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Bilateral Confidence Building with China in Relation to the South China Seas Dispute: A Philippine Perspective

Aileen S.P. Baviera

Prepared for the

International Security Research and Outreach Programme
International Security Bureau

February 2001



Department of Foreign Affairs
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Ministère des Affaires étrangères
et du Commerce international

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PREFACE

The views expressed in this paper are those of the author, and do not necessarily reflect the views or positions of the Department of Foreign Affairs and International Trade or of the Government of Canada.

The International Security Research and Outreach Programme commissioned a study to carry out the following tasks:

i) Assess the relative strengths and weakness of the Philippine and Chinese governments in this issue-area (diplomatically, militarily).

ii) Review movements to consider incipient CBMs as they pertain to China and the Philippines, considered both through such multilateral fora as the ARF and the UN as well as bilaterally.

iii) Examine those diplomatic tools (operating either at a track one or two level) used to encourage the creation of incipient CBMs between the Philippines and China concerning South China Seas issues: also consider their successes and failures, together with their ability to potentially generate a more stable security relationship between the two countries.

iv) Examine those diplomatic tools (operating either at a track one or two level) used to encourage the creation of incipient CBMs between the Philippines and China concerning South China Seas issues: also consider their successes and failures, together with their ability to potentially generate a more stable security relationship between the two countries.

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EXECUTIVE SUMMARY

The paper gives a brief historical background of the territorial and maritime resource disputes between the Philippines and China in the Spratlys. It examines the measures taken by both sides, at the bilateral as well as multilateral arena, to build mutual trust and to contain the conflict through a confidence-building process. It then studies how the asymmetry in the power relations between the two sides have had an effect on the confidence-building process, and assesses the effectivity of CBMs from the Philippine perspective.

Relations between the two countries dived to their lowest point ever following China's occupation of and building of structures on Mischief Reef in 1995. However, rather than taking hostile action, both sides decided to embark on a confidence-building process. Early on, they agreed on a framework of continued mutual commitment to peaceful means of resolving disputes, reliance on dialogue and diplomacy and a common undertaking not to allow the dispute to affect the normal development of relations.

Intensive high-level exchange visits, including of military officials, took place between 1995 and 1999. Efforts to institutionalize and regularize consultations pertaining to the dispute led to the establishment of working groups to address separately the issues of fishing, marine environment protection and confidence-building. Outside of bilateral diplomacy, however, the Philippines also made use of its multilateral linkages to bring its grievance against China before ASEAN and its other key partners in the international community. Manila-Beijing dialogue on the dispute thus became paralleled by an ASEAN-China dialogue.

While the bilateral CBMs did initially help improve the overall atmosphere by reducing mutual suspicion, by 1998 there was no progress whatsoever on the question of the Mischief Reef itself. China had even upgraded its structures on the reef into what looked like military facilities. Frustrated, several Filipino leaders and politicians increased their anti-China rhetoric, and began to consider soliciting United States support against China through a strengthened Philippine-American alliance relationship.

The paper shows that while fundamental differences exist in the goals and approaches of China and the Philippines vis-à-vis their handling of the dispute, and despite the absence of any real progress on the resolution of the dispute, both find the confidence building process useful and continue to be committed to it. Asymmetry notwithstanding, their constant engagement through multi-level dialogues forces each side to justify to the other its policy and actions, emphasizes the importance of finding a "win-win" compromise, and, albeit incrementally, helps bind both parties to acceptable norms and principles of behaviour.

RÉSUMÉ

Cette note de recherche présente un bref historique des différends territoriaux et des litiges concernant les ressources maritimes qui opposent les Philippines et la Chine dans les Spratly. Elle examine les mesures prises par les deux parties, aux niveaux bilatéral et multilatéral, pour cultiver la confiance réciproque et contenir le conflit par l'application d'un processus de renforcement de la confiance. Elle étudie ensuite l'effet qu'a eu l'asymétrie des relations de pouvoir entre les deux parties sur le processus de renforcement de la confiance, et évalue l'efficacité des MRC du point de vue philippin.

Les relations entre les deux pays sont tombées à leur point le plus bas après que la Chine eut occupé le récif Mischief en 1995 et y eut érigé des bâtiments. Toutefois, plutôt que de prendre des mesures hostiles, les deux parties ont décidé d'entamer un processus de renforcement de la confiance. D'emblée, elles ont convenu de résoudre le différend par des moyens pacifiques, de compter sur le dialogue et la diplomatie et de ne pas laisser le différend nuire au développement normal de leurs relations.

Des échanges intenses de visites de haut niveau, y compris de personnalités militaires, ont eu lieu entre 1995 et 1999. Les efforts tentés pour institutionnaliser et régulariser les consultations relatives au différend ont mené à la mise sur pied de groupes de travail chargés de traiter séparément les questions concernant la pêche, la protection de l'environnement marin et le renforcement de la confiance. En dehors de la diplomatie bilatérale, cependant, les Philippines ont aussi tiré parti de leurs relations multilatérales pour porter leur grief contre la Chine devant l'ASEAN et leurs autres partenaires de la communauté internationale. Le dialogue Manille-Beijing sur le différend se double ainsi d'un dialogue ASEAN-Chine.

Bien que les MRC aient effectivement aidé au début à améliorer l'atmosphère générale en réduisant la méfiance réciproque, aucun progrès n'avait été réalisé en 1998 sur la question du récif Mischief lui-même. La Chine a même construit d'autres bâtiments sur le récif et constitué ce qui semblait être un établissement militaire. Frustrés, plusieurs dirigeants et politiciens philippins ont intensifié leur rhétorique anti-chinoise et commencé à envisager de solliciter le soutien des États-Unis contre la Chine par le renforcement de l'alliance philippino-américaine.

Cette communication montre que, bien que des différences fondamentales existent entre les buts et les approches de la Chine et des Philippines dans leur traitement du différend, et malgré l'absence de tout progrès réel sur le fond du litige, les deux parties jugent le processus de renforcement de la confiance utile et y restent attachées. Malgré leur asymétrie, leurs dialogues constants et à plusieurs niveaux forcent chacune à justifier à l'autre ses politiques et ses actions, mettent en valeur l'importance de trouver un compromis d'ou elles sortiront toutes deux gagnantes et, petit à petit, les aident à renforcer leur attachement à des normes et principes de comportement acceptables.

BILATERAL CONFIDENCE BUILDING WITH CHINA IN RELATION TO THE SOUTH CHINA SEAS DISPUTE: A PHILIPPINE PERSPECTIVE

INTRODUCTION

In January 1995, the Philippine navy discovered that the People's Republic of China had occupied and built structures on a small reef in the disputed Spratly Islands only 135 nautical miles from the western coast of Palawan province. This led to a dramatic surge in tensions between Manila and Beijing. The Mischief Reef incident was a milestone in Philippine-China relations, heretofore characterized by cordial – even if less than close – ties. In some sense, it was also a milestone in ASEAN-China ties, as it appeared to pit China against four rival claimants from the ASEAN countries (Philippines, Malaysia, Brunei and new member Vietnam) and helped bring world attention to China's role as the rising power of post-Cold War East Asia.

Mischief Reef was only part of what appeared to be an escalation of the territorial and resource disputes over the islands and waters the South China Sea. It came in the wake of China's 1992 passage of a new Law on Territorial Sea and Contiguous Zone, where it reiterated its claim over the Spratlys and Paracels, among other territories. Also in 1992, China awarded an oil exploration contract in a disputed area of the Spratlys to the American firm Crestone. In late 1993, China's South Sea Fleet held major military manoeuvres in the South China Sea, and in 1994 began building a new airstrip in the Paracels. Other claimants were likewise engaged in limited military build-up and increased economic activities in the area.

Over the last several years, there had been frequent reports of the presence of military vessels and upgrading of existing military garrisons in the various features occupied by claimants. There were occasional engagements or near-encounters involving military personnel from different countries. Fishing, research and oil exploration activities also appeared to have been more actively undertaken in the disputed areas.

In the Philippines, China's occupation of Mischief Reef was perceived as the most serious external challenge to the country's sovereignty and security in recent times. Such perceptions could be understood best in the context of a drastically changed strategic environment which had greatly heightened Manila's sense of insecurity and vulnerability. The closure of the United States military facilities in the Philippines in the early 1990s resulted in an ambiguity concerning American commitments to Philippine security, even though the Philippines-United States Mutual Defence Treaty continued to remain in effect. This coincided with the rise of China as an economic power and changes in China's strategic doctrine, which began to emphasize the development of a capability to promote territorial and maritime resource concerns. Moreover, arms modernization in the East Asian region heated up, especially as the new tiger economies of Southeast Asia embarked on major defence spending sprees, with Manila practically the only one left out. All of these were taking place in the absence of an overarching security architecture in the region, following the collapse of the bipolar balance of power. For the Philippines, all these factors added up to great uncertainty.

Following the occupation of Mischief Reef were other developments in the South China Sea that raised alarm bells. Simultaneous with China's May 1996 ratification of the UN Convention on the Law of the Sea was its passage of a baseline declaration which enclosed the Paracel islands (disputed with Vietnam) in straight baselines. While no such baselines were drawn around the Spratlys, the declaration stated that "the Government of the People's Republic of China will announce the remaining baselines of the sea ... at another time." Then in March 1997, Chinese vessels and an oil rig were seen operating in what Vietnam claimed as its EEZ and continental shelf. Vietnam protested and soon enough the oil rig withdrew, with the Chinese government announcing that it had completed normal operations undertaken "in its own continental shelf."¹

The heightening of tensions among claimants of the South China Sea islands represented some potential for instability, thereby emphasizing the need for confidence building among the protagonists.

Confidence building is not a new phenomenon; it has existed in practice for a long time and is as old as diplomacy itself. As a distinct concept in security studies, confidence building measures (CBMs) have been known for at least twenty years, referring to the practice of adversaries undertaking measures to reduce mutual suspicion and develop a basic level of trust, in order to pave the way for the resolution of conflicts.

Much of the literature concerning CBMs has tended to assume that the parties involved are roughly symmetrical in their diplomatic, military and economic capabilities.² Where this is not the case, such as in the experience of the Philippines and China, the literature implies that CBMs may not function as effectively even if it is possible to agree to undertake them.

Asymmetry would, for instance, suggest that the party enjoying superior diplomatic, military and economic power - Country A - would tend simply to ignore the concerns of the weaker party - Country B - believing that the latter is no real threat and will, in its own self-interest, refrain from provoking Country A. It may suggest also that the Country B will avoid direct negotiations with Country A for fear that Country A will have all the leverage and exact more concessions than Country B is prepared to grant. Thus, Country A may perceive that there is no need for CBMs, while Country B may feel that there is no possible utility in them.

¹ Aileen Baviera, "Security Challenges of the Philippine Archipelago", *Southeast Asian Affairs 1998*. Singapore: Institute of Southeast Asian Studies.

² Pervaiz Iqbal Cheema, "Confidence Building Measures and South Asia", and Kanti Bajpai, "Confidence Building Measures: Contexts, Achievements and Functions". Conference papers presented at the International Conference on Confidence Building Measures and Regional Dialogue: Retrospect and Prospect, 17-19 June 1999. Organized by the Regional Centre for Strategic Studies, Colombo, Sri Lanka. Sponsored by the UN Department of Disarmament Affairs and the International Security Research and Outreach Program of the Canadian Department of Foreign Affairs and International Trade.

The validity of these assumptions have not been rigorously tested through significant empirical research. The assumptions also appear to denigrate the role of good diplomacy as a possible counterweight to such asymmetry. Diplomatic efforts, where adroitly used, may not only serve to offset the deleterious consequences of such asymmetries, but they may also trigger the political will necessary to begin CBMs in the first place, and to pursue them to mutually beneficial conclusion. With this in mind, this paper hypothesizes that it may be possible to develop practical and useful CBMs in significantly asymmetrical environments, albeit under unique circumstances and through select diplomatic, political and other means. Through empirical analysis of Philippine-Chinese relations, this paper will attempt to explore some of those preconditions for the creation of practical and useful CBMs in such environments.

Specifically, the paper shall seek to:

- give a brief historical background of the territorial and maritime resource dispute between the Phillipines and China;
- examine the measures taken by both sides, at bilateral as well as multilateral arena to build mutual trust and contain the conflict through confidence-building measures;
- study how the asymmetry in the power relations of the two sides have had an effect on the CBM process, particularly from the Philippine side, and
- assess the effectivity of such measures for the Philippine side.

The study is, however, limited by its emphasis on the Philippine perspective of the dispute rather than giving equal attention to the Chinese side. The fact that the process is ongoing and proceeds under a cloud of sensitivity and confidentiality also restrains one from making premature comments and recommendations. Moreover, the main purpose of the study is to help address practical problems, rather than elucidate theoretical issues, therefore the inadequacy of reference to and linkage with the rich body of scholarly work on the subject.

CONFIDENCE BUILDING: DEFINITIONS AND TYPOLOGIES

The term "confidence building" still escapes accurate or universal definition in the security studies literature. It is European in origin, having emerged from the experience of European conflict management and first appearing as part of the language of the Helsinki Final Accord where confidence building measures were referred to not only as military actions, but that which may also take the form of economic, social and cultural activities. This position is based on the premise that differentiated forms of cooperation help increase common understanding, as well as minimize the danger arising from disputes by laying emphasis on the benefits and opportunities arising from other aspects of relations. Other sources use the term confidence and security building measures (CSBMs), defining them as formal and informal measures, whether unilateral, bilateral or multilateral, that address, prevent or resolve uncertainties among states, including both military and

political elements.³

The term has been adapted into Asian security parlance, particularly with respect to the search for solutions to animosities among the great powers of the region and to such long-standing flashpoints as the India-Pakistan problem, the Korean Peninsula conflict or the Taiwan Straits tensions.

The pursuit of confidence-building in the Asia Pacific context also takes into account not just *confidence building measures* – or specific actions and agreements designed to build trust among potential adversaries, but emphasizes an overarching *confidence building process* among the neighbouring countries of the region. The process has been marked by the establishment of sustained high-level dialogues, institutionalized cooperation in a multitude of fields, and comprehensive engagement allowing economic, socio-cultural and other relations to pave the way for political cooperation. But it has also successfully been undertaken through informal structures and personal relationships. ASEAN itself as a multilateral cooperation mechanism has been touted as the most successful confidence building process to come out of the Southeast Asian experience.

The longer-term, comprehensive confidence building process, as opposed to confidence building measures, may in fact be punctuated by actions and events that even tend to undermine rather than build confidence or trust. These appear to be necessary undertakings as part of the levelling off of expectations between parties and therefore as part of the overall trust-building process.

As distinguished from process, confidence building measures have also been defined by some scholars in a more limited fashion as any understanding, formal or informal, intended to clarify a potential adversary's military intention, to reduce uncertainties about hostile intent, and/or to constrain opportunities for surprise attack.⁴ Rotfeld describes CBMs as designed to eliminate subjective factors and evaluations which are often due to prejudice and faulty understanding.⁵ This type of confidence building is accomplished mainly through the exchange of information, thus reducing the secrecy that often shrouds activities affecting relations among adversarial states. Such definitions of CBMs emphasize the psychological role that they play in clarifying "mistaken" perceptions about the intentions and capabilities of potential adversaries.

³ Council for Security Cooperation in the Asia Pacific, *CSCAP Memorandum No. 2, Asia Pacific Confidence and Security Building Measures*, 1995.

⁴ James Macintosh, "Confidence Building Measures - A Conceptual Exploration," in *Confidence Building Measures and International Security*. Edited by R.B. Byers, F. Stephen Larrabee and Allen Lynch. Institute for East-West Studies, 1987.

⁵ Cited in Macintosh.

Others, however, take a somewhat broader definition of CBMs as going beyond the communicative and transparency functions into the roles of promoting consultation or even constraints between parties, but still mainly through actions involving the military sphere.

The following table illustrates the range of definitions of CBMs in current use. These categories are not mutually exclusive, nor is this list exhaustive.

Table 1: Typologies of CBMs and Examples⁶

	Unilateral	Bilateral	Multilateral
Military CBMs			
1. Communications		Hotlines, regular bilateral dialogue	Track two dialogues
2. Transparency	Defence white paper; arms registry; notification measures	Observance at military exercises; intelligence exchange	Common outline for defence publications
3. Consultation		Joint commission	ARF; ASEAN Senior Officials Meeting
4. Goodwill	Policy of non-interference in internal affairs	Visits, cross-training; code of conduct	Code of conduct
5. Constraints	Rules of engagement; no first-strike declaration; troop reduction	Non-aggression agreement; troop reduction agreement	Disarmament and demilitarization agreements
Economic CBMs	Aid, investment	Preferential terms of trade	
Socio-Cultural CBMs		Increased people-to-people links	
Political CBMs	Curbing propaganda	Contacts between political parties, parliaments, judiciary	

⁶ Cheema, Macintosh.

In the ASEAN Regional Forum⁷, confidence building is seen as a prior element to what is known as "preventive diplomacy"⁸, which in turn should lead to the final stage of "conflict resolution". At least one author, however, considers a prior stage of conflict-avoidance as necessarily preceding confidence building measures, particularly in cases involving asymmetrical powers.⁹

Some writers, moreover, argue that constraint-type CBMs already partake of the nature of arms control measures and should therefore be treated conceptually as different phenomenon from CBMs.¹⁰ Still others say that CBMs develop in a dynamic fashion and may move from simple agreements – usually on principles of behaviour – to more complex ones. They often lay down the conditions not only for an arms control or disarmament process but for a comprehensive conflict-resolution end-game.¹¹

In general, this paper looks at confidence building as any action, statement or process that helps develop conditions of trust between two or more otherwise mutually suspicious and potentially hostile parties.

In their behaviour with respect to the South China Sea disputes, officials of the Philippines and China appear to look at the confidence-building process since 1995 not as consisting of purely military measures but as a comprehensive diplomatic engagement inclusive of economic, cultural and other types of actions. Such actions may not necessarily pertain to the dispute itself, but may lead to forms of cooperation in other areas.

⁷ The debate on definition of CBMs has had a very real impact such as in the ARF, where countries disagreed on whether ARF was already prepared to go beyond CBMs and move on to the next stage of "preventive diplomacy" as a higher form of security cooperation. The pragmatic conclusion was to consider CBMs and preventive diplomacy as part of a continuum rather than as discrete stages.

⁸ For discussions on preventive diplomacy, see papers by Francois Godement, Relph Cossa and Amitav Acharya on "Moving from Confidence Building Measures to Preventive Diplomacy: The Possibilities", presented at the 13th Asia Pacific Roundtable, June 1999, Kuala Lumpur.

⁹ P. R. Chari, "Confidence Building Measures in post-Cold War South Asia." Conference paper presented at the International Conference on Confidence Building Measures and Regional Dialogue: Retrospect and Prospect, 17-19 June 1999. Organized by the Regional Centre for Strategic Studies, Colombo, Sri Lanka. Sponsored by UN Department of Disarmament Affairs and the International Security Research and Outreach Program of the Canadian Department of Foreign Affairs and International Trade.

¹⁰ René Unger, "Confidence and Security Building Measures in Europe." Conference paper presented at the International Conference on Confidence Building Measures and Regional Dialogue: Retrospect and Prospect, 17-19 June 1999. Organized by the Regional Centre for Strategic Studies, Colombo, Sri Lanka. Sponsored by UN Department of Disarmament Affairs and the International Security Research and Outreach Program of the Canadian Department of Foreign Affairs and International Trade.

¹¹ Chari.

The bilateral agreement on principles for a code of conduct on the South China Sea of August 1995 is thus far the most concrete agreement to come out of their confidence building process. It referred not to military CBMs but to prospective cooperation in fisheries, marine environment protection, marine scientific research and other non-military activities. Nevertheless, the two sides have been prepared to address the military dimension of confidence building, as evidenced by specific proposals taken up by their foreign ministry officials and heads of State. We return to this subject later.

Overall, the confidence building process between the Philippines and China has proceeded under the agreed framework of continued mutual commitment to peaceful means of resolving disputes, overall reliance on dialogue and diplomacy, and the common undertaking not to allow the dispute to affect the normal development of relations.

CONFIDENCE BUILDING: THE DYNAMICS

According to recent studies, CBMs are in order in cases where a dispute between two adversaries has turned into a crisis involving high stakes and a high probability of armed hostility. CBMs also may come into the picture in a situation of strategic stalemate in a dispute: i.e. neither a comprehensive war nor a comprehensive peace is possible but the status quo is unacceptable. On the other hand, CBMs may be necessary in instances where a first-strike by one party becomes both possible (due to advanced technology) and likely (due to changes in strategic policy). CBMs are moreover useful in situations when, from the perspective of one or both parties, the cost of war or conflict has become disproportionately heavy, in relation to the goals and interests pursued by either adversary.¹²

Again, these propositions appear to assume symmetrical power relations. Only some of the above-mentioned conditions apply in cases of asymmetry. Going by the example of Philippines-China confidence building, one can argue that there was low probability of armed hostility, if only for the reason that one party (the Philippines) had no capability for sustained military conflict, while the other (China) was in all likelihood not prepared to deal with the political fall-out of a first strike against such an inferior adversary. It may be true, however, that in the case of the Mischief Reef dispute, the status quo of Chinese presence was unacceptable to at least one party (Manila) because of the potential threat it was perceived to represent. It is also reasonable to say that, indeed, the costs of the dispute – at least from the Philippine side (distraction from social and economic development, need to boost arms spending, danger of regional instability) – were deemed heavy in relation to the expected short-term gains. These last two points may have contributed to the decision on the part of the Philippines to pursue a strategy of engagement with China, rather than to allow the dispute to turn relations hostile.

¹² Bajpai.

What other considerations may have led the Philippines to opt for CBMs rather than pursue a hostile course of action or remain passive? (The same question should be asked of China.) One may venture to say that it was precisely the asymmetry of power relations that pushed both towards confidence-building, since military hostility was not an option for the reasons cited. In addition, this paper shall argue that the strategic regional environment as well as domestic political factors encouraged the CBM process.

It is also said that CBMs are expected to be most successful when undertaken as part of a broad process of détente, and where political will by both parties to seek out a win-win solution is strong. The process requires a step-by-step progression, patience, perseverance, consistency and continuity.¹³ Success obviously depends on the convergence of views by both parties regarding the practical utility of CBMs.¹⁴ Moreover, it has been argued that CBMs' chances for success are better if those responsible for negotiating with the other party are allowed some insulation from the "destabilizing vicissitudes of domestic politics."¹⁵ These propositions will be examined in relation to the Philippine-China disputes.

BACKGROUND ON PHILIPPINES-CHINA RELATIONS¹⁶

From a Philippine perspective, relations with China in the first twenty years (1975-1995) can be generally characterized as cordial at the political level, warm in the cultural and people-to-people levels, but only of limited success in its economic objectives. The main *raison d'être* for establishing diplomatic ties had been established by the late 1970s: Chinese communist support for the Filipino underground communist party had been undermined, China became a source of relatively cheap crude oil at a time of energy crisis, and the Philippines was able to project non-alignment by expanding its relations with socialist countries. However, trade relations remained at very modest levels, with the Philippines suffering from persistent trade deficits.

Through most of the 1980s, the Philippines was beset by political instability and related economic malaise, and was therefore not in a position to take advantage of both China's economic liberalization and the investment boom in the East Asian region. The country fell behind most of its ASEAN neighbours whose trade and investment ties with China expanded remarkably during the period.

¹³ Cheema, p. 3.

¹⁴ Unger.

¹⁵ *Ibid.*

¹⁶ Most of this section is lifted from an earlier paper by the author, "Turning Predicament into Promise: A Prospective on Philippine-China Relations," in *Towards the 21st Century: the Philippines and China in the Asia Pacific* (Carlos P. Romulo Foundation for Peace and Development: Manila, 1998.)

Periodic tensions would arise between the Philippines and China over two important issues: the disputes in the South China Sea and the Taiwan question. From a Philippine point of view, China maintained excessive claims on the islands and waters of the South China Sea that belied its assurances of its non-expansionist nature. On the Taiwan issue, Manila sought Beijing's understanding on the former's need to maintain active unofficial relations with Taipei, given Taipei's proximity, close historical association, and economic leverage vis-à-vis the Philippines. On the whole, however, relations were smooth up to China's occupation of Mischief Reef in the Spratlys in 1995.

From China's perspective the importance of the Philippines during the seventies and eighties may have stemmed from its geographic proximity to southern China (especially Hong Kong-Macau and Taiwan), its erstwhile close alliance with the United States, hosting of major American military bases, and its status as a founding member in the ASEAN. It will be recalled that at the height of American-Chinese coordination of their anti-Soviet Union (and anti-Vietnam) policies, China's position was not to oppose outright the American military presence in the Philippines, even though in rhetoric it had long declared that it was against foreign military bases. China moreover considered ASEAN a vital partner in its efforts to oust the Vietnamese from Cambodia. Although the Philippines may not have been as active in relation to Cambodia as frontline state Thailand or ASEAN's "big brother" Indonesia, friendly ties with the Philippines were still seen by China as favourable to her strategic objectives at the time.

It may be argued that Philippine importance to China diminished as a result of the end of the Cold War, the collapse of the Soviet Union, and the subsequent removal of American military bases from the Philippines.¹⁷ On the contrary, however, the 1990s saw important developments in Philippine-China bilateral relations, among them a flurry of high-level exchanges especially beginning in 1995. Prime Minister Li Peng came to Manila in December 1990, while President Fidel Ramos visited China in 1993. Since relations soured in 1995, President Jiang Zemin held a state visit in November 1996, on the sides of APEC summit, while Zhu Rongji came on an official visit prior to the "ASEAN + 3" meeting in Manila (among heads of state of ASEAN together with China, Japan, Korea) in November 1999. Also from the PROC, Vice-Premier and Foreign Minister Qian Qichen, Vice-Premier Li Lanqing, Minister of Foreign Trade and Economic Cooperation Wu Yi and Vice-Minister Li Guohua, Minister Li Tieying of the National Commission for Economic Restructuring, Defense Minister Chi Haotian, PLA Chief of Staff Fu Quanyou and Vice-Chief of Staff Xiong Guangkai, National People's Congress Chairman Qiao Shi, and others came from 1996 to 1999.

On the Philippine side, then Vice-President Joseph Estrada, House Speaker Jose de Venecia and later Manuel Villar, Senate Foreign Relations Chairman Blas Ople, Trade and Industry Secretary Rizalino Navarro, Defense Secretary Renato de Villa, Chief of Staff Arturo Enrile, National

¹⁷ In the early 1990s, it was also predicted - wrongly so - that ASEAN would lose strategic value due to similar reasons, plus Vietnam's withdrawal from Cambodia, and some analysts forecast that the organization would therefore lose momentum.

Economic Planning Secretary Cielito Habito, Agriculture Secretary Roberto Sebastian and his successor William Dar, Agrarian Reform Secretary Horacio Morales and many others visited China during these years. These visits resulted in the signing of governmental as well as private sector agreements. President Estrada is also expected to pay a visit to China in the first half of the year 2000.

Annual bilateral consultations have been held at senior officials' (vice-ministerial) level between Foreign Ministries of both sides, where a review of all aspects of relations is undertaken. Informal bilateral consultations were also undertaken between high-level officials at the sidelines of major regional and international meetings, such as the Asia-Pacific Economic Cooperation (APEC) Forum, the Asia-Europe Meeting (ASEM), the ASEAN Regional Forum (ARF), and the ASEAN Post-Ministerial Conferences (ASEAN-PMC). Initiatives to jumpstart economic and people-to-people cooperation included the opening of consular offices in Xiamen in 1995 and in Guangzhou in 1997, with counterpart Chinese consulates in Cebu and in the future, Davao.

THE SPRATLYS IN PHILIPPINES-CHINA RELATIONS¹⁸

Philippine interest in that part of the Spratlys group closest to it, which it calls Kalayaan (Freedom) Islands, was first articulated shortly after it achieved independence in 1946. In the 1950s, there were spats between the Philippines and the ROC government in Taipei over the presence and activities of both sides in the Spratlys. At the time, Taiwan already occupied the biggest island of the group (Taiping or Itu Aba) while Filipino sailors and fishermen frequented the area. Philippine assertions of sovereignty increased from the mid-1950s on, and Manila began to occupy some uninhabited features in the late 1960s. Through the 1970s and early part of 1980s, the Marcos government took steps to consolidate sovereignty over Kalayaan through legislation and other acts of state.

Presumably occupied with internal affairs and more serious border problems with its immediate neighbours, China did not aggressively pursue its claim to the Spratlys through these decades. On the occasions when it did pay great attention to its claim, if efforts would take the form of actions directed against Vietnam rather than against any of the other claimants. Hostile actions against Vietnam, however, did not stem from the dispute in the South China Sea *per se*, but were greatly motivated by China's strategic fear of encirclement by the Soviet Union, then Vietnam's close ally.

After the discovery of Chinese presence on Mischief Reef in early 1995, Philippine-China relations dived to their lowest point ever. Manila responded with a very strong and public verbal reaction to what was seen as a provocative act by China of occupying disputed territory very close

¹⁸ Aileen S.P. Baviera "Negotiations on Territorial Disputes: The Philippine Experience with China." Paper presented at the Conference on "Asian Negotiating Styles: Securing China's Borders without Force" 8-10 September 1998, Honolulu, organized by the Atlantic Council of the US and the Asia Pacific Centre for Security Studies.

to the Philippines. Mischief Reef, it was further argued, was well within the Philippine exclusive economic zone.

Mischief Reef represented a wake-up call to the Philippine defence establishment which heretofore had been preoccupied with internal security problems rather than threats from abroad. Subsequently, there were more frequent apprehensions of Chinese and other nationals who were engaged in poaching, piracy, smuggling, and other illegal activities in the Spratlys and other areas immediately surrounding the Philippine archipelago, as compared to previous years. In many such cases, the offenders would be arrested and tried in Philippine courts and their vessels impounded. Each of these incidents were occasions for the filing of diplomatic protests and representations, especially between Manila and Beijing.

This situation underscored the inability of the Philippine Navy and Coast Guard to patrol the long Philippine coastline and the country's extensive EEZ. It helped provide justification for the Philippine Congress's approval of a modernization program for the Armed Forces of the Philippines. Alarmed, certain politicians even called for strengthening the Philippines' Mutual Defense Treaty with the United States as a counter to any further expansion by China.

In terms of public opinion in the Philippines, the dispute has helped create a negative image of China and may have reduced support for pursuing long-term friendly ties with Beijing. Events and statements relating to the dispute have been widely reported and commented on in Philippine media in a manner which tends to portray China in the worst possible light. Public statements by high-ranking Filipino officials and politicians, often intended for domestic consumption and at times no more than bluster, have moreover tended to add fuel to the fire by their bellicosity. In addition, it may have been relatively easy for the Mischief Reef problem to stir nationalist emotions, considering that Filipinos were celebrating the Centennial of the anti-colonial revolution and of independence, and because the anti-American cause no longer served as an effective rallying point for nationalists in the post-bases era.

While diplomatic ties were bad after 1995, it must be remembered that the most intensive period in relations between the two countries, in terms of high-level exchange of visits and dialogues, in fact came on the heels of the Mischief Reef dispute. This illustrates their mutual recognition of the importance of expanding understanding and keeping the door to dialogue open at this critical juncture in relations. Many of the initiatives involving high-level exchanges - particularly between military establishments - originated from the Chinese side and were meant to dispel suspicion of hostile intent and to establish communication links with Filipino military counterparts.

It is also worth noting that despite the persistence of tensions relating to the territorial and maritime resource disputes, other aspects of relations were not visibly affected by the tensions. Economic, cultural, scientific and technical cooperation continued. In particular, trade even registered a steep rise beginning in 1995, mainly due to an increase in Philippine imports from

China.¹⁹

THE BILATERAL CONFIDENCE BUILDING PROCESS

Pro-active Philippine diplomacy helped get the confidence-building process to a good start.

The first Philippines-China bilateral talks that focussed on the Spratlys disputes, specifically the Chinese occupation of Mischief Reef, were held in Beijing in March 1995. The meeting concluded with the two sides merely reiterating their positions claiming sovereignty over Mischief Reef and China arguing that the "fishing shelters" built on the reef represented no threat to the Philippines.

A second round in Manila in August 1995 produced a joint statement that specified agreement by the two sides to abide by certain principles in their behaviour regarding the disputes. The agreement said that the dispute shall not be allowed to affect the normal development of relations, and should be settled in a peaceful and friendly manner, through consultations and on the basis of equality and mutual respect. It also committed both sides to undertake confidence-building measures, and to pursue specific forms of cooperation until the disputes are eventually resolved. The joint statement also expressed a desire to cooperate for the protection and conservation of maritime resources, and stated that the dispute should be settled by countries directly concerned without prejudice to freedom of navigation in the South China Sea. Furthermore, Manila and Beijing agreed to settle the dispute in accordance with UNCLOS and recognized principles of international law.²⁰

A letter had also been sent by Jiang Zemin to President Ramos in 1995, expressing assurances that China would only pursue peaceful means in its territorial claims in the Spratlys. Ramos had publicly put forward a proposal for demilitarization of the South China Sea, as well as suggestions for joint development of the resources for the mutual benefit of littoral states. He also proposed that, until such an agreement was reached, each disputed island should be placed under the stewardship of the claimant-country closest to it geographically, on the understanding that "the steward-country accommodates the other claimants' needs for shelter, anchorage and other peaceful uses."²¹

¹⁹ One can speculate the following economic explanations regarding the trade increase: the import liberalization policy of the Ramos government, robust growth in Philippine exports stimulating demand for China-made raw materials, or the fact that trade in the Philippines is in the hands of a largely apolitical (vis-à-vis Spratlys dispute) private sector subject to only minimal state intervention.

²⁰ Aileen S.P. Baviera, "The Kalayaan Islands (Spratlys) in Philippine Foreign Policy", paper commissioned by Konrad Adenauer Foundation Manila office.

²¹ Speech by Secretary Jose T. Almonte, Presidential Security Adviser and Director-General, National Security Council, before the ASEAN Experts on Law of the Sea, 27 November 1997, Manila.

Because there had been little substantive interaction between high officials of the two countries prior to Mischief Reef, these early contacts could be seen as little more than opportunities for each side to acquaint itself with the thinking and approaches of the other side. That a bilateral agreement outlining the "eight principles for a code of conduct" was signed as early as the second meeting may in fact have surpassed expectations of some. The eight principles did not address the immediate issue of Mischief Reef, but sought to lay down a framework with which both sides would try to manage the Spratly dispute in the future. Therefore, for those who had unrealistically set as their goal an immediate Chinese withdrawal from Mischief Reef, the agreement certainly fell short of expectations.

In March 1996, China and the Philippines further agreed to establish a "bilateral consultative mechanism to explore ways of cooperation in the South China Sea". Specifically, three working groups were set up, to look into cooperation in fisheries, marine environment protection and confidence-building measures.

Since then, the Fisheries Cooperation Working Group has convened three times in: September 1996, May 1997, and October 1999 respectively; while the Marine Environment Working Group met in March and November of 1997. The CBM Working Group was not convened until March 1999 in Manila; a second meeting was held in Beijing in October 1999. To date, no significant agreements appear to have been concluded that directly address the problem of Chinese presence on Mischief Reef.

MILITARY DIPLOMACY AND CONFIDENCE BUILDING

In implementation of the 1995 agreement to undertake confidence-building, high-level exchanges between defence and military officials of the two sides were held. These included visits to Manila by the People's Liberation Army Vice Chief of General Staff Xiong Guangkai in May 1996, of PLA Chief Fu Quanyou in September 1996 and Defence Minister Chi Haotian in February 1997. On the other hand, visits to China were conducted by then Secretary of National Defence Renato de Villa in July 1996 and AFP Chief of Staff Arturo Enrile in October of the same year.

The visit of de Villa resulted in the signing of two agreements: the establishment of offices of defence and armed forces attaches in each other's capital, and on China's extension of a US \$3 million loan for engineering equipment assistance to the Philippines. The loan translated into a delivery of forty military dump trucks in May 1998.

Also unprecedented were port visits to Manila in March 1997 by naval vessels of China's East Fleet, following similar visits they had made to Malaysia and Thailand; and in May 1998 when they were invited to participate in the Centennial anniversary celebration of the Philippine Navy.²²

²² Cited in Baviera, "Security Challenges of the Philippine Archipelago", p. 221.

During these visits, the Commander and Deputy Commander of the East Fleet paid courtesy calls on Philippine Navy officials.

In March 1998, a 3-member delegation of the PLA attended the first ever intelligence exchange between the Armed Forces of the Philippines and the Chinese PLA. In November 1999, China's National Defence University invited the AFP to participate in its first ever training course open to foreign defence establishments.²³

These significant steps taken in high-level diplomacy and military confidence-building appeared to help in reducing fear of a more serious China threat, even if they did not altogether eliminate suspicions of Chinese intentions in the Spratlys. But Manila's frustration deepened further by the end of 1998. The Philippines was not only unable to move China towards compromise on Mischief Reef, but China even reinforced its presence in October 1998 by building more permanent multi-story buildings in place of the original bunkers that the Philippine had wanted dismantled.

Interestingly, China had informed the ASEAN governments through their ambassadors in Beijing - including the Philippines ambassador- that it was conducting "repairs and renovations" on its structures on Mischief Reef. While this appeared to have been done as a gesture of transparency, in Manila and other ASEAN capitals it was received as one of gross insensitivity instead. To the Philippines, China's conduct of "repairs" on Mischief Reef was like rubbing salt into an old wound, resulting in calls by some ranking politicians and public opinion makers for the government to consider the use of force to evict the Chinese from Mischief Reef.

It was then that in November 1998, the Foreign Ministers of the two sides met in Kuala Lumpur and agreed to convene the first meeting of the Philippines-China working group on confidence building created in March 1996. In the weeks prior to the meeting, the Philippine Department of Foreign Affairs publicly reported that the Chinese side had alluded to the possibility of "joint use" of Mischief Reef facilities during the Kuala Lumpur meeting, a concept which Manila indicated it may consider.²⁴

Before the meeting could convene, however, Representative Dana Rohrabacher of the US Congress flew on an inspection visit of Mischief Reef in December 1998. He travelled on board a Philippine Air Force plane, accompanied by Philippine military officials as well as Philippine Representative Roilo Golez. Rohrabacher subsequently described the Chinese fortification and presence of its vessels as "...act(s) of intimidation against the Filipino people which the world shouldn't tolerate." Upon return to the United States Congress, he moved to resume American military assistance to the Philippines through transfers of excess military hardware. Following Rohrabacher's visit, the US State Department appealed to China to avoid actions that would increase tensions in the Spratlys.

²³ *Far Eastern Economic Review*, November 4, 1999, p. 28.

²⁴ "RP wants joint use of Sino structures," *Philippine Daily Inquirer*, 20 March 1999, p. 3.

A State Department Press Guidance dated February 11, 1999, stated that "The United States closely monitors activities in the South China Sea and follows developments regarding China's military modernization... ." On the question of whether the United States would come to the defence of the Philippines in the event of a conflict over the competing claims, the State Department said, "The United States honours its treaty commitments. However, we are not in a position to comment on possible US government action in the case of a hypothetical scenario."

In response to Rohrabacher's initiatives, China accused the United States of meddling in an issue that did not concern it.

The first meeting of the Philippine-China experts level working group on CBMs therefore did not have an auspicious start. President Estrada had also just returned from New York, where he had met briefly with United Nations Secretary General Kofi Annan in another attempt to internationalize the Spratlys dispute.²⁵ Just before the CBM meeting took place in Manila on March 22, 1999, higher-level Chinese officials apparently visited Mischief Reef. Photos taken by the Philippine Air Force of Mischief Reef showed huge red banners hoisted on the newly renovated garrisons which read "A warm welcome to the leaders on their arrival for inspection and guidance." Meanwhile, the Chinese protested the continued low-altitude reconnaissance flights that the Philippine Air Force made over Mischief Reef.

When the CBM meeting convened in Manila, there appeared to be no formal proposal from the Chinese side about any concept of "joint use." Assistant Foreign Minister Wang Yi, who headed the CBM delegation from China, moreover said during a press conference that the use of the term "joint use" by the Philippine side had been "inaccurate."²⁶ Rather than helping to narrow differences as had been hoped, the meeting did not result in any progress and may even have widened the gap when China was perceived to have withdrawn the compromise offer of joint use.

According to Philippine press reports, during the meeting, the Philippine side had wanted a written commitment by China that the structures on the reef were for civilian use, which China resisted. Meanwhile, China had demanded that the Philippines stop the arrest and detention of its fishermen, as well as refrain from conducting low-altitude flights over Mischief Reef, neither of which were accepted by the Philippine side.²⁷ The Joint Statement following the meeting reflected the points of difference and showed the lack of new agreement.

In light of the sorry state of relations, President Estrada postponed a state visit to China that

²⁵ "Erap asks UN to help settle row on Spratly isles," *Philippine Daily Inquirer*, 19 March 1999, pp. 1, 21.

²⁶ "China denies offering joint use of its structures in Mischief reef," *Philippine Star*, 24 March 1995. Also, "China accuses RP of mischief," *Today*, 24 March 1999, p. 1.

²⁷ *Joint Statement of Philippine-China Experts Group Meeting on Confidence Building Measures*, 22-23 March 1999 and reports from various Manila newspapers.

had originally been set for May 1999.²⁸ Moreover, in a short visit to Hong Kong on May 17, he seized the opportunity to again criticize Chinese actions in the Kalayaan Islands during a speech before the Pacific Basin Economic Council.²⁹ The Chinese Foreign Ministry Spokesman Zhu Bangzao, in a routine briefing, expressed Beijing's "deep regrets" about President Estrada's statement in Hong Kong.³⁰

On May 23, 1999, the Philippine Navy intercepted a group of Chinese fishing boats in the vicinity of Scarborough Shoal³¹ and as a consequence of its pursuit, sank one of the boats, claiming this was accidental.³² Chinese Ambassador Fu Ying contested this report and accused the Philippine Navy of deliberately sinking the vessel. She further demanded that the involved personnel from the Philippine Navy be punished, and that compensation be paid for the sinking of the vessel.³³ In a separate incident, another Chinese fishing boat sank on July 19 after an encounter with the Philippine Navy in the Spratlys which Philippine defence officials also insisted was accidental. Later, two old Philippine vessels reportedly ran aground on Scarborough Shoal and in the Spratlys, and could not be towed due to mechanical failure despite Chinese demands that they be removed.

Perceptions of a China threat soon paved the way for the Senate's ratification of a new "Visiting Forces Agreement" (VFA), that now allows American troops back into the Philippines for training and other activities in implementation of the 1951 Philippines-United States Mutual Defence Treaty. In his speech concurring with the VFA, Senate President Pro Tempore Blas Ople, chairman of the Senate Foreign Affairs Committee argued that

"...In our own part of the world, East Asia, the Chinese colossus has awakened... There is every indication ... that this giant has not only awakened but is belching forth a stream of fire - in the direction of the Philippines. One fine day in 1995, we woke up to discover that Chinese naval forces have occupied Mischief Reef...

...(T)oday it is Mischief Reef and the Scarborough Shoal off Zambales. Tomorrow there might be more tempting prizes, including Palawan and the Philippines itself.

²⁸ "Envoy to China stays but Estrada trip dims," *Today*, 31 March 1999, pp. 1, 8.

²⁹ "Erap talks on Spratlys anew," *Today*, 19 May 1999, p. 1.

³⁰ "China bewails Erap's comments on Spratlys," *Philippine Daily Inquirer*, 21 May 1999, p. 3.

³¹ Scarborough Shoal is another contested area between the Philippines and China northwest of the Spratlys. The dispute became active only after 1997. Prior to this, China had not contested Philippine use of the Shoal as a former lighthouse base nor as a target bombing range for practicing US Air Force personnel then based in the Philippines.

³² "RP Navy sinks Sino fishing boat," *Philippine Daily Inquirer*, 25 May 1999, pp. 1, 4.

³³ "China still wants to get paid for fishing boat that sank in the Spratlys." *Today*, 5 June 1999, p. 12.

...(T)he one factor that restrains China's military hawks is the realization that the Philippines is bound to the United States by a Mutual Defense Treaty..."³⁴

This explicit linkage of the Philippines-United States defence relationship to the need to counter China's moves in the Spratlys was made not only by the Senate President but on other occasions by other high-level officials. China has explicitly stated its opposition to such a posture, calling it "dangerous." Nevertheless, a second round of the experts' level working group on confidence building was held in Beijing in October under an improved atmosphere.

MULTILATERAL CBMs

Apart from the bilateral CBMs, the confidence building process between the Philippines and China is being undertaken at the multilateral level, principally through ASEAN-China interactions.

The South China Sea disputes are generally observed to be the single biggest irritant in ASEAN-China ties, but relations between the two sides are otherwise perceived to have undergone qualitative improvements, particularly since their cooperation on the resolution of the Vietnam-Cambodia problem.

The Chinese Premier Li Peng, in a visit to Bangkok in 1989, proposed four strategic principles for Sino-ASEAN relations. These were: (1) peaceful coexistence despite differences in social and political systems; (2) anti-hegemonism (i.e. China will not seek to be a hegemonist power nor will it interfere in the domestic affairs of ASEAN countries); (3) further development of economic relations; and (4) continuing support of regional cooperation and initiatives from ASEAN.³⁵

Since then, there have been several significant milestones in China-ASEAN relations.

In 1991, China was invited by ASEAN to become a "consultative partner" of the Association. In 1994, it became a member of the ASEAN Regional Forum, which is an ASEAN-initiated regional security dialogue mechanism. In 1995, China and ASEAN established a separate political consultative forum at vice-foreign minister's level to discuss political-security issues affecting the region and their relations. This annual meeting has progressed quickly in terms of the depth and candidness of the discussions, placing on its agenda even the sensitive issue of the South China Sea disputes.

³⁴ Senate President Pro Tempore Blas F. Ople. "The VFA: Paradigm Shifts in the Security and Freedom of Nations". Full text of the speech delivered on the floor of the Senate sponsoring the concurrence of the Senate in the RP-US Visiting Forces Agreement on 03 May 1999. *Sanggunian* 1(9), May 1999.

³⁵ Hao Yufan and Huan Guofang, eds., *The Chinese View of the World* (New York: Pantheon Books, 1989), p. 221.

In 1996, China became a full dialogue partner of ASEAN, a status earlier reserved for ASEAN's closest non-communist allies such as the United States, Japan, the European Union, Canada and Australia. Then in 1997, the China-ASEAN Joint Cooperation Committee (AJCC) was set up. The AJCC coordinates all cooperation between China and ASEAN at the working group level. It is run by a Joint Management Committee, co-chaired by the ASEAN Secretary General and the Chinese ambassador in Jakarta. An ASEAN-China Cooperation Fund was established under this committee.

The first ASEAN-China Political Consultations were held in Hangzhou. The meeting marked the first occasion where ASEAN collectively engaged China in direct dialogue on the South China Sea disputes. It was considered a significant move on the part of China, which had hitherto insisted on discussing the disputes only bilaterally with each of its rival claimants. Discussion on the South China Sea then became a prominent feature of subsequent ASEAN-China dialogues. The ASEAN member-states, claimants as well as non-claimants, appeared to be speaking with increasing confidence and solidarity on the issue notwithstanding differences in their perceptions and national interests vis-à-vis China.

During the second annual ASEAN-China political consultations held in Bukittinggi, Indonesia in June 1996, ASEAN raised clarificatory questions regarding China's recent ratification of UNCLOS and its declaration of straight baselines around the Paracels. The following year, discussions focussed on the need for a code of conduct among claimants, especially in light of another recent incident in which Chinese vessels and an oil rig were seen operating in what Vietnam claimed was its EEZ and continental shelf.

The significance of the Senior Officials' political consultations is that it became the main forum for multilateral discussion of the South China Sea issue involving China and ASEAN claimants. By allowing the territorial disputes to move up the agenda of the talks, China signals that it considers this forum appropriate and legitimate in addressing the issue. In contrast, China refuses to address it in the ASEAN Regional Forum, despite efforts by the Philippines and other governments to raise the matter.

At a higher level than SOM are the annual ministerial level ASEAN + China meetings and the Summit of the Heads of State. In 1997 in Kuala Lumpur, the Heads of State for their first summit and issued a joint statement on "ASEAN-China cooperation towards the 21st century". The statement referred to the importance of cooperation in the ASEAN Regional Forum and other international fora, and in promoting economic growth as well as working together to overcome the effects of the Asian financial crisis. On the South China Sea disputes, the two sides undertook "to continue to exercise restraint and handle relevant differences in a cool and constructive manner."³⁶

³⁶ Joint Statement of the Meeting of Heads of State/Government of the Member States of ASEAN and the President of the People's Republic of China, Kuala Lumpur, 16 December 1997.

The second ASEAN-China Summit took place in Hanoi one year after. Prior to this meeting were renewed tensions between China and the Philippines, following China's decision to enlarge the previous structures on Mischief Reef into more permanent, multi-story buildings. Philippine defence authorities described the new structures as an "emerging military facility" equipped with a helipad and radar equipment. Although the Chinese government had announced beforehand that it would be making "repairs" on Mischief Reef as mentioned earlier, for the Philippines this was considered a serious provocation which led to further escalation of the war of words between the two countries. It was against this backdrop that the ASEAN Heads of State agreed in Hanoi on the desirability of having a regional code of conduct to prevent the further escalation of conflict.

The third ASEAN-China Summit was held in Manila on November 28, 1999. The Chairman's Statement (with the Philippines as chair) reflected agreement to continue discussions on the code of conduct. This marked some progress in China's position, which had earlier been that there was no need for a code of conduct between China and ASEAN claimants, citing earlier agreements at the Hanoi Summit and the Kuala Lumpur document on ASEAN-China Cooperation towards the 21st Century. China had turned around and said it was willing to listen to ASEAN's proposal, given the importance attached to this by ASEAN. During the Manila meeting, however, China did not agree to discuss the ASEAN draft code.

At the unofficial level, the Philippines is also seriously and actively involved in other types of multilateral security dialogues that touch directly on the South China Sea dispute. In the Indonesian workshop series on "Managing Potential Conflict in the South China Sea"(MPC-SCS), Filipino officials, academics and scientists have been very forthcoming in proposing activities and mechanisms for cooperation.³⁷ However, it appears that the governments of participating countries have yet to muster the political will to give official support to the implementation of specific cooperative activities. China appears to have been among the most unyielding, but it is not the only one holding out.³⁸

The main advantages of this MPC-SCS framework have been its inclusiveness, the presence of non-claimants willing to serve as honest brokers, and the involvement of experts thus expanding the arena of decision-making beyond officials and politicians. Its main difficulties, however, have been the need to skirt the issue of sovereignty, avoidance of discussion on specific confidence-building measures such as demilitarization, and an inability thus far to elaborate policy

³⁷ This workshop series is hinged on the concept that functional cooperation in areas of common benefit could be the key to encouraging habits of cooperation and confidence-building among the various claimants. Thus far in this workshop series, the South China Sea claimants and other littoral states have been exploring cooperation in the following areas: resource assessments; marine scientific research; safety of navigation, shipping and communications; marine environmental protection; and anti-piracy. The workshop has agreed that any concrete cooperation is to be based on the principles of step-by-step approach, cost-effectiveness and starting from the least controversial issues.

³⁸ Baviera, "Security Challenges of the Philippine Archipelago".

recommendations for adoption by governments of the respective participant-countries.³⁹ In this sense, it is of limited value to the process of Philippine-Chinese confidence-building. In another sense, however, the MPC Workshops are helpful in that by pursuing such a broad agenda, they have allowed the Philippines and China, and perhaps other claimants, to identify selected areas that may be more or less acceptable for bilateral cooperation.

At the ASEAN Regional Forum, the United Nations, the Non-aligned Movement and other international fora, the Philippines has sought every opportunity to announce its concern over China's continued occupation and build-up on Mischief Reef, much to China's annoyance. In turn, China has sought to impress upon the international community that there are no tensions in the area, and that the Philippines is whipping up the issue rather than behaving in what China feels should be a "cool and constructive" manner.

CHINA'S POSTURE TOWARDS THE DISPUTE WITH THE PHILIPPINES

Thus far, through the twists and turns of Philippines-China relations since 1995, the following may be observed of China's policy and attitude towards its dispute with the Philippines:

1. China continues to assert indisputable sovereignty and territorial integrity over the entire South China Sea area. In actions, this translates into active military patrols and research activities; promoting and protecting the rights of its nationals to fish in the area; consolidation of areas already occupied and efforts to expand control through setting up territorial markers in new features.
2. Having occupied Mischief Reef, China is not about to withdraw its presence regardless of Philippine demands; however, it is reportedly prepared to consider opening the Reef for use by fishermen of other countries "when the conditions are ripe" and following an improvement in relations.
3. For China, the South China Sea dispute with ASEAN, and the Mischief Reef issue with the Philippines in particular, is not a major problem at the moment as its priorities lie elsewhere (e.g. Taiwan, relations with the United States). Therefore, it would rather put the matter on the backburner and otherwise prevent it from becoming a major problem.
4. At the formal diplomatic level, China continues to treat the Philippines as a friendly nation to the extent that in managing its disputes it constantly reiterates its position that it will not use force against the Philippines.

³⁹ Aileen S.P. Baviera, "Managing Territorial Disputes". Paper presented at the Seventh Southeast Asia Forum on ASEAN: Shared Identities, Interests and Values, March 1996, Kuala Lumpur.

5. It prefers to resolve the disputes through bilateral negotiations with the ASEAN claimants but is prepared to discuss the issue with ASEAN; China will not allow interference by parties not directly concerned, such as the United States or regional organizations such as ARF.
6. China feels that the Philippines is drumming up the issue for its own reasons before the international community (possibly with the encouragement of outside parties); it considers Philippine behaviour less than reasonable and tries to counter this by emphasizing its own "restraint" and "responsible behaviour".
7. A major irritant for China is the apprehension of its nationals, especially fishermen, in the disputed area and their prolonged detention by Philippine authorities.
8. Other irritants include hostile statements by certain Philippine officials (Congress and the military have been singled out), excessive Philippine media coverage of the issue, low-flying reconnaissance trips by the Philippine Air Force over Mischief Reef, and efforts to draw other parties into the conflict.⁴⁰

PHILIPPINE PERCEPTIONS OF THE DISPUTE WITH CHINA

The following elements describe what appear to be the Philippine perceptions of the dispute at this point:

1. China is a close neighbour in a geographic, historical and cultural sense. The Philippines realizes it will have to learn to live with China, both on its own as well as through common cause with other Southeast Asian countries.
2. Regardless of whether the threat from China is real or not, there is a strong perception that such a threat exists. This is inevitable and perhaps nearly unchangeable, due to the mere fact of China's huge size and power and the reality of the Philippines' military deficiencies.
3. For the Philippines, China's move on Mischief Reef does not necessarily represent a danger of invasion of its main territory or of hegemonic ambition, but its irredentist claims together with growing demand for resources and rising nationalism do give cause for concern for its smaller neighbours. There is also a tendency by Manila to look at the situation in moralist terms - i.e. a big brother turning into a big bully and then picking on the most defenceless victim.

⁴⁰ Philippine efforts to focus international attention on Chinese incursions on Mischief reef after its discovery led to a statement of concern by the ASEAN Foreign Ministers in March 1995. This was followed by similar statements by the European Union, the United States, Japan and Australia, reiterating the need for a peaceful settlement of disputes and endorsing the principles of the Manila Declaration.

4. The stakes involved in the dispute include not only sovereignty, territorial integrity, and access to hydrocarbon and living resources, but more importantly security against external threat.

5. The Philippines is prepared to engage China bilaterally on the issue, but considers multilateral initiatives (ASEAN, ARF) as well as international fora (Non-aligned movement, ASEM, UN) very important arenas where the quest for a peaceful resolution can be promoted. Knowing fully well its weakness vis-à-vis China (militarily, economically as well as diplomatically), the Philippines tends to use other international avenues to build support for its position, partly on the gamble that world public opinion will help moderate China's behaviour.

6. Chinese behaviour in the Spratlys appears to have caused some Filipino leaders to think twice about the role of its military alliance with the United States. Caught between the nationalist impulse to cut off its dependence on the United States and the imperatives of realpolitik, there is now growing support for using military ties with the United States as leverage against China.

7. For many Filipinos, the problem began with Mischief Reef and the main solution being sought is therefore one over the status of Mischief Reef. The search for long-term comprehensive solutions, although desirable in the long run, gives no immediate satisfaction for a leadership that mainly thinks short-term (at most corresponding to their tenure in office) and a public with short memories.

8. Major irritants for the Philippines are: the frequent presence of Chinese military vessels, intrusions by Chinese fishermen not only in disputed areas but into Philippine territorial waters, China's denial of the military purposes of Mischief Reef, and the fact that not only did China not show compromise on Mischief Reef but it even strengthened their hold through the construction in October 1998 of more permanent facilities with possible military uses.

From the above discussion one can see huge gaps in perception and attitude that point to the need of both sides to pursue dialogue and mutual understanding, and to undertake transparency and confidence-building activities.

Table 2: Chinese-Philippine Differences

Fundamental Differences	China	Philippines
Importance of dispute in over-all foreign policy	Not very important at this time; prefers to downplay conflict and postpone settlement	Of vital importance; wants short-term results, especially on the issue of Mischief Reef
Preferred approach to dispute resolution	Prefers bilateral negotiations; but dialogue with ASEAN can be tolerated	Bilateral dialogue can help but need multilateral solutions; appeals to international community
Negotiation style	Prefers quiet diplomacy and secrecy in negotiations	Open and transparent; conflict being played out in both local and international media
Role of external powers	The issue is of no concern to the United States and others	the United States should be committed to assist the Philippines; other regional states have reason to be concerned
Proposals/demands as CBMs	Prevent arrest of fishermen; cease low-level flights over Mischief Reef; allow "normal" fishing operations and cooperation	Prevent intrusions and illegal fishing, especially in EEZ; recognize Philippine claim over Mischief Reef

These fundamental differences, if not properly addressed, can easily lead to misunderstandings, an escalation of tensions, or even untoward incidents or accidents.

CONCLUSIONS

Using the Philippines-China dispute over the Spratlys as a case study of confidence-building between states with asymmetrical power, there are some propositions that can be made for further testing and validation.

Why did the two parties feel that CBMs were necessary or appropriate immediately after the occupation of Mischief Reef? Some possible reasons are because :

- the Mischief Reef incident had put a dent on an otherwise smooth and problem-free relationship, so that both sides may have felt it was still possible to reverse the mistrust that had arisen from the incident. In the first place, Beijing appears to have grossly miscalculated the adverse reaction from Manila and its impact on relations with ASEAN.
- at the time, both China and the Philippines shared strategic concerns about the uncertain security environment in the region as well as fears that escalation of the conflict may have

undesirable consequences. Notwithstanding Mischief Reef, the Philippines sees it in its interest to pursue long-term friendly relations with China, its immediate colossal neighbour to the north, for economic, political and strategic reasons. It was fortunate that strategically-oriented Filipino leaders and decision-makers from President Fidel Ramos, National Security Adviser Jose Almonte and top Foreign Affairs officials shared this appreciation.

- For China, the promotion of friendly relations with ASEAN is an important component of its foreign policy, especially at a time when relations with the United States are bound to be under severe strain over the Taiwan issue and American resistance to China's growing military power. ASEAN is viewed by China as a significant pole in her vision of a multi-polar world order. In this context, friendly ties with major ASEAN countries, including the Philippines, are necessary.
- Growing economic interdependence between ASEAN as a whole and China have also helped moderate the conflict at the multilateral level. Particularly since the Asian financial crisis broke in mid-1997, it was obvious that China and ASEAN could choose to either sink together or swim together. China made its choice clear by not devaluing the renminbi and by extending quite a substantial amount in aid to Indonesia and Thailand. The crisis has again placed primacy on economic cooperation issues, and underscores the need to properly manage disputes.

What are the obstacles to CBMs from the Philippine side?

- The biggest obstacle is the lack of consensus on how to pursue the confidence building process while the specific dispute over Mischief Reef remains unsolved. On the Philippine side, there seem to be different views on key issues emanating from the Department of Foreign Affairs, Defence, and Senate, with media joining the fray and often adding to the cacophony of voices. The lack of domestic consensus can be a serious constraint to the extent that the individuals tasked to negotiate with China may feel they do not have a solid mandate.
- For Manila, the key to regaining trust and confidence in China is very likely some progress in the status of Mischief Reef. It is strangely enough a question of "face" (which both China and the Philippines understand well) rather than strategic posture alone that is at stake here.⁴¹ That China has thus far ignored substantive Philippine concerns over Mischief Reef calls into question the entire confidence building process.
- The lack of a credible military force to back up one's diplomatic positions is, of course, germane to our study of confidence-building between asymmetrical states. The Philippine

⁴¹ Undersecretary of Foreign Affairs Lauro Baja, head of the Philippine side in the CBM working group, was quoted by Philippine media as having spoken to the Chinese of the deep "humiliation" that the Philippines suffered on account of Mischief Reef.

side has to rely almost exclusively on adroit diplomacy, and even here, with regards to negotiating territorial and maritime disputes, it has very limited experience to go by.

Have the CBMs been successful at all?

- The only standard by which one can ultimately assess the success of CBMs is whether or not trust and confidence have been achieved through transparency, communications, and other means earlier discussed. China has taken bold and unprecedented initiatives towards both the Philippines and ASEAN, particularly concerning high-level military exchanges. But it is too early to say whether these have had the desired effect of increasing trust, especially since China's words have often not been matched by its actions in the Spratlys.
- Persistent dialogue on the issue has at least succeeded in making known to each side the perceptions and concerns of the other side. Even the appreciation of how far apart they are on certain issues, as in the case of China and the Philippines, is an important first step in moving closer and finding common ground.
- However, it should be noted that in the case of asymmetrical power relations, the burden of showing good intentions often falls on the shoulders of the superior power, because it is the party that evokes the greater fear and suspicion. Since the cause for the mistrust and suspicion is sometimes the asymmetry itself, CBMs can succeed only in a situation where a strategic basis for long-term cooperation can be laid, when the superior power can be convinced that it has a stake in the weaker state's viability and security.

What have been the effects of asymmetry? Among them:

- The weaker state may bemoan the lack of tactical options in negotiating a confidence building process with a stronger state. Even before it begins to build confidence with the other party, it requires building self-confidence and assurance that despite the asymmetry, a win-win solution may yet be possible.
- On the other hand, its own weakness may be its strength because: (1) it can make demands that will not be considered threatening by the superior power; and (2) the differences in military power constrain the bigger one from use of force, because of the possible political fall-out.
- The weaker power may try to draw leverage from:
 - (i) bilateral alliances with other major powers,
 - (ii) association in common cause with other small and middle-sized powers (e.g. Philippines in ASEAN) against the superior adversary; and
 - (iii) world public opinion in favour of the "underdog".

This paper shows that both countries realize the utility of the confidence building process.

From the Chinese point of view, such measures help contain the dispute with the Philippines and ASEAN, prevent the entry of other parties (particularly major powers) into the issue, and open opportunities for China to expand its influence with these countries through high-level dialogues, including of military officials. To a certain extent, CBMs initiated by China, such as navy port calls and cross-training of military officers, have even helped the Philippines and the region accept China's legitimate stakes and role in the security of Southeast Asia.

From the Philippine perspective, dialogue with China, combined with actions actively asserting its opposition to China's occupation of Mischief Reef in bilateral and multilateral fora, helps keep international attention on the issue. This somewhat reduces the danger of China even more boldly taking unilateral actions to promote its claims.

The leadership that the Philippines has been forced to take within ASEAN in its dealings with China on this issue also enhances the strategic significance of the Philippines, particularly with China and possibly with the United States.

The process of resolving the territorial and maritime resource dispute is bound to be protracted. The confidence-building process, on the other hand, can achieve incremental progress, and if properly focussed, can also help keep the final resolution of the dispute on the agenda. In the meantime, it forces each side to justify to the other its policy and actions, emphasize the importance of compromise on a "win-win" solution, and help bind both parties to acceptable norms and principles of behaviour.



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