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**INCIDENT AT MISCHIEF REEF: IMPLICATIONS FOR
THE PHILIPPINES, CHINA, AND THE UNITED STATES**

BY

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INCIDENT AT MISCHIEF REEF: IMPLICATIONS FOR THE PHILIPPINES, CHINA, AND THE UNITED STATES

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ABSTRACT

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TITLE: Incident at Mischief Reef: Implications for the Philippines, China, and the United States

FORMAT: Strategic Research Paper

DATE: 8 JAN 1996

PAGES: 30

CLASSIFICATION: Unclassified

The February 1995 Chinese occupation of the Philippine-claimed Mischief Reef in the South China Sea raised tensions throughout the region and heightened concern throughout much of the industrialized/maritime world. Instability or armed conflict in this key area, particularly involving the Republic of the Philippines, could affect important, if not vital, U.S. security and economic interests. This paper examines the implications of the Spratly Island Issue on U.S. interests in the South China Sea, emphasizing the U.S. bilateral treaty relationship with the Philippines. After briefly reviewing the historical background and the various players' probable intentions, several possible approaches are discussed that could reduce the likelihood of conflict and instability. The author believes the best approach to addressing near-term economic concerns and solving long-term sovereignty issues is through the ASEAN Regional Forum (ARF). As a member of the ARF, the U.S. must make it clear to China that we will protect our vital interests regarding freedom of the seas, despite our strong desire for economic and political engagement. Without speculating on hypothetical situations, the U.S. intent is to honor its treaty obligations.

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Introduction

During the last months of 1994, most Filipinos thought of China as a huge, distant neighbor whose largely benign intent posed no threat to Philippine interests or security. After all, China was some 700 kilometers away across the South China Sea. But on February 8, 1995, Filipinos woke up to find a Chinese flag flying over the Philippine-claimed Mischief Reef, barely 200 kilometers from the Philippine island of Palawan. Eight Chinese ships were also in the area--and some of them were armed.¹ China was not so far away, after all; nor did she seem benign.

As word spread of the surprising Chinese presence, alarms sounded in many Southeast Asian capitals. China, Taiwan, Malaysia, Vietnam, Brunei, and the Philippines dispute ownership of the Spratly Islands in the South China Sea, which includes Mischief Reef.² Sitting within the proverbial stone's throw of some of the world's most important sea lanes, potential instability in this region also caused immediate concern in Japan, the United States, and the European Union, among others. Implications of any Sino/Filipino military confrontation on the 1951 Mutual Defense Treaty Between the United States of America and the Republic of the Philippines caused particular concern in the United States. Instability or armed conflict in this area of the world, particularly involving the Republic of the Philippines, could affect important, if not vital, U.S. security and economic interests. Chinese claims to the contrary, the occupation of the aptly named Mischief Reef was a stark reminder to all of China's quiet, but apparently determined, advance into the South China Sea.³

History

Sovereignty over the Spratly Islands, as well as other islands and reefs in the South China Sea, has been an issue for literally thousands of years. China, Taiwan, and Vietnam cite historical claims on all of the Spratly Islands. The Philippines claim several islands based on the right of discovery, while Malaysia and Brunei cite continental shelf prolongation as the basis for their claims.⁴ (See map on page 3.)

China and Taiwan claim their first recorded use of the Spratlys as early as 206 B.C., supposedly administering the islands from A.D. 206-220. Evidence to support the Chinese claim that the islands have been "effectively occupied" by Chinese fishermen "since time immemorial" is sparse and intermittent. Generally, the argument is unconvincing.⁵ In modern times, it was not until the 1970s and 1980s that China established effective control of several islands via naval facilities/garrisons. (Besides mirroring Chinese claims, Taiwan has occupied Itu Aba Island from 1946 to 1950 and continuously since 1956.)

The Vietnamese claim to sovereignty over all of the Spratly Islands is also based on unsubstantiated historical arguments that date from 1650. Events both before, during, and after French occupations further obscure the issue, as did the Third Indochina War. Generally, the Vietnamese have maintained garrisons on about twenty-two features in the Spratlys since 1973, bolstering their claim to part of the archipelago.⁶ On occasion, these claims have been violently contested by the Chinese.⁷

Republic of the Philippines' claims to most of the Spratly Islands archipelago is

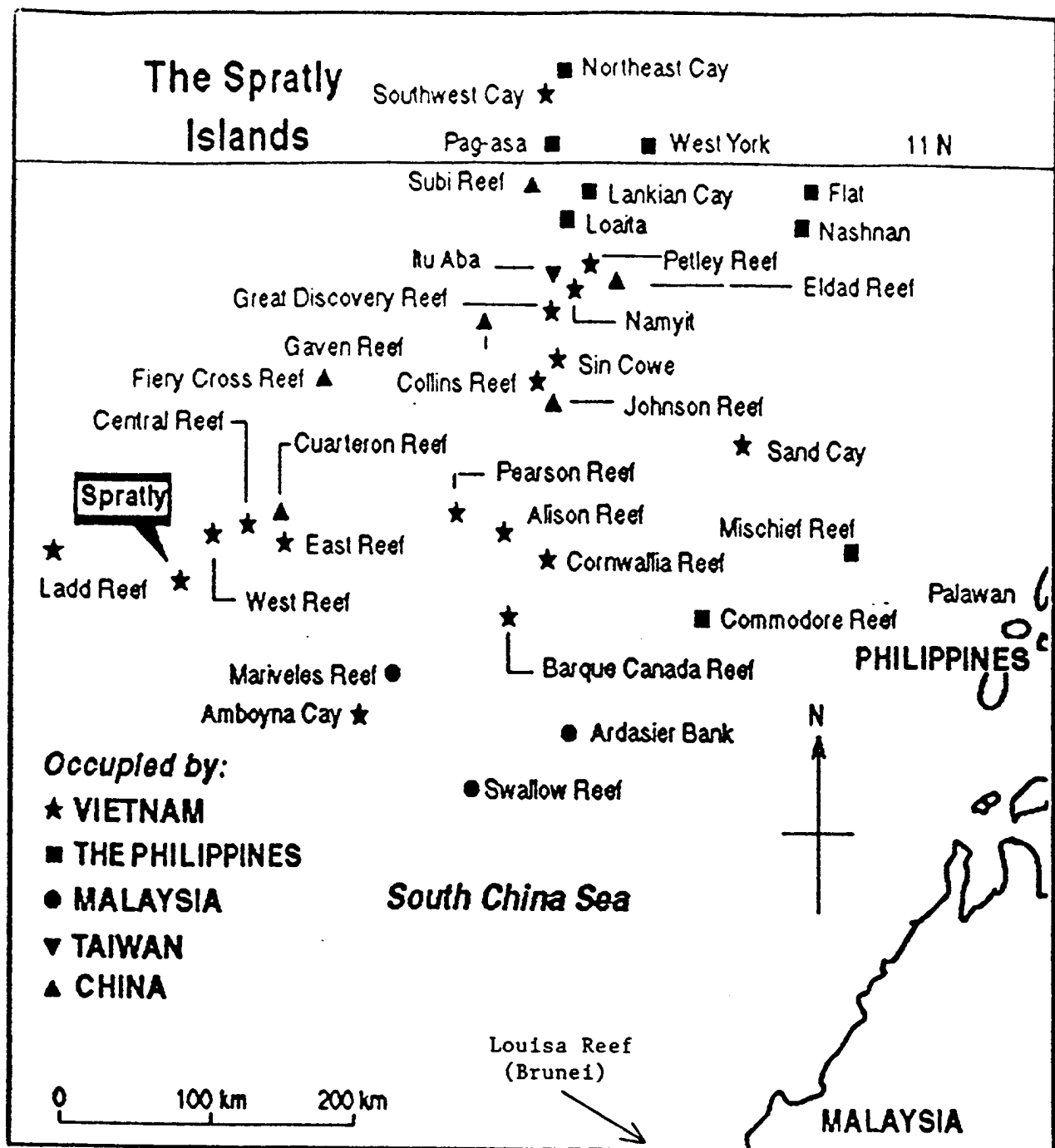


Figure 1: Map of Spratly Islands Today. (c) Copyright Reed Interactive 1995. Reproduced by permission of Reed Books Australia, 22 Salmon St., Port Melbourne V1c 3207, Australia.

based on the 1947 "discovery" of several islands by Tomas Cloma, a Filipino businessman and lawyer. At the time, he declared the islands were "terra nullius" (undiscovered territory). In 1956, he proclaimed a new state called "Kalayaan," which

caused diplomatic protests from other players and visits to the area by several navies. The Philippine government remained vague and noncommittal regarding Cloma's claim. Cloma transferred his claim to the Republic of the Philippines in 1974. In 1978, President Marcos decreed that the Kalayaan Island group was Philippine sovereign territory and part of the Province of Palawan. He also decreed a 200 nautical mile (NM) Exclusive Economic Zone (EEZ), extending from territorial sea base lines. Filipino personnel currently occupy eight islands in the Spratly group.⁸

Malaysia claims the southern part of the Spratlys, while Brunei lays claim to only the Louisa Reef. Both claims are based upon geography and use continental shelf prolongation as justification, citing provisions of the 1982 U.N. Law of the Sea Convention (LOSC)--a document signed by all Spratly claimants.⁹

The Area Today

The stability and well-being of this part of the world are of prime interest to most industrialized nations, to include the United States. Besides the immediate adverse effects of any armed conflict on the combatants, the impact of such an occurrence on the world's economy could possibly be tremendous. Strategically vital sea lines of communication--linking the Indian and Pacific Oceans via the Malacca, Sunda, and Lombok Straits--run close to the Spratly Islands. Maritime traffic going to Southeast and Northeast Asia, Indochina, and the central and eastern Pacific traverses the South China Sea.¹⁰ Japan's interest in the region is especially keen. Fully seventy percent of Japan's oil moves through this area.¹¹ Japan is also fully engaged in the region

itself, with 1993 official and private loans to China alone totaling \$4.9 billion.¹² Her two-way trade with the greater East Asia area now surpasses that with North America.¹³ (The European Union also trades more with East Asia than with North America.)¹⁴ The region is also home to the Association of Southeast Asian Nations (ASEAN), whose economies are among the fastest growing in the world. Cumulatively, the ASEAN nations consistently rank as the United States' fourth largest trading partner and U.S. trade with the entire Pacific rim is currently fifty percent greater than trade across the Atlantic.¹⁵ Nations ranging from the Republic of Korea to France and England have joined the Philippines in their concern about Chinese intentions in this critical area of the globe.

For the nation states in the immediate region, the centuries' old issue of fishing rights and sovereignty over the Spratly Islands has been aggravated by the possibility of large oil and gas deposits in the regional seas. In 1969, a United Nations' seismology report declared that the area was possibly rich in hydrocarbon deposits.¹⁶ Various other studies on the subject have been inconclusive or at odds with one another. The Honolulu-based East-West Center estimates Spratly oil and gas deposits to be "a drop in the bucket."¹⁷ However, a 1995 Russian Institute of Geologies report estimates reserves totaling approximately 4.7 billion barrels.¹⁸ None of these projections have been confirmed by actual exploration or drilling in the immediate Spratly Island area, although oil and gas have been found in other areas of the South China Sea.

Ambiguity notwithstanding, all involved have been scrambling to strengthen or

expand their claims in the area. China effectively seized eight additional islands in 1991, while Vietnam has extended her occupation to 20 islands and reefs.¹⁹ All of the other claimants, to include the Republic of the Philippines, have rushed to militarily garrison as many of their claimed islands and reefs as possible. The military buildup in the region continues to accelerate. Aside from China's long-term modernization plan for both her Army and Navy, Brunei, Malaysia, and Indonesia have purchased aircraft from the United Kingdom. Malaysia bought guided missile frigates from the United Kingdom and Indonesia purchased sixteen corvettes from the former East Germany.²⁰ Even the financially strapped Philippines is acquiring Italian aircraft and is also considering an additional \$14 billion for defense modernization.²¹ The possibility of a regional arms race is clearly very real, if not already underway.

In addition to an expansion of military capability, several nations have sought to improve their claims through an economic internationalization of the issue by pursuing joint ventures outside the immediate area of contention. For instance, China Petroleum (Taiwan), China National Offshore Oil (China), and Chevron (U.S.) have formed a joint venture for oil exploration in the East China and South China Seas.²² Manila even granted a May 1994 oil exploration permit to Vaalco Energy of the United States and its Philippine subsidiary, Alcorn Petroleum and Minerals, for an area that covered part of the disputed Spratlys. China protested and was subsequently invited into the consortium.²³ (This was before the Mischief Reef incident.) To date, no drilling has taken place in the disputed Spratly Island area.

Clearly lacking the military might to counter the recent Chinese moves, Manila has

sought to handle the crisis solely through its wits and diplomatic acumen. In April 1995, Filipino authorities called international media attention to the issue by the arrest of sixty-two Chinese fishermen in the contested area. Charged with violations of several Filipino and international laws, they allegedly possessed a protected species of sea turtles and materials intended to mark contested territory as Chinese.²⁴ Discovery of more Chinese markers on other islands and reefs claimed by the Philippines soon followed. (The Philippine military subsequently destroyed those markers.) The government also announced plans to construct seven lighthouses in the disputed area to demarcate Filipino claims and to aid international navigation.²⁵ Manila continues to push the issue into regional and international forums, hinting that Sino/Filipino conflict over the Spratlys could involve the United States via the 1951 Mutual Defense Treaty between the United States of America and the Republic of the Philippines.

The United States has been tied to the Republic of the Philippines, as well as to other countries in the region, by a combination of history, treaty, and shared interests.²⁶ Today, those shared interests continue to drive a common desire for economic growth and development, with the subsequent need for peace and stability in the region. Although "the United States takes no position on the legal merits of the competing claims to sovereignty over the various islands, reefs, atolls, and cays in the South China Sea," it does have "an abiding interest in the maintenance of peace and stability" in the area.²⁷ As previously noted, the industrial world relies on freedom of navigation through this region's waters--waters nominally controlled by the U.S. Seventh Fleet. Besides the vital interest of free passage, additional important U.S.

interests are trade, democracy, and humanitarian issues.

The United States does not agree with Manila's interpretation of the 1951 Mutual Defense Treaty with regard to the Spratly Islands. Article IV of the Treaty says that an armed attack on either the United States or the Republic of the Philippines is also dangerous to the security of the other party. Article V says "that an armed attack includes . . . an armed attack on the *metropolitan territory* of either party, *or on the island territories under its jurisdiction . . .* " The treaty also contains provisions regarding an attack on the armed forces of either country and recognizes each countries' constitutional processes/requirements in war and crisis.²⁸ Washington's position is that the Spratly Islands are not part of the metropolitan territory of the Philippines, defining the metropolitan territory as that recognized by the 1898 Treaty of Paris. At any rate, the Philippines did not claim the islands when the United States and Philippines signed the 1951 treaty. That still leaves the touchy issue of an attack on Filipino armed forces in the contested Spratly Island area. In that regard, the United States has refused to speculate about specific responses to hypothetical situations in the Spratlys, but has made it clear that treaty obligations will be honored. To date, the Philippine government has been content to pursue U.S. support through intelligence sharing and established security assistance channels.²⁹

Possible Solutions

While the Spratly crisis has cooled somewhat in recent months, the unresolved issues of sovereignty, oil and gas rights, and fishing rights still simmer just beneath the

surface. Through modernization of her Navy, China is five to ten years from enhancing her capability to project military might throughout the South China Sea. What is her intent? Many China watchers say that, peaceful protestations aside, she has designs on the area that could lead to armed conflict. What should the Republic of the Philippines and her ASEAN neighbors do, or more precisely, what can they do? What should the United States role be? Possible approaches to the issue range from informal contacts, bilateral or regional multilateral negotiation, to United Nations' intervention. These options will be examined further.

There have been several informal initiatives undertaken by various parties to defuse the Spratly Island flash point. In May 1995, Manila held a three-day marine research workshop, attended by participants from nine countries around the region. While it was a meeting of scientists, it was politically significant as an exercise in preventive diplomacy. It followed closely the April 1995 meeting of Philippine President Fidel Ramos and Chinese President Jiang Zemin, during which the two governments agreed to settle South China Sea disputes peacefully.³⁰ The marine workshop was part of a continuing series of workshops and meetings initiated by Indonesia. The meetings were designed to bring all claimants together to discuss non-political issues, such as environment, navigation, and marine research.

Indonesia held the first workshop on "Managing Potential Conflicts in the South China Sea" in January 1990. All the ASEAN states attended, three of which had claims on islands and reefs in the disputed area. The second workshop, held in July 1991, included the ASEAN states and participants from China, Taiwan, Vietnam, and

Laos. Although all involved ostensibly took part in a private capacity, most were from the foreign ministries of the countries involved. The participants agreed that disputes should be settled peacefully and involved governments should exercise self restraint. The third meeting in 1992 resulted in agreement that joint development of South China Sea resources could resolve the issue of resource development.³¹

While such meetings led to an exchange of ideas in an informal setting and kept lines of communication open, other Chinese actions continued to heighten concern. In February 1992, China enacted a law that essentially claimed all of the Spratly Islands. In May 1992, she entered a joint venture with Crestone Energy Exploration Company of the U.S. to develop an area claimed by Vietnam.³² It appears that informal meetings may simply be a way for Beijing to quietly pursue territorial claims, while minimizing damage to its relationship with the Philippines and other ASEAN countries.

For her part, China has preferred to pursue a bilateral approach to resolving disputes in the area, backed by her proven willingness to use force. She steadfastly opposes Filipino and ASEAN attempts to internationalize the issue, most likely hoping to keep the United States and Japan out of the fray. Since 1994, China has pursued negotiations with Vietnam to resolve sea and land disputes. She also continued negotiations with the Philippines on joint development of Spratly resources, despite her quiet plan to force the issue at Mischief Reef and other Filipino claimed areas. Likewise, the Philippines and Malaysia are negotiating conflicting claims, as are Vietnam and Malaysia. While such bilateral negotiations are useful, there are limitations to this approach. Beijing has said that joint development of the Spratly

Islands could only proceed upon recognition of Chinese sovereignty, despite statements, both earlier and later, showing some willingness to lay that issue temporarily aside.³³ As such, China is apt to undermine any bilateral negotiations or agreements that do not fit her strategic views. She clearly did so at Mischief Reef. Finally, the bilateral approach is of limited use in the Spratlys, where overlapping claims often involve three or more parties.

The Spratly Islands issue is most likely to be resolved in a regional forum, with input from interested extra-regional actors. This lessens the possibility that any one state (China) could unduly affect the outcome. Nearly all involved parties favor this approach, with the obvious exception of China. It allows for an effective influence by nations otherwise unable to challenge the Sino giant. Not surprisingly, the Philippine government strongly supports this approach. The regional forum with the best chance of success is ASEAN, with its long established apparatus for building political and economic consensus through ministerial and senior official dialogue. Except for China and Taiwan, all of the Spratly claimants are members of the Association. As such, ASEAN, and the recently formed ASEAN Regional Forum (ARF), bear closer examination.

ASEAN was formed in 1967 at the height of the U.S./Vietnam War as a multinational forum for the peaceful reconciliation of interstate differences. The Association originally consisted of Malaysia, Thailand, Indonesia, Singapore, and the Philippines (Brunei joined in 1984). Something of an enigma as alliances go, it was mainly a political and economic forum, making no pretense toward joint military and

defense agreements. Included in the Organization's charter were the regional needs to "ensure stability and security from external interference, accelerate economic growth, social progress, and cultural development, and to settle regional problems through peaceful means."³⁴

From the outset, ASEAN was comfortable with addressing security issues via individual member countries' bilateral treaties with larger powers. Malaysia maintained defense alliances with the United Kingdom while Thailand and the Philippines had bilateral treaties with the United States. Though ASEAN officially espoused neutrality, most of its nations clearly looked to the west for purposes of defense.

On the political and economic fronts, early ASEAN efforts met with limited success, at best. Member nations, except for Singapore and oil-rich Brunei, were largely agricultural. With no well-developed intra-ASEAN market, the states usually competed directly for external markets.

Nothing strengthens the will or enlivens the bureaucratic mechanisms of an organization quicker than a perceived threat. For ASEAN, this threat was the post-U.S. emergence of communist Vietnam with its regional hegemonic intentions, aptly displayed by the Vietnamese attack and occupation of Cambodia. ASEAN's foreign ministers called a special meeting and quickly issued a press release deploring "armed intervention" in Cambodia, calling for the "immediate withdrawal of foreign forces" from the same.³⁵ ASEAN viewed the sovereignty of Cambodia as inviolable and saw the Vietnamese action as making Thailand a "front line state." Vigorously pursuing a high profile international diplomatic campaign to deny legitimacy to the Vietnamese

occupation of Cambodia, ASEAN successfully pursued a policy to deny the Vietnamese-installed government the Cambodian seat at the UN. The organization also tacitly supported a Sino-Thai arrangement to train guerrillas from the Cambodian resistance for regular forays into Cambodia against Vietnamese troops.³⁶ The 1989 withdrawal of Vietnam from Cambodia, coupled with the end of Communist insurgencies in Malaysia and Thailand, effectively removed ASEAN's perception of a credible external threat. The Association's political debate again focused on the state-centric behavior of its members.

Throughout nearly three decades of history, ASEAN has been remarkably consistent in its goals and objectives. At the ASEAN Manila Summit in 1986, the issued declaration reaffirmed all previous landmark statements and stressed neutrality. ASEAN again stated that "each member state shall be responsible for its own security," while encouraging bilateral, non-ASEAN cooperation in security matters.³⁷ While the Western observer might view ASEAN as weak and incapable of decisive action, when viewed from the Oriental perspective, the organization's behavior is not surprising. ASEAN reflects the Oriental cultural imperatives of group harmony over individual needs, as well as the penchant for consensus-building--all-the-while displaying an outward appearance of calm and unanimity. In fact, the organization can lay claim to some success in its later years. Divisive issues such as competing territorial claims between Malaysia-Indonesia, Malaysia-Singapore, and Malaysia-Philippines have largely been diffused because of familiarity between ASEAN's political and bureaucratic elites, the existence of ASEAN's political and

administrative support structure, and regular ASEAN sponsored diplomatic consultations. Factors such as differences in leadership style, large-scale illegal immigration from Indonesia to Malaysia, rising criminal activity, and asylum issues also have been mitigated and lessened in the ASEAN forum.³⁸

Despite its problems, there has been no armed conflict between member states and ASEAN has emerged as a regional institution that is a key diplomatic block in Asian affairs. Probably the best example of ASEAN's maturity and resiliency was the 1995 addition of the Association's seventh member--its old enemy, communist Vietnam. (This step likely results from the emergence of a new threat--China, with her expansionist tendencies.) ASEAN will likely continue political and economic policies that will keep the United States and Japan engaged in the region. Professions of neutrality aside, the Association clearly recognizes the U.S. as the guarantor of stability in the region via its bilateral treaties with Thailand and the Philippines. To a country, ASEAN has made military facilities available on an as-needed basis to compensate for the loss of the Subic Bay and Clark bases in the Philippines.³⁹ Even today, ASEAN quietly supports the U.S. presence in the Pacific as a hedge against any resurgence of Japanese militarism or Chinese expansion. The Spratly Islands issue has served to coalesce ASEAN into an effective front against Chinese expansionism. Led by the Philippines, the Association has shown an increasing willingness to become involved in the Spratly matter. The 1992 ASEAN foreign ministers meeting in Manila made the South China Sea a high priority. China and Russia attended as guests for the first time in ASEAN's twenty five year history. The

resultant "Manila Declaration on the South China Seas" called on all states to "resolve all sovereignty and jurisdictional issues pertaining to the South China Seas by peaceful means, without resort to force . . . "⁴⁰ Since China was not an ASEAN member, she did not sign the Declaration, but did issue a separate statement that "recognized and welcomed" the initiative. After the Mischief Reef incident, China denied that this statement bound them to the Manila declaration.⁴¹

Following the Filipino lead, ASEAN has developed a clear consensus on efforts to internationalize the Spratly issue, involving key extra-regional players. An example is the recently formed ASEAN Regional Forum (ARF), consisting of the seven ASEAN states, together with Japan, China, the European Union, Australia, Canada, Russia, Laos, New Zealand, South Korea, Papua New Guinea, and the United States.⁴² Launched to provide a place to discuss political and security issues before they turn into a full-blown crisis, the ARF is probably the best forum for a long-term solution to the sovereignty issue. In the near-term, the ARF should pursue China's somewhat tepid offer to the Philippines to temporarily shelve the sovereignty issue in pursuit of joint development ventures in the area. For her part, China tacitly supports the ARF and has reportedly agreed not to attack Philippine troops in the Spratlys--again stating her preference for a bilateral solution.⁴³

Aside from any political or military pressure, the other ARF members collectively exercise sufficient economic clout to modify and influence Chinese behavior on this issue. For example, Japan has established multi-billion dollar programs to support Chinese resource development. Private Japanese investment in 1993 alone was \$1.7

billion. Additionally, Japan purchases about twenty five percent of Chinese exports.⁴⁴ The United States and the European Union, both important to China for trade and investment capital, could tie joint development and peaceful resolution of disputes in the Spratlys to support for Chinese admittance into the Group of Seven (G-7) trading structure. U.S. oil exploration and mining technology should also be of interest to China. By promoting Sino economic interdependence with other ARF members, China will have a real stake in the economic dynamism of Asia. This, coupled with ARF-sponsored efforts toward military transparency, could encourage China to become a stabilizing force in the region. The intent must not be to isolate or contain China, but rather to constrain her behavior, compelling her to be more supportive of regional and global interests.⁴⁵ Clearly, the ARF has both the opportunity and the motivation to pursue a solution to the Spratly issue and the wider maritime problems in the South China Sea.

The Philippine' government has also sought to involve the United Nations and the World Court in the Spratly Island dispute. At the Twenty-Fifth ASEAN Ministerial Meeting, Philippine President Fidel Ramos called for United Nations' intervention in the issue. China quickly rejected the idea, with the usual call for bilateral solutions. Malaysia also objected, fearing such broad extra-regional intervention could hamper regional cohesion and prospective progress in the ARF.⁴⁶

However, there are several avenues that the United Nations could pursue that would help with the greater South China Sea issue. The LOSC requires clarification in certain areas to mitigate possible misunderstandings. For example, the LOSC allows

nation states to establish 200 nautical mile EEZs measured from base lines used to establish territorial seas. Within the EEZ, states have the exclusive right to manage living and non-living natural resources.⁴⁷ Referring again to the map on page three, it is easy to see that, aside from the Chinese and Taiwanese general claim to the whole Spratly area, occupied islands alone form the basis for EEZs that overlap with many of the other claimants. Probably the most helpful initiative would be to expand on how the EEZ law applies when two or more states have overlapping claims. Such clarification would be useful to both China and the Republic of the Philippines regarding the Mischief Reef encounter. Secondly, the United Nations, or even the ARF, might seek to negotiate a treaty allowing for joint exploitation of contested areas before settling jurisdictional claims. The Antarctic or North Sea Treaties could serve as possible examples. Of course, the Spratlys pose some significant differences from the Antarctic model. Unlike the Antarctic, the contested islands are close to important navigation routes and have both strategic and economic significance. Often, they are militarily garrisoned. Any treaty would have to address these issues. Again, ARF would likely have a better chance of success than would the United Nations.

U.S. Interests and Involvement

The United States stake in the South China Seas is generally strategic. As a maritime nation, freedom of the seas is a vital interest to both the U.S. and her allies, to include the Republic of the Philippines. While affirming support for the 1992 ASEAN Manila Declaration on the South China Sea, the U.S. State Department's May

1995 statement on the Spratly's and the South China Sea says, in part:

"Maintaining freedom of navigation is a fundamental interest of the United States. Unhindered navigation by all ships and aircraft in the South China Sea is essential for the peace and prosperity of the entire Asia-Pacific region, including the United States."⁴⁸

The LOSC also guarantees the right of innocent passage through foreign territorial seas and EEZs, as well as the right of transit passage through to over 135 strategic straits.⁴⁹ The United States has went to war and has engaged in hostilities short of war over freedom of navigation, and would do so again. All of the South China Sea players must clearly understand this, most especially China.

Regarding the Mischief Reef situation, the United States has taken no position on the legal merits of any competing claims in the South China Sea, to include this one. Having told the Republic of the Philippines that the Spratly Islands are largely beyond the purview of the 1951 Mutual Defense Treaty, the United States must continue to clearly state that, without speculating on hypothetical situations, we will defend our vital interests and meet treaty obligations.

Both China and the Philippines must be encouraged to avoid any aggressive action that might ignite the tinderbox. Despite the United States' strong desire to engage in friendship and trade, China must understand that bullying her weaker neighbors, now or in the future, will not be worth the effort. The good will and economic ties with ASEAN, Japan, the European Union, and the United States far outweigh any possible gains to be made by force or threat of force in the region.

Summary

As we have seen, the Chinese presence at Mischief Reef is only the latest move in her continuing expansion into the South China Sea. Aside from the direct challenge to Philippine' sovereignty, the incident considerably raised the level of concern among other claimants to the various islands, reefs, atolls, and cays in the region. China, Vietnam, Malaysia, Taiwan, Brunei, and the Republic of the Philippines claim all, or portions, of the Spratly Island group. The basis of these claims range from historical, to the right of discovery, and continental shelf prolongation. The only sure thing is that many claims overlap. This has led to tension and violence in the past.

The region sits astride some of the more vital sea lanes in the world. Straits in the South China Sea linking the Indian and Pacific Oceans are vital to the United States and other maritime/industrialized nations. Beyond the strategic value of proximity to these vital straits, the various claimants are drawn by the prospect of undiscovered oil and gas reserves, which may or may not be there, and fish, which are there in economic abundance. The nation most able to protect her claims by force is China, followed by Vietnam; the nation least able to do so is the Republic of the Philippines.

The incident at Mischief Reef in February 1995 further strengthened the resistance of the other regional players to Chinese expansionism, largely through a united ASEAN front. It also drew the attention of extra-regional players, most notably Japan, the United States and the European Union. Questions also arose regarding the 1951 U.S./Philippine Mutual Defense Treaty and the possible affront to Filipino sovereignty.

Before the Mischief Reef incident, efforts to resolve the Spratly and South China

Sea issues have ranged from informal Indonesian-sponsored scientific workshops to Filipino calls for United Nations' intervention and mediation. China says her intentions are peaceful and favors bilateral resolution of the issues, where she clearly has the advantage. The weaker nations involved favor a regional approach that includes several key extra-regional players. The United Nations can help by clarification of certain LOSC provisions, specifically those associated with overlapping EEZ claims. The most promising forum for long-term resolution of sovereignty problems is the ASEAN Regional Forum (ARF), which consists of the ASEAN states and eleven other interested parties, including Japan, China, the European Union, and the United States. The near-term approach of the ARF should be to temporarily shelve the sovereignty issue in pursuit of joint economic development of the disputed area.

While the United States sees the Mischief Reef incident as beyond the purview of the U.S./Philippine Mutual Defense Treaty, our responsibility and intent to meet treaty obligations to our Philippine ally must not be marginalized. Additionally, the United States' strategic interest in this area must be clear to all concerned. China must be encouraged via peaceful economic and political engagement to place greater value on the good will of the other ARF members than on any dubious or violent gains made in the Spratly Islands. The United States must continue to pursue this goal as a major player in the ASEAN regional forum. As previously noted, instability or armed conflict in this area of the world, particularly involving the Republic of the Philippines, could affect important, if not vital, U.S. security and economic interests. After all, there is something to be said for those who claim that the future is in Asia.

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3. Chandra, 14.
4. Lee G. Cordner, "The Spratly Islands' Dispute and the Law of the Sea," Ocean Development and International Law 25 (January-March 1994): 62.
5. Ibid., 65.
6. Ibid., 65-66.
7. "Making Mischief," The Economist, 18 February 1995, 30. The potential for armed conflict is especially acute between Vietnam and China. In March 1988, the Chinese and Vietnamese navies fought a brief battle at Johnson reef, leaving three Vietnamese gunboats ablaze and seventy Vietnamese sailors dead. China still occupies this reef and six other atolls taken from Vietnam.
8. Cordner, 66-67. The Philippine claim may have little value under international law where independent activities of individuals are of little worth. The 1982 U.N. Law of the Sea Convention (LOSC) may support a 200-mile continental shelf claim, however. Such a claim would include the eastern Spratly Island area, but not the greater archipelago.
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