Competition and maritime disputes over fishing resources intensify in Asia Pacific

Overfishing and illegal fishing are depleting fish stocks, raising the spectre of competition over this natural resource and exacerbating existing maritime disputes. Dr John Bruni examines the structural factors limiting international co-operation aimed at addressing the issue in the Asia-Pacific region.

On 13 August, 20 Chinese nationals were arrested on a refrigerated cargo vessel in the Galápagos Marine Reserve. On board the vessel, Ecuadorian authorities discovered 272 tonnes of fish, including many species of protected sharks. On 27 August, the men were sentenced to jail terms of between one and four years and fined USD5.9 million, according to a Reuters report.

This case, which led to public protests against illegal fishing in Ecuador, has highlighted the continuing vulnerability of the world’s fish stocks. Globally, fish stocks have been depleted through industrial-scale fishing, illegal poaching, and pollution. For example, globally, 31% of stocks of the seven species of major commercial oceanic tuna were overfished in 2016, according to the International Seafood Sustainability Foundation’s Status of the World Fisheries for Tuna report, which was published in February.

Law of the sea

Increasing scarcity of fish stocks has driven up the price of fish, in turn raising the profits that can be made from the ownership of fish stocks and the ability to exploit them, either directly or by providing other states with fishing rights. Countries with distant-water-fishing fleets are eager to secure access to existing fishing zones. In the Asia-Pacific region, China, Indonesia, Japan, South Korea, Taiwan, and the United States, among others, have sought to influence the governments of smaller states to allow industrial fishing of their waters, potentially overriding the concerns of local subsistence fishermen and environmentalists.

Moreover, high potential profits have created an economic incentive for fishing vessels to skirt international law and illegally poach in the exclusive economic zones (EEZs) of other states, particularly of those that lack the technical wherewithal and skills necessary to defend these zones.

The United Nations Convention on the Law of the Sea (UNCLOS), which was signed in 1982 by 157 signatories, was intended to clarify international maritime claims and boundaries on and below the sea, giving the states involved exclusive rights to explore for and exploit natural resources in these areas. For wealthy states, it meant that they could theoretically sustain sovereign control over fishing and mineral, oil, and gas exploration from their coastlines to the EEZ limit and legally challenge foreign vessels entering these areas without resorting to naval conflict, even though deploying naval and air assets is critical to surveying national EEZs.
Indonesian authorities destroyed seven out of 75 foreign illegal fishing vessels in the waters off Belawan in Medan, Indonesia, on 1 April. Indonesia is one of the parties to the ongoing South China Sea territorial dispute. (Gatha Ginting/AFP/Getty Images)

Pacific Islands

The Pacific Island state of Tuvalu claims the standard EEZ of 200 nautical miles (370 km), which is drawn from baselines around its three main islands. This translates to a vast maritime area; the FAO states that the geographic area of Tuvalu's EEZ is about 900,000 sq km.

Tuvalu has a population of 11,200 inhabitants, according to World Bank data for 2016, and no armed forces. The national police force includes a small maritime surveillance unit consisting of one Pacific-class patrol boat that was gifted to the Tuvaluan government by Australia. On its own, this vessel is unlikely to be able to detect, intercept, and repel all international fishing vessels entering Tuvalu's EEZ illegally or to monitor fishing vessels that are legally in its waters.

This situation is replicated to greater or lesser degrees throughout the island states of the Pacific. The underdeveloped nature of local economies and small population sizes prevent the Pacific Island states – individually and collectively – from taking a greater role in protecting their own fisheries from illicit poaching. Accordingly, they are reliant on support from foreign states and on multilateral agreements and organisations to address this challenge.

The Parties to the Nauru Agreement is a regional grouping intended to co-ordinate the management of fishing rights, primarily for tuna. Its members – the Federated States of Micronesia, Kiribati, the Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, and Tuvalu – agree the terms and conditions by which foreign entities can access their respective fishing zones. However, because they do not have the domestic capabilities to intercept and prosecute IUU fishing offenders, the agreement is highly dependent on Australian and US military aid and assistance.
In September, Australian Prime Minister Malcom Turnbull publicly proclaimed at the Pacific Islands Forum (PIF) Leaders Meeting in Samoa that Australia would fund aerial surveillance over the Pacific Island states to combat IUU fishing. The Australian Aerial Surveillance Support programme was actually approved by Canberra at the beginning of the year and amounts to the commitment of AUD11 million (USD8.6 million) per annum over the next 30 years for flights by Royal Australian Air Force (RAAF) maritime patrol aircraft to survey the region, according to a report by Radio New Zealand International in January.

Similarly, in August, the US proposed the installation of five maritime domain awareness radar stations on the island of Palau, as well as providing USD300,000 over two years for the aerial surveillance over the marine resources of the island state, according to a US Department of Defense statement. However, the aerial resources expended by Australia and the US will be limited by domestic budgetary considerations, as well as their respective strategic commitments in the Middle East and Asia.

**South China Sea**

A similar pattern can be seen in the disputed waters of the South China Sea. In addition to fisheries, the South China Sea is also home to fossil fuel resources and key maritime trade routes. International media attention tends to focus on the ongoing expansion of Chinese maritime power in the area and strategic competition with the US. However, fishing rights are an important aspect of the disputes in the region, and IUU fishing is a real and immediate problem in the South China Sea. Moreover, the focus on the overarching confrontation has the potential to inhibit the resolution of the practical disputes over fisheries.
A screenshot of the Global Fishing Watch online map platform that displays processed automatic identification system (AIS) data with the aim of enabling internet users to observe suspicious fishing activity. The high potential profits of depleting fish stocks have spurred fishing vessels to skirt international law and illegally poach in the exclusive economic zones (EEZs) of other states.

(Global Fishing Watch, Inc. 2017)

For China and the other regional claimants (Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam), the South China Sea is increasingly becoming a zero-sum dispute; there is little discussion of sharing the maritime resources of the South China Sea equitably, because doing so would require the disputants to accept territorial claims that are incompatible. In the area of fisheries, there is not a collective regional effort to monitor and verify catches, for example.

Vessels from the China Coast Guard have moved into waters far from the Chinese coastline and into those of Southeast Asia, intimidating local fishing vessels. Compared with the Chinese People’s Liberation Army Navy (PLAN), the navies of Southeast Asia are small, and each state in the region largely looks after its own territorial requirements. Moreover, the latest generation of China Coast Guard vessels, although lacking significant weapon systems, are as large as – if not larger than – many naval vessels in the fleets of Southeast Asian navies.

Efforts to address the issue multilaterally have also encountered little success. When first established in 1967, the primary regional body, the Association of Southeast Asian Nations (ASEAN), eschewed any notion of having a hard security component to supplement its internal diplomatic cohesion. ASEAN was not intended to be a NATO-like organisation. ASEAN leaders did not establish a security dialogue until 1994 (the ASEAN Regional Forum), but it was one that was not intended to confront any extra-regional state, let alone fight and win a war against such an actor.

When it comes to confronting Southeast Asian states, China has tended not to deploy its naval vessels in front-line roles, relying instead on well-resourced civilian vessels and its growing fleet of sizeable coastguard vessels. However the state-backed presence of these fishing vessels in the disputed areas is likely to be accompanied by an increase in fishing activities in these waters in a way that is unlikely to be regulated or agreed with local governments.

The most notable of these confrontations recently has been between China and the Philippines, with China Coast Guard vessels using water cannon in October 2016 to prevent Philippine fishing boats from plying the waters around Scarborough Shoal that fall within the Philippines’ internationally recognised EEZ. Previously, in July 2016, Vietnam accused a China Coast Guard vessel of sinking a fishing boat in waters near Vietnam’s Quang Ngai province.

Giving ground

China’s tactics appear to have had a political effect. In July 2016, the Permanent Court of Arbitration (PCA) in The Hague ruled against China in a case brought by the Philippines. The ruling stated that none of the features in the South China Sea counted as islands for the purposes of generating EEZ claims, which would place Scarborough Shoal firmly within the EEZ drawn from the Philippines’ coastline.

However, events after the ruling indicated Beijing’s ability to challenge this legal decision, with China reaching an agreement with the Philippines to permit the latter’s fishing vessels to access...
the waters around Scarborough Shoal. Philippine President Rodrigo Duterte has generally adopted a more accommodating line towards Beijing and has engaged in bilateral negotiations with China over access to maritime resources that – based on UNCLOS – belong to the Philippines. In a press conference in March, Duterte outlined his position on China’s intention on pressing its advantage on Scarborough Shoal: “We cannot stop China from doing this thing. Americans weren’t even able to halt it.”

Indonesia and Vietnam have been making preparations to defend their claims. For example, Indonesia renamed part of its contested area as the ‘North Natuna Sea’ in July 2017. Vietnam has been investing in military capabilities to defend its coastline and maritime possessions in the South China Sea. However, China’s strategy to date suggests that it may attempt to challenge these moves sequentially at a time of its choosing, reducing the likelihood of these states adopting a unified response. Meanwhile, the question of enforcing internationally recognised fishing rights is likely to remain unresolved.

[Continued in full version…]

**Food security**

Unlike agricultural products that are stationary and can be produced within a state’s boundaries, many species of fish – including highly prized species such as tuna – are highly migratory, moving through international waters as well as the maritime claims of multiple states during their lifecycle. Therefore, a national approach to sustainable fisheries production is at risk of being undone by the behaviour of other states. Regional-level approaches are more likely to produce effective results, although there are challenges around the successful integration of extra-regional states that operate distant-water-fishing fleets in the waters of regional participants.

If fish stocks decrease from current levels, international competition for this resource will intensify, increasing the risk of confrontation and conflict on the high seas. Although much of the focus on the consequences of fisheries depletion is on the economic effects, there is a significant threat to food security in the longer term. The FAO’s 2016 report noted that in 2013, fish provided almost 20% of average per capita protein intake for more than 3.1 billion people. The Australian Marine Conversation Society has claimed that more than one billion people are dependent on fish as their primary source of protein.

[Continued in full version…]
Caught on the net
There are new technologies and innovative techniques that can help track IUU fishing in the Pacific and elsewhere. The monitoring of AIS data by fishing vessels can help to track the movements of vessels operating in other states’ waters. In particular, an analysis of periods when vessels do not broadcast position data may provide potential evidence of IUU fishing activity. Such assessments can in some cases be corroborated by satellite imagery – either through commercial providers or by governments with access to their own imagery capabilities. Initiatives such as the Global Fishing Watch, which provides a web-based platform for visualising processed AIS data, have the potential to provide greater transparency over the extent of IUU fishing and to publicise the actions of states engaging in – or tacitly permitting – this activity. Speaking to Jane’s in October, Kimbra Cutlip, a spokesperson for Global Fishing Watch, noted that the “most novel” feature of the map was that “the data behind [it] and our analyses are free and publicly available”. Using the data made available on the platform, Cutlip argued that it would be possible to “identify patterns of behaviour and conduct scientific, economic, ecological, and social investigations”. The availability of this data does not solve the underlying problem of the ability of states to effectively enforce their boundaries or to prosecute violations. However, Cutlip observed that Global Fishing Watch activity was being “used directly to support an investigation of illegal activity” in the case of the Chinese refrigerated cargo vessel captured by the Ecuadorian authorities in the Galápagos Marine Reserve. Cutlip told Jane’s, “Using our algorithm, which analyses vessel behaviour, our analyst determined that the Fu Yu Leng 999 did not capture those sharks and was likely engaged in transshipment with four longline fishing vessels a thousand miles from the Galápagos in the Pacific just days before her capture.” By raising public awareness, the Global Fishing Watch platform does have the potential to encourage a more effective national response to the issue. Cutlip told Jane’s that the platform “reveals the sheer volume of fishing on the oceans, identifies areas of intensity, and enables fishers to publicly validate their adherence to regulations”.

On the web
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Author
Dr John Bruni is the CEO of Adelaide-based think tank and consultancy SAGE International Australia and is on the board of directors of the Royal United Services Institute of Defence and Security Studies – Australia (RUSIDSS-A).

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