



# The China Challenge to ASEAN Solidarity: The Case of the South China Sea Disputes

**AILEEN SAN PABLO-BAVIERA**

This paper looks at ASEAN's attempts to form a common position on the matter of the South China Sea disputes, notwithstanding the competing claims in the area of four of its member-states. The need for solidarity on the issue has become more pronounced in light of China's increasing assertiveness in the Spratlys and her policy of naval modernization. But long-standing mistrust, different perceptions on the extent of the "China threat," as well as varying national priorities and capabilities among the ASEAN claimants and non-claimants prevent them from reaching consensus. In the short run, however, while China stands to gain from a divided ASEAN, strategically speaking a fragmented Association will hurt China even more.

## **The South China Sea Disputes: Stakes and Stakeholders**

The South China Sea disputes refer to competing territorial and jurisdictional claims over four groups of islands, shoals, and atolls, and their surrounding waters among various claimants - China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei. Of these island groups, Pratas and Macclesfield Bank are claimed by China and Taiwan. The Paracels are a subject of dispute between China, Taiwan, and Vietnam,

which had resulted in a brief PRC-Vietnamese armed confrontation in 1974 leading to Vietnam's expulsion from the islands. The Spratlys are apparently claimed in whole by China, Taiwan, and Vietnam, and in part by the Philippines, Malaysia, and Brunei. Vietnam and China again clashed in this area in 1988. A fifth area, not usually considered as part of the South China Sea, is the Scarborough Shoal, which lies close to the Philippine coast north of the Spratlys, and which has also recently become an issue of contention between China and the Philippines.

While the disputes have existed for a long time, they have attained new significance after the 1988 Sino-Vietnamese clashes and since the end of the Cold War. Other than the end of the Cold War itself, there have been changes in the strategic environment that have direct bearing on the character of the disputes. These are: 1.) the rise of China as a regional economic power, and its increasing assertiveness in defense and foreign policy; 2.) the apparent weakening of US security commitment to the region, and the closure of the United States' military bases in the Philippines in 1991; 3.) a decline in American influence in Southeast Asia due to more pronounced differences with key countries over human rights and democracy, and a perceived US neglect of the region; 4.) ASEAN's growing attention to regional security cooperation, especially since the 1993 creation of the ASEAN Regional Forum; and 5.) ASEAN's enlargement to include all the ten states of Southeast Asia.

Together, the rise of China and the perception of declining US commitment and influence in the region portend a changing balance of power. These have repercussions for Japan and ASEAN who have traditionally been aligned with the United States in security issues, but who now have to deal with a more assertive China that is much closer than the United States in a historical, cultural, and geographic sense. The enlargement of ASEAN and its inclination to play a bigger role in regional security are in part driven by the need to ensure that however the relations among the major powers will develop, ASEAN will not in the end be disadvantaged.

To date, the multilateral disputes over the Spratlys, the bilateral Sino-Vietnamese problem over the Paracels, the Sino-Philippine competition for Scarborough Shoal, and the related issues of maritime jurisdiction and resource competition collectively present the only direct challenge in China-ASEAN security relations. At the bottom of the disputes are the issues of sovereignty, territorial integrity, competition for access to the ocean's living and non-living resources, freedom of passage in strategic sealanes, as well as security against external threats.

Among these considerations, the least difficult to resolve is the matter of freedom of navigation, with all claimants – including China - having pledged to uphold freedom of the sea lanes for littoral states and other ocean users. In addition, the United States has declared a position of neutrality with regard to the territorial claims, for as long as freedom of navigation is not endangered. A State Department press statement dated February 11, 1999 announced that “while the US takes no position on the legal merits of competing claims to sovereignty in the area, maintaining freedom of navigation is a fundamental interest of the United States.” China has therefore repeatedly made a point of emphasizing that their claims will not prejudice freedom of navigation.

With regard to the sovereignty disputes, the US has only rather tamely said that the issue must be settled peacefully, and that Washington would not condone the use of force to settle the conflicts (Lee, 1994). State Department officials had also on several occasions announced that as far as its Mutual Defense Treaty with the Philippines is concerned, it had no obligation to protect the Philippines in disputed territories. Some quarters have in fact criticized the United States for playing into China's hands by its narrow and legalistic position on the disputes (McDevitt, 1999).

The matter of access to resources, particularly fisheries, would also appear negotiable over time under the framework of a joint development zone, even as an interim arrangement pending the resolution of the sovereignty issues. The region does have some limited experience in joint development, such as the 1990 Malaysia-Thailand Joint Authority, the

1982 Indonesia-Papua New Guinea maritime boundary agreement, and the 1989 Australia-Indonesia Timor Gap Treaty, according to Stuart Kaye (Batongbacal and Baviera 2000). What complicates the joint development option for the Spratlys is the number of claimant states, overlapping claims, and their wariness about entering into direct negotiations over resources. Without a clear and explicit agreement among the claimants that they will set aside sovereignty, any effort towards joint development will expose claimants to the politically unacceptable risk of surrendering territory. But insistence on sovereignty is not the only stumbling block to joint development. Among the questions that need to be agreed on are what area shall be developed and by whom? What resources shall be the subject of cooperation? How will the profits and fruits of cooperation be divided? Who shall have principal management responsibility? Given the asymmetry in size, power, and capability of the claimants, will the biggest claimant – China – agree to an equitable allocation?

Nonetheless, there are those who feel that joint development is the only realistic option for resolving a problem as complex as the Spratlys dispute, and that the best time to lay the groundwork for such an approach is before the presence of suspected oil and gas reserves becomes confirmed, since such an occurrence would be certain to raise the stakes. After all, China became a net petroleum importer for the first time in 1994. Daqing and Shengli oilfields which represent 25 percent and 50 percent of Chinese supply respectively, are reportedly close to exhaustion, while the offshore oil resources of the South China Sea area have been touted to be potentially the third largest in the world (Funabashi et al, 1994).

One challenge to peace and stability in the South China Sea is the prospect of China dominating the area militarily. Huge increases in the PRC's military budget have been noted for several years in succession, including 17.7 percent increase announced for 2001 alone, although China has been arguing that its military expenditures have gone down in relation to total state expenditure from 1995-2000 (China Daily) Other worrisome indicators are a change in PLA strategy towards greater projection of sea,

air and missile power in the China Sea and the Western Pacific, and its efforts to build capability in fighting quick, localized, high-tech conflicts about stakes that are too small for the US to want to intervene in. (Almonte, 1997)

Many analysts have rightly pointed out that the pace and the scale of China's military modernization pose no threat to the United States' military preponderance in the Asia Pacific. Some even confirm China's own claims that it is pursuing the legitimate upgrading of a very backward military force in the face of continuing uncertainties and new non-traditional threats to its security. Nonetheless, there are very real reasons for smaller neighbors to be wary. China has not only demonstrated a keen willingness to use force when deemed necessary to defend its sovereignty claims (as with Vietnam and Taiwan in the past), it is also developing a capability directed explicitly at maritime challenges and scenarios of limited conflict.

In sum, the involvement of many claimants and multi-dimensional interests in the South China Sea make the disputes difficult to resolve in the short- to medium- term, but possible to manage via negotiated mechanisms if the claimant states so will it. What is worrisome is how the disputes can become a flashpoint in the region, as they interface with other elements in the strategic environment. The Spratlys dispute, in particular, is a test case of great power-small power relations exemplified by China-ASEAN ties. Will China's actions in the Spratlys show it to be a benign power, or an aggressive and hegemonic one? How will ASEAN respond to China, given either scenario? As ASEAN becomes a locus of contention in the contest for influence between the United States and China, will ASEAN collectively or some of its member states move closer to the United States, to China, or opt for a position of equidistance? Will such a posture be influenced by the roles of these two great powers vis-à-vis the disputes? Can ASEAN itself, enlarging in membership and scope of activities, but battered by economic crisis and internal political instabilities, stand the test of unity and regional solidarity on this issue?

### China's Growing Assertiveness and ASEAN's Response

Before Vietnam became a member of ASEAN, it had long been at loggerheads with China over their territorial disputes in the Paracels and Spratlys, with the other Southeast Asian states often watching their actions with concern from the sidelines. However, a new stage in the ASEAN-China contest for the South China Sea opened with China's passage of a Law on Territorial Sea and Contiguous Zone in 1992, whereby China reiterated its claims over the Paracels, Spratlys, Macclesfield Bank, Pratas, Pescadores and the Diaoyutai islands. Malaysian scholar Abdul Razak Abdullah Baginda claims that the law caught many by surprise, because it came at a time when Deng Xiaoping had just suggested that sovereignty "be left to the next generation to resolve, even as the present generation looks for ways to cooperate" (Baginda, 1994). The Philippines, Indonesia, Malaysia and Vietnam protested the new law. In the same year, China occupied Da Lac coral reef which is also claimed by Vietnam. A few months later, China announced that it had awarded an oil exploration contract in an area claimed by Vietnam to an American firm Crestone.

In response to this series of developments, the foreign ministers of ASEAN's then six members, upon Philippine initiative, issued a declaration in 1992 calling on all claimants to exercise restraint in the pursuit of their claims and to explore cooperative ventures as a means of preventing conflict. China was at first lukewarm towards the Manila Declaration on the South China Sea, but later stated that it appreciated some of the principles the document contained. Vietnam, on the other hand, became associated with the Declaration after having acceded to the Treaty of Amity and Cooperation in Southeast Asia, thus becoming an observer of the Association.

The Indonesian Foreign Ministry with support from the Canadian International Development Agency, had since 1990 organized a series of informal workshops on "Managing Potential Conflicts in the South China Sea", at first involving only the ASEAN countries but eventually expanding

to include Taiwan, China, Cambodia, Laos, and Vietnam. Participants include foreign ministry officials as well as experts in such fields as marine science, ecology, navigation, hydrography, law, and others. To date, a wide range of proposals and projects has been discussed through the more than thirty meetings that have transpired, including proposals for functional cooperation as well as confidence-building. Implementation, however, has been snagged by the reluctance of governments to address the sensitive questions of sovereignty.

In late 1993, China's South Sea Fleet held major military maneuvers in the South China Sea and in 1994 began building an airstrip in the Paracels. In early 1995, the Chinese proceeded to occupy Mischief Reef, a partly submerged feature in the Spratlys 135 nautical miles from the Philippine province of Palawan, ostensibly for the purpose of building shelters for its fishermen. The Philippine response was to try to bring the attention of the international community to Chinese actions, beginning with ASEAN, the United States and the European Union. It also took pre-emptive military measures to forestall further new occupations of claimed features by blowing up markers that had been set up by China in nearby reefs and shoals.

Some attention was given to the fact that China had acted against an ASEAN state other than Vietnam, which at the time had yet to become a full member of the Association. ASEAN's response was a statement by its foreign ministers calling upon all parties to refrain from taking actions that destabilize the region and further threaten the peace and security of the South China Sea. They also called for the "early resolution of the problems caused by recent developments in Mischief Reef" (ASEAN Foreign Ministers 1995).

In August 1995, the Philippines and China held bilateral talks on Mischief Reef that produced an agreement to abide by certain principles for a code of conduct. These included an agreement that the dispute should not affect the normal development of relations, but rather be settled in a peaceful and friendly manner, through consultations and on the basis

of equality and mutual respect, and in accordance with the United Nations Convention on the Law of the Sea as well as other "recognized principles of international law." Manila and Beijing also said that confidence-building measures (CBMs) should be undertaken, with both sides refraining from use or threat of force in resolving the disputes. Finally, the two sides expressed a desire to cooperate for the protection and conservation of maritime resources.

A similar code of conduct was signed by the Philippines and Vietnam in November 1995 with the additional provision that other parties were invited to subscribe to those principles. This provision was apparently included with the possibility in view of expanding the scope of the agreement to other claimant states. The following year, China and the Philippines further agreed to establish a "bilateral consultative mechanism" which involved three experts-level working groups to look into fisheries, marine environment protection, and confidence-building measures. Tensions nevertheless heightened as the Philippine authorities continued to apprehend or warn off Chinese fishermen operating in the Spratlys, near Scarborough Shoal, and on some occasions even in Philippine territorial waters. In most instances, Chinese fishermen were found and charged with employing illegal fishing methods such as the use of cyanide and dynamite, and of harvesting endangered marine life such as marine turtles and giant clams - acts prohibited under the international CITES agreement.

China's unilateral assertions of sovereignty proceeded with determination. In early 1996, together with its ratification of UNCLOS, Beijing declared baselines around the disputed Paracel islands, and announced that it would draw similar baselines around its other territories (presumably including the Spratlys) at a later date. The following year, Hanoi protested China's construction of an oil rig on part of Vietnam's continental shelf. China eventually withdrew, after declaring that it had finished tests that it was conducting on its own territory (Baviera, 1999).



In October 1998, China replaced the original structures on Mischief Reef with more permanent multi-story buildings, thus reinforcing its presence. Philippine defense authorities described the new structures as an “emerging military facility” equipped with helipads, gun emplacement platforms and radar equipment. This time attempts by Manila to rally ASEAN in another condemnation of Chinese actions failed, coming as they did in the wake of political instability in Indonesia, the 1997-98 Asian financial crisis, and China’s much-appreciated assistance to Bangkok and Jakarta in shoring up their economies against the currency crash.

During the first Philippines-China experts-level CBM meeting held in March 1999, a proposal for joint use of Mischief Reef was broached by the Philippine side, but in vain. China proposed three CBMs: notification of joint military exercises held in disputed areas, attendance by Chinese representatives at joint exercises (apparently directed at the forthcoming Philippine-US Balikatan exercises), and humane treatment for arrested fishermen. The Philippines in turn demanded the dismantling of the structures on Mischief reef, a halt to further construction, and access to the reef by Filipino fishermen. No agreement was reached between the two sides.

Within months of the confidence-building meeting, the Philippine navy in two separate incidents intercepted a group of Chinese fishing vessels in the vicinity of Scarborough Shoal, and as a consequence of its pursuit, “accidentally sank” one of the boats (*Phil. Daily Inquirer*). Chinese ambassador to Manila, Fu Ying, accused the Navy of deliberately sinking the vessels, and demanded punishment of the navy personnel responsible as well as compensation for the vessels. To date, the Philippines and China have had two meetings each of the three experts-level working groups and annual senior officials-level Foreign Ministry consultations, with little substantive agreement reached other than the commitment to continue talking.

Efforts to defuse tensions have also been undertaken at the multilateral level between China and ASEAN. Here, there seems to be

some gradual progress being made in terms of opening and deepening the dialogue on the South China Sea between the two sides. The first ASEAN-China Senior Officials Political Consultations held in Hangzhou in April 1995, marked the first time China agreed to discuss the Spratlys dispute multilaterally with the ASEAN claimants, albeit only in an informal session. With anxieties over China's intrusions on Mischief Reef fresh in their minds, the six-member Association was united and severe in their criticism of China. Subsequently, China began to pay more serious attention to multilateral dialogue, in contrast to its earlier insistence on only bilateral talks involving the claimants.

During the second such political consultations in Bukittinggi, Indonesia in June 1996, ASEAN raised clarificatory questions regarding China's ratification of UNCLOS and its declaration of straight baselines around the Paracels that year. The questions were in the nature of testing Chinese interpretation of specific provisions of UNCLOS, with Indonesia and the United States filing separate formal inquiries with the Chinese government in this regard. The following year, ASEAN-China discussions focused on the need for a code of conduct, especially in light of the incident whereby China constructed oil rigs on what Vietnam considers to be its continental shelf.

In December 1997, in Kuala Lumpur, the Heads of State of China and ASEAN held the first of their annual summits, and issued a "Joint Statement for ASEAN-China Cooperation towards the Twenty-first Century." On the South China Sea disputes, the statement said that the two sides undertook "to continue to exercise restraint and handle relevant differences in a cool and constructive manner". The call for restraint appeared to be directed mainly at China which continued to take provocative actions, while the call for keeping a cool and constructive attitude may have been directed at the Philippines where an over-active media and outspoken politicians tended to fuel the tensions by making likewise provocative statements.

During the following year's ASEAN-China summit in Hanoi, in the wake of the October 1998 fortification of Mischief Reef, the ASEAN governments expressed strong concern and resolved to work for a regional code of conduct to prevent the further escalation of conflict. Notably, however, this was short of the condemnation of Chinese actions that had characterized ASEAN response to the initial occupation of the reef in 1995.

The Philippines was tasked to prepare the ASEAN draft of the regional code of conduct, together with Vietnam, for presentation initially to the ASEAN Senior Officials. China itself initially opined that a regional code of conduct may be unnecessary, arguing that some of the parties had already entered into bilateral codes of conduct, and that the 1997 China-ASEAN Joint Statement already contained an agreement on similar principles. It however indicated a more open attitude during its meeting with ASEAN in Kunming in April 1999, where Assistant Foreign Minister Wang Yi was quoted to have said, "if ASEAN is really interested, we will give it serious and earnest consideration" (*Today*).

A crack in ASEAN unity on the South China Sea issue came once more in June of 1999. The Philippines revealed that Malaysia had set up markers and sent what was ostensibly a team of "scientific and research personnel" to areas just outside of the Philippine claimed area. Kuala Lumpur was then reported to have begun building a base on Philippine-claimed Investigator Shoal, earning a diplomatic protest from the Philippine government. In October 1999, Vietnam expanded structures on Tennent Reef, Cornwallis South Reef, and Allison Reef, triggering protests from the Philippine and Taiwan (Republic of China) governments (Chen, 1999). The sequence of events seems to suggest that the improved prospect of concluding a regional code of conduct may have stimulated a rash of unilateral occupations, in anticipation of the ban on new occupations and on new construction. Whether or not this is true, it appeared that some ASEAN claimants were now as guilty as China of the charges of unilaterally advancing sovereignty claims and helping to escalate the disputes.

Discussions on the draft code of conduct were again held in November 1999 among ASEAN Senior Officials, preparatory to a summit of the Heads of State of ASEAN and China. The draft was reportedly so contentious that a late night meeting had to be held among the Philippines, Vietnam and Malaysia to discuss Vietnam's insistence that the Paracels be included. Drafts were apparently exchanged informally between China and ASEAN, but the matter was not raised formally during the ASEAN-China summit meeting at all. However, in private talks between Philippine President Joseph Estrada and Chinese Premier Zhu Rongji, Zhu was reported to have objected strongly to the inclusion of the Paracels, warning ASEAN that it would not be rushed on the issue (Thayer, Jan. 2000).

In March 2000, Senior Officials from ASEAN and China met in Thailand for the first high-level discussions on the proposed Code of Conduct. The two sides presented their respective drafts. In common were the interest in protection of the marine environment, marine scientific research, safety of navigation, and search and rescue. Both urged self-restraint. ASEAN, however, demanded a halt to future settlement and construction while China expressed a desire to stop "military exercises directed against other countries" as well as sought assurances that their fishermen would be allowed to engage in "normal operations."

In May 2000, the second meeting of the code of conduct working group was held in Kuala Lumpur. Then, in August of 2000, China hosted the third meeting in Dalian. A main bone of contention had been Vietnam's insistence that the Paracels be included in the geographic scope of the code. China had vehemently opposed this. By the time of the meeting in Dalian, there was agreement that the draft Code was to apply to the Spratlys alone, but officials were reportedly still working on a formula that would exclude the Paracels but still satisfy Vietnam. On the other hand, China was proposing a provision that would in effect restrict US military exercises in "the waters" around the Spratly islands (Thayer, Oct. 2000). Malaysia reportedly also had some reservations about the application of the code to its continental shelf.

A joint consultative draft of the regional code of conduct was discussed again in October 2000 in Hanoi. There were still several issues of contention. China continued to oppose the Philippine proposal for a ban on further construction on occupied features and on new occupations. It preferred more general wording such as “exercising restraint in activities that might complicate or escalate disputes.” China also continued to push for assurances that its fishermen would be able to fish in disputed areas, and that no “dangerous and close-in military reconnaissance” be conducted (Thayer, Apr. 2000).

Throughout the series of discussions, China was quick to publicize that a main obstacle had been the differences in views among the ASEAN claimants, rather than differences between itself on the one hand and ASEAN on the other, regarding the scope of the agreement. For whatever reason, the meeting in Hanoi failed to agree on a draft that was originally to have been presented to the Heads of State for signature at the ASEAN-China summit in November.

### **Analysis of the Differences among ASEAN claimants**

Thus far, ASEAN has failed to come up with a unified position on how to deal with China vis-à-vis their conflicting claims in the South China Sea. The lack of a common view must be understood at two levels: differences among ASEAN countries’ perceptions of China as either a potential threat or potential ally, and apparent differences among the various ASEAN claimants on how best to approach the territorial disputes. For the latter, the most obvious question facing each country is whether the promotion of sovereignty claims should take precedence over the prevention or resolution of conflict or vice versa. Secondly, in the matter of conflict prevention or resolution of the disputes, is it better to deal with China bilaterally or multilaterally?

### Managing China: Confrontation versus engagement

In general, all ASEAN countries fear the possible consequences of China's growing military strength. However, none of the ten ASEAN countries are interested or inclined to pursue a strategy of confrontation with it. Vietnam, which for historical, geographic, and past political and ideological reasons has had the most difficult relations with China, is now bent on improving relations with Beijing. Recent years have seen a flurry of high-level exchanges between the two sides, frenetic negotiations to resolve disputes over land borders and over the Tonkin Gulf, tremendous increase in cross-border trade, and renewed links between ruling Communist parties. Indonesia under Suharto took the longest among the ASEAN countries to overcome its suspicion of China, normalizing diplomatic relations only in 1990. In contrast, the new government of President Abdurahman Wahid within its first days in office called for closer ties among Indonesia, China and India, likely having in mind the commonalities of the three as the region's most populous countries, as developing nations, and as potentially long-reaching political powers. Moreover, China's financial assistance to Indonesia and Thailand following the 1997 currency crash was greatly valued by the governments of these two countries.

The Philippines, despite the furor over the intensifying activity of the Chinese navy and civilian fishermen in the disputed territories, has a long history of friendly cultural and people-to-people links with China to fall back on, and realizes the importance of developing long-term friendly relations for the sake of regional peace. Malaysia, possibly disappointed in Japan's failure to take the lead in promoting an East Asian renaissance, looks to China for support for its East Asia vision. Singapore continues to pursue active and comprehensive cooperation with China, with the comfort of knowing that the United States remains engaged as a balancer in the region. According to Lee Kuan Yew, Senior Minister of Singapore, a strong China in the twenty-first century can only be better for the world than an impoverished and unstable China. "The rise of China and the

rest of East Asia will infuse fresh vitality into the whole planet and produce a steadier global economic and political balance,” he said. But even Lee Kwan Yew had called for China to make its intentions and capabilities in the South China Sea more open and transparent, and to be more explicit on what it meant by a statement favoring a sharing of resources in the South China Sea (Lee, 1994).

On the other hand, Myanmar and Cambodia are recipients of Chinese official development assistance, including military training and infrastructure support.

There is increasing acceptance in ASEAN of China’s inevitable influence in its part of the world. To cite the former Philippine National Security Adviser Jose T. Almonte: “... ASEAN can live with the idea of China as the East Asian superpower. All it asks is that China keep in mind that demographic magnitude, economic weight and military power by themselves do not command respect. Respect can only be earned if a superpower’s attributes include moral authority. If Southeast Asia has no other alternative to learning to live with its giant neighbor, so must China learn to coexist with its smaller neighbors as virtual equals” (1997). Clearly, if the United States is the self-declared indispensable power of the Asia-Pacific, it is because China appears to be the inescapable one.

Each country’s calculation of the extent to which it should confront or engage China over the disputed territories should factor in the entire breadth and depth as well as the strategic framework of its relations with China. Trends in Sino-US relations and the overall situation of ASEAN also appear to figure in the equation.

It is interesting to compare the ASEAN position towards China before and after the financial crisis. We can speculate that ASEAN was able to unite in its criticism of China’s occupation of Mischief Reef in 1995 because it perceived itself as adequately strong in regional, and even global, economic and political clout to be taken seriously by China and the international community at large. ASEAN then was acclaimed as one of the most successful experiences in regional cooperation and

integration. The "ASEAN Way" was hailed as an effective approach to confidence building and the promotion of cooperation, for which reason it was being emulated in the APEC and the ARF.

In contrast, in late 1998 many of the countries were still reeling not only from economic and financial crises, but from the threat of serious internal political instability: with the ethnic, communal, and democratization troubles in Indonesia, brewing dissent over Mahathir's treatment of Anwar in Malaysia, resurgence of Muslim insurgency under the inept Estrada government in the Philippines, among others. The Asian crisis itself was a wake-up call to several realities, among them the unreliability of certain institutions of global governance such as the IMF, the tepid commitment of the United States to the region's economics, the interdependence of Southeast Asian economies with that of China particularly in the matter of currency devaluation, and the need for Asian countries to close ranks and look for common solutions to region-wide problems. None of these was conducive to criticism of China over territorial disputes that, after all, were not considered of great urgency at the moment.

Another illuminating example of the differences in the positions of ASEAN claimants was in relation to a Philippine proposal to bring the South China Sea disputes onto the agenda of the Asia Europe Meeting in March 1999. The host, Germany, was against the discussion of the disputes at the Summit, especially after Chinese Foreign Minister Tang Jiaxuan threatened to leave the talks should Manila insist on discussing the matter. The Germans pointed out that the South China Sea dispute is not a European concern, and that ASEM is not the proper venue for the discussion of the said dispute (*Manila Times*). Malaysia, Singapore, and Thailand were also reported to be wary of the planned inclusion of the dispute in the meeting, and Foreign Affairs Undersecretary Lauro Baja of the Philippines had to assure the three countries that the Philippines aimed to raise the dispute as a vital security concern for the ASEAN, and that it would do so as a matter for information and not in a confrontational manner (*Phil. Daily Inquirer*). Ultimately, ASEAN supported the position of the Philippines, the matter was raised during ASEM, but China



succeeded in blocking any mention of it in the statement issued by the Chair in Berlin. The incident shows the dilemma of ASEAN not having a single common perception of China, but needing to demonstrate solidarity when it comes to the South China Sea disputes. At issue was not only the fear of the repercussions of confronting China, but of the repercussions of internationalizing the dispute.

### **Unilateral Action versus Bilateral versus Multilateral Resolution**

China has long preferred to deal with the disputes bilaterally. Because of the asymmetry in size and power among the claimants, such an approach naturally gives China an advantage over the other claimants. For instance, it could more successfully employ a “carrot and stick” approach in negotiations, combining enticements for cooperation with threats for non-cooperation against a single country, rather than giving away too much all at the same time. It could also make use of a “divide and rule” tactic, such as offering to grant concessions to one that it would not grant others as a manner of persuasion.

From ASEAN’s perspective, it is logical to argue that collectively, the ASEAN claimants (including Vietnam, which became a member in 1997) would stand a better chance of exacting concessions from China through a process of multilateral negotiations. This is because of: 1.) the equalizing effect of multilateral negotiations where China becomes only one among several claimants, albeit likely to be treated as a “first among equals;” 2.) a better chance of success in collective resistance to inducements, pressures, threats; and 3.) ensured transparency of the process thus helping to build trust among the ASEAN claimants themselves, in contrast to a situation where each would deal with China separately.

Even during the preparatory phases of the Indonesian Workshops on Managing Potential Conflict, when organizers Hasjim Djalal and Ian Townsend-Gault were going around ASEAN capitals to sound out the proposal, they repeatedly heard the notion that ASEAN member states

should coordinate their views and positions first before they engaged non-ASEAN states in such efforts at confidence-building and cooperation (Djalal and Townsend-Gault 2000).

The annual ASEAN-China Senior Officials Political Consultations appear to be the most acceptable venue to discuss the South China Sea disputes multilaterally, as far as China is concerned. Although not all the ASEAN countries are claimants or parties to the dispute, China has agreed to include the South China Sea in the formal agenda of talks. In contrast, China resisted all attempts to bring the issue before the ASEAN Regional Forum (ARF), or any other international forum. Previous attempts by the Philippines to take up the matter at the ARF, Asia Europe Meeting, the Non-aligned Movement, the Inter-Parliamentary Union, and other bodies have all met with stiff resistance. A Bangkok Post editorial in August 27, 2000 also said China “slapped down” a Thai proposal to raise the Spratlys question at the ARF “brusquely and rudely” (Thayer, Oct. 2000).

However, ASEAN has thus far failed to attain a clear consensus on the value of a coordinated multilateral approach towards China. The Philippines has been the most vocal in advocating a common ASEAN position on the matter of the disputes. Former National Security Adviser Jose Almonte did not mince words about this in a 2000 speech, where he implored that ASEAN speak with one voice on the South China Sea (*PACNET* 2000). Vietnam also supports collective action by ASEAN, and it benefits much from the Philippines’ outspoken criticism of China’s actions.

Malaysia, on the other hand, appears to place more emphasis on its bilateral discussions with China. Official and unofficial Malaysian sources have expressed the following basic positions on the South China Sea issue: first, it is for the peaceful resolution of the South China Sea issue; second, China is a major player and it should be constructively engaged; and third, Malaysia opts to resolve issues bilaterally. In 1993, Prime Minister Mohammad Mahathir suggested that too much was being made of the Spratly disputes and that the parties should instead concentrate on bilateral

agreement on principles and procedures (Lee, 1994). His Defense Minister Dato' Sri Mohd Najib Tun Razak, argued that rather than seeing the Spratlys disputes as a flashpoint for conflict, we should change mindsets in favor of cooperation (Baginda, 1994). Following the 1995 occupation of Mischief Reef, Malaysia seemed to soften its stand and go along with efforts to come up with a collective ASEAN position, but in the Indonesian workshops, and in subsequent discussions on the regional code of conduct, there were frequent unofficial reports on Malaysia holding off multilateral cooperation initiatives.

It did not pass without notice that shortly before new Malaysian occupations on Investigator Shoal were revealed by the Philippines in mid-1999, the Malaysian Foreign Minister had been in China. During his visit, the two countries reiterated the value of bilateral solutions to the territorial disputes. In contrast to the Philippines' denunciation of Malaysia's moves on the shoal, China was not reported to have made a public protest. At a 2000 conference on the South China Sea organized by the Honolulu-based Pacific Forum, an ASEAN participant was quoted to have openly complained, "How can we expect China or others to honor their pledge to respect the ASEAN Declaration when ASEAN members are increasingly ignoring it?" (Cossa, 2000).

Similarly, in one instance in January 1998, Manila filed a protest against the Vietnamese shooting of Filipino fishermen near Tennent Shoal. Manila claimed that the attack violated the code of conduct forged between RP and Vietnam where they pledged to exercise self-restraint, avoid use of force, and stop other provocative acts that may damage RP-Vietnam relations (*Today*). Again in May 1999, Vietnamese fishermen were detained by the Philippine authorities on charges of poaching and illegal fishing in the Spratlys. The Vietnamese Embassy in Manila submitted a *note verbale* to the Department of Foreign Affairs saying, "for good Philippines and Vietnam relations and humanitarian grounds, the fishermen should be released." The Philippines filed charges against them anyway. Truly, the disputes do not only have to be managed in relation to China, but among the rival ASEAN claimants themselves. The fact remains that

the bilateral codes of conduct already agreed upon have failed to prevent incidents which actually took place from happening - such as China fortifying Mischief Reef, the Philippines boarding and apprehending Chinese fishermen near Scarborough Shoal, and Vietnam firing at Filipino fishermen and at a Philippine Air Force reconnaissance aircraft flying over Tennent Reef, among others.

The temptation to junk multilateral solutions in favor of unilateral acts of sovereignty or bilateral negotiations may be attributed to the belief that negotiating a multilateral treaty is bound to be a very complicated process and will have to proceed in stages. Malaysian scholars have argued that it would also be desirable for the ASEAN claimants to sit together first and come to agreement, so that ASEAN-China negotiations could then be fruitfully held. But while Malaysia and the Philippines have held separate consultations with Vietnam in this regard, it appears that Kuala Lumpur and Manila find it difficult to address their overlapping maritime claims, in part for fear that the Sabah issue may be somehow revived.

The internationalization of the disputes, defined as the involvement of non-claimants and extra-regional states in dispute settlement, has been another area of disagreement among the ASEAN states. The Philippines has appeared to be the most serious in advocating participation by the international community. This was particularly true after the 1992 withdrawal of US bases, when then President Fidel V. Ramos indicated that he favored a conference under United Nations auspices to settle the problem. President Estrada had also taken up this matter with UN Secretary General Kofi Annan. Other senior officials of ASEAN, however, were very cautious about involving more players, notably Malaysia and Indonesia who were ideologically bound to neutrality and freedom from great power intervention under the framework of the ASEAN Zone of Peace, Freedom and Neutrality (Lee 1994). The Philippines later withdrew its proposal for an international conference and pushed instead for the 1992 Manila Declaration on the South China Sea, which the Philippines hailed as the first step to more formal discussions on the issue.

Malaysia does not seem to favor internationalization of the dispute. In August 1999, during a working visit to China by Prime Minister Mahathir, leaders of the two countries agreed “that the South China Sea issue can only be resolved by relevant countries involved, opposing any involvement and interference by any outside force.” The statement came in the wake of comments on the issue by US Secretary of State Madeline Albright that the United States “cannot sit on the sidelines and watch.”

### **Divided ASEAN: Can China win?**

Admittedly, the cleavages within ASEAN can be attributed to factors not related to China or the territorial disputes. Many of the ASEAN countries still harbor long-standing mutual suspicions left over from history. Recent divisions have also been known to exist over, for instance, the spill-over effects of instability in Indonesia, challenges to the principle of non-interference in internal affairs, criticisms over Mahathir’s handling of the Anwar affair, and others. These have affected bilateral ties between pairs of countries. More generally, ASEAN has become divided along several fault lines – the more developed versus the less developed, the more democratic versus the more autocratic, the insular interest versus the peninsular interest (or the “continental” versus the “littoral” outlook). Therefore the question of ASEAN unity will remain relevant regardless of the status of the South China Sea disputes. However, in many cases in the past, we have seen how an external challenge managed to help bring about ASEAN unity. With respect to the China challenge, the opposite effect appears to be the case.

It is clear that ASEAN loses out whenever disunity prevails. The more interesting questions are whether or not China itself stands to benefit from a divided ASEAN, and whether or not control of the disputed islands and waters will be worth the consequences of a weak and divided ASEAN, from the point of view of both China and ASEAN.

Since its publication of a Defense White Paper in 1998, China has espoused what it calls a “new concept of security.” The new concept

reiterates Zhou Enlai's Five Principles of Peaceful Coexistence, but incorporates elements of cooperative security such as the promotion of mutual trust and understanding through dialogue and cooperation, a commitment to settle disputes peacefully, non-confrontation and engaging in cooperation which is not aimed against a third country's security interests (Finkelstein and McDevitt 1999). The new concept finally acknowledges a positive role for multilateralism, although in recent years this has been balanced by a determined push by China to conclude a series of bilateral agreements establishing "strategic partnerships" and "frameworks" for its relations with key neighboring countries.

Such "strategic partnership" agreements had been established with Thailand, Malaysia, Brunei, and Viet Nam in 1999, and subsequently with Myanmar, Indonesia, the Philippines, and Singapore. At the same time, China has declared its appreciation for the principles contained in the Treaty of Amity and Cooperation in Southeast Asia, and has announced its support for the Protocol to the Treaty on Southeast Asian Nuclear Weapons Free Zone.

In a highly symbolic move, the Communist Party of China also established party-to-party links with counterpart ruling parties in Thailand, Indonesia, Malaysia, and Singapore in early 2000, on the basis of independence, complete equality, mutual respect, and non-interference in each other's internal affairs (Thayer, Jul. 2000). This shows how far relations have come from the 1960s and 1970s when anything that was even remotely associated with communism was anathema to these Southeast Asian governments.

China has also shown interest in the prospects of multilateral security cooperation in the ASEAN Regional Forum and in other ASEAN-led dialogue mechanisms, but has so far been non-committal. It is likely that China finds the ASEAN-led initiatives, with their non-binding nature, preferable to the present US-centered system of bilateral military alliances that are at least implicitly directed against a so-called China threat.

Given ASEAN's foreign policy posture of resistance to foreign interference in internal affairs, and preference for regional solutions to regional problems, ASEAN can be seen by China as at best a potential ally in China's efforts to resist what it calls US hegemony, or at worst a neutral player that can help moderate US actions. As such, ASEAN becomes the subject of strategic competition among the great powers in the region. As one Chinese scholar put it thus: "While ASEAN is a new rising force, it is becoming a target of competition and exploitation by larger nations. US is trying to use its special military status to try to restrict the role of ASEAN and to create China threat theory to emphasize need for balance of power, persuading ASEAN to become a quasi-ally. Japan sees ASEAN as its economic hinterland and uses ASEAN as a political force for balancing China and US" (Shi, 1996).

ASEAN itself continues to have second thoughts about the role of the United States in the post-Cold War order. While belief is still strong that the United States is an indispensable power given the present strategic situation, there is also growing apprehension of US arrogance and hegemony. In particular there is worry that the United States many times behaves in ways that depart from ASEAN's own interests – e.g., over WTO issues, responses to the Asian crisis, the so-called doctrine of humanitarian intervention as seen in the Yugoslavian crisis, militarization of US foreign policy, and its responsibility for the negative turn in US-China relations (Hassan, 1999).

Even those in ASEAN who are less critical of the United States' foreign policy are preparing for a region without it. Almonte of the Philippines says, "ultimately, inevitably, the US must withdraw its troops from East Asia. When that time comes, the US presence can only be replaced by a type of collective security system, which conceivably can be built around APEC or ARF" (Almonte, 1997).

Meanwhile, since the onslaught of the Asian financial crisis, there have been moves to intensify the process of integration between the ASEAN and China, together with Japan and Korea. In the ASEAN Plus Three

framework, China has indicated strong interest in the prospects for more intensive economic and financial cooperation with ASEAN. It supports the proposal to have an Asian monetary fund and has expressed that it favors participation in ASEAN's proposed currency exchange system (*AFP* 2000). It has also agreed to have a free trade agreement with Singapore. At the ASEAN Plus Three Summit in Singapore, Zhu Rongji said that the ASEAN Plus Three may "serve as the main channel for regional cooperation, through which to gradually establish a framework for regional financial, trade and investment cooperation, and furthermore to realize still greater regional integration in a step by step manner." Meanwhile, a Chinese foreign ministry spokesman announced that China is probing the possibility of a regional free trade agreement when AFTA is established in 2003 (Thayer, Jan. 2000).

On the part of ASEAN, the prospect of greater economic integration with China and the stronger economies of Japan and Korea is likewise attractive. Trade within East Asia is fast expanding. In 1997 alone, ASEAN's exports to northeast Asia grew by 30 percent. In that year, they accounted for one-fourth of total ASEAN exports - surpassing exports to the United States which stood at 20 percent; and the European Union at 15 percent (Ramos, 2000). An East Asian economic grouping is also expected to help keep China's vigorous economy contained in a larger regional setting even as ASEAN's concern about the stability and value of the *renminbi* will be better addressed.

What this shows is that common strategic interests of ASEAN and China are expanding. China is considered a challenge by ASEAN, but one that has to be engaged and transformed into an ally, whether China needs to be cajoled by ASEAN or coerced by other powers in the process. ASEAN, on the other hand, is one of China's best options of neutralizing the effects of a dominant and interventionist United States. ASEAN's pursuit of cooperative security through confidence building, multilateral dialogue, and consultations at this point offers the only articulated alternative to what China condemns as hegemonic power politics. China's own "new security concept" coincides heavily with the "ASEAN way."



With a divided ASEAN, China and other claimants to the South China Sea can continue their respective unilateral actions in the disputed oceans, including oil exploration. China can concentrate in increasing its military power and eventually try to oust other claimants, but ultimately this may induce the claimants to bind together to oppose China. In addition, it is likely to invite intervention from the other major powers.

On the other hand, the weaker ASEAN perceives itself to be relative to a strong China, the more it will want to enhance its relations with the United States. A strong and united ASEAN, on the other hand, will be more responsive to a China that has shown that it is willing to compromise and that pays heed to the sensitivities of its weaker neighbors. It will have greater confidence to negotiate joint development schemes and other cooperative approaches to the disputes. It will rely less on power balancing behavior and on the security guarantees of the United States. It can thus be argued that in the end, with a stronger and more unified ASEAN, ASEAN wins and China wins.

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