans in peacetime, especially focusing on the economic field (Chang, 2015a). At the Third United Nations Conference on the Law of the Sea, negotiation on the use of naval forces as a diplomatic tool was intentionally avoided, despite some countries' advocating that the issue of military use of the sea should be discussed (Vukas, 2011; Letts, 2000).⁴ It seems, however, that the more these issues were being avoided, the more evident it was that the problems existed. Furthermore, when there are conflicts or wars between countries, for the non-belligerents, there are no specific regulations as to how the Parties' rights and obligations would be affected, in the relevant conventions. It can be seen from international practices, which the number of cases in relation to the military use of the oceans has been accelerating in recent years. In the Vietnamese War, the parties were very cautious about the use of naval forces and refrained from any military activities on the high seas, in order to minimise their impact on non-belligerents (Chang, 2014). In more recent military activities, the intervention of naval action of third parties has gradually increased, especially, for example, in the Falklands War (also known as the Malvinas War); of 1982 and the Iran-Iraq War during 1980–1988, the impact of which on non-belligerents could not be covered by customary international law (Churchill and Lowe, 1999).

Since the 20th Century, the use of naval forces by coastal States has gradually shifted from military activities to the diplomatic field and limiting naval intervention has become an essential part of diplomatic policy. For example, in the Asia-Pacific region, under the circumstance of the apparent divergence of interests in the relevant sea areas, it became a major issue faced by the policy makers in peacetime, as to how to employ naval forces in a limited sense, in order to maximise political interests. Based on the above-mentioned, it is indeed necessary to

explicitly clarify what roles naval forces play in diplomatic trade-off and also as regards the concept of naval diplomacy in the law of the sea. It is also essential to discuss the context of domestic legislation and policies relating to naval diplomacy, so that the application of naval diplomacy might better serve national interests.

This paper aims to explore the interaction between the ‘21st Century Maritime Silk Road’ initiative and naval diplomacy in China. To this end, a definition of naval diplomacy with its contemporary context is needed. The form of naval diplomacy with Chinese practice is also discussed. Treaties other than UNCLOS to which regulating the use of navy are the essential part of this paper since naval activities have to be regulated under international law. Some challenges ahead are explored and suggestions for further improvement are also provided in the paper.

2. The definition of naval diplomacy

What is naval diplomacy? There is no specific definition regarding naval diplomacy within the 1945 Charter of United Nations or UNCLOS. Former Chinese navy commander, Liu Huaqing, proposed the strategy of, ‘coastal defence’ in 1985, which primarily involved the concept of naval diplomacy. He believed that coastal defence strategy is subordinate to regional defensive strategy. For many years, the areas of the naval activity would mainly relate to the first island chain and its surrounding sea areas, together with Yellow Sea, East China Sea and South China Sea within the chain, which included all the waters under China's jurisdiction within the UNCLOS framework, including the islands in the South China Sea and other Chinese territory. The navy's strategic tasks and diplomatic tasks⁵ are to uphold national unity and territorial integrity, cope with any sporadic regional conflict and curb or prevent possible aggression from the oceans (Liu, 2004). Since the establishment of the regime of an exclusive economic zone (hereinafter EEZ), the traditional concept of coastal defence has been altered and the scope of defence boundaries has been extended to cover all waters under China's jurisdiction, as well as all islands and waters where China enjoys full sovereignty. This is beneficial to the protection marine resources, marine transport channels, marine scientific research and development activities, as well as recovering any sovereignty-disputed islands.

Western scholars define naval diplomacy differently, naval diplomacy being a fairly new term. It refers to less dangerous naval

² These four treaties are, the Convention on the Territorial Sea and Contiguous Zone, Convention on the Continental Shelf, Convention on the High Seas, and Convention on Fishing and the Conservation of Living Resources of the High Seas.

³ 21 ILM 1261 (1982).

⁴ At the Third United Nations Conference on the Law of the Sea, some States proposed that military use of the sea should be put on the agenda, however, this was strongly opposed by the major sea powers, which believed that this proposal was irrelevant to the conference agenda and should be discussed at disarmament conferences or other similar conferences.

⁵ It appears that there is no clear boundary between the concepts of naval strategy and naval diplomacy in China, but one thing in common, in which the State adopts naval forces to achieve political ends.

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