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The South China Sea Dispute Re-visited

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ABSTRACT

This paper re-visits the South China Sea dispute by reviewing the 1974 and 1988 naval encounters, and the more recent Mischief Reef incidents of 1995 and 1999. What emerges is a pattern of Chinese opportunism from 1974 up to the present. The position of the United States is also found to be consistent since the 1970s. It is one of qualified detachment and premised on the belief that the South China Sea territorial disputes should be settled peacefully by the claimants themselves. In light of these findings, this paper argues that ASEAN must adopt a unified position, and offers suggestions as to what ASEAN can do collectively, to avert the eventual control of the South China Sea by China.

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THE SOUTH CHINA SEA DISPUTE RE-VISITED

Introduction

Much has been written about the disputes over the islands and waters in the South China Sea and the possibility of their becoming a 'flash-point' or 'hot-spot' in the Asia Pacific region. Indeed, as early as the 1970s, when UNCLOS III was still inconclusive, the South China Sea area was already identified as a potential trouble spot. In a wide-ranging survey of possible Law of the Sea disputes, presciently entitled, "*A Sea of Troubles? Sources of Dispute in the New Ocean Regime*",¹ Barry Buzan highlighted the dispute between China and Vietnam over the islands in the South China Sea as particularly serious. In January 1974, China and the then South Vietnamese government clashed over the Paracels, which resulted in sole Chinese control of the whole of the Paracels to this day. Although Buzan was aware that in addition to Vietnam and China there were other claimants to the Spratly islands, he was of the view that any further movement on the dispute in the South China Sea depended on what China did.² A cursory survey of the writing on the South China Sea dispute will show that most of the discussions are centred on China.³

Although the South China Sea was considered a potential trouble spot, it never became *the* security issue of the day throughout the 1970s and 1980s. This was so despite a number of 'unfriendly' and even 'hostile' developments that took place in the South China Sea. On 21 May 1977, Vietnam unilaterally claimed 12 nautical mile of territorial waters, 12 nautical mile of contiguous zone and a further 200 nautical mile Exclusive Economic Zone (EEZ) which overlapped the EEZ of its neighbours. There

¹ Barry Buzan, "A Sea of Troubles? Sources of Dispute in the New Ocean Regime", *Adelphi Paper*, Number 143, Spring 1978.

² *Ibid.*, p.40.

³ See for example, Marwyn S. Samuels, *Contest for the South China Sea*, (London: Methuen and Company, 1982); Lo Chi-Kin, *China's Policy Towards Territorial Disputes: The Case of the South China Sea Islands*, (London: Routledge, 1989); Michael Leifer, "Chinese Economic Reform and Security Policy: The South China Sea Connection" in *Survival*, Volume 37, Number 2, Summer 1995; John W. Garver, "China's Push through the South China Sea: The Interaction of Bureaucratic and National Interests" in *The China Quarterly*, Number 132, December 1992; Mark J. Valencia, *China and the South China Sea Disputes*, Adelphi Paper 298, (London: IISS, 1995); Robert Farkasch, *China's Intentions Towards the South China Sea: An Asean Response*, YCISS Occasional Paper, Number 34, February 1996; Brigadier Chris Roberts, Chinese Strategy and the Spratly Islands Dispute, Strategic and Defence Studies Centre, ANU, Working Paper Number 293 (April, 1996); Allan Shephard, *Testing the Waters: Chinese Policy in the South China Sea*, Australian Defence Studies Centre, Working Paper Number 39 (August 1996).

were also numerous skirmishes between Vietnamese fishing vessels and those from the other littoral countries as well as the claims and counter-claims made by the Philippines and Malaysia. Most notably, in March 1988, Vietnam and China once again clashed over the islands that resulted in China taking control of six islands in the Spratlys. More violent clashes on land such as the Vietnamese invasion of Cambodia in December 1978 and the Sino-Vietnam War of February 1979 overshadowed these maritime skirmishes. In the 1980s, the region was in the main pre-occupied by the security implications of Vietnam's occupation of Cambodia and the growing Soviet naval presence in the region. Most discussions on the South China Sea issue invariably focused on the disputes between Vietnam and China, and/or the increasing activities of the Soviet navy in the region. If developments in the South China Sea were seen to be contingent on Chinese actions, as was Buzan's view, it was not altogether obvious during those years, at least until the late-80s.⁴

The situation is rather different today where the prevailing sentiment seems to be that China *is* 'the threat' to the status quo, peace and stability of the South China Sea region. Zakaria Ahmad, Head of the Strategic and Security unit, Universiti Kebangsaan Malaysia, perhaps summed up the general feeling about China best when he said, "Don't forget, they (the Chinese) have a track record of using force in that part of the world."⁵ Zakaria was clearly referring to the two naval clashes that took place in January 1974 and March 1988 between China and Vietnam, in which the former emerged, in both cases, victorious. Adherents of the 'China threat' argument have oft cited these two naval battles as evidence. It is therefore useful to re-visit 1974 and 1988 in an effort to understand the context in which the Chinese used force.

This article suggests that an analysis of the opportunities and threats presented by the regional context shows that the South China Sea disputes of 1974 and 1988 as well as those in 1995 and 1999, will reveal a pattern of Chinese behaviour, which may be described as "capitalising on opportunities" as China seeks to exert its jurisdiction over its South China Sea claims. It would appear that Beijing is extremely adept in capitalising on the right moment – when its perceived opponents are either distracted

⁴ See fn 3. The publication dates of the books, working papers and articles are good indicators of the level of interest in the South China Sea issue in the last 30 years.

⁵ "China's Warning on Spratlys Raises Spectre of Armed Clashes" in *The Straits Times*, 11 March 1992.

or when no strong response is expected – to make its move. And in all four cases, Beijing has been successful.

When discussing China and the South China Sea, it is important on the outset to bear two points in mind: One, China claims ownership of all the islands in the South China Sea and in the eyes of the Chinese leadership, it is their sovereign right to do what they want on those islands, cays and reefs. Two, the decision-making processes in China remain opaque. Despite the end of the Cold War which has resulted in the opening of once secret Russian and Eastern European archives, there was no compulsion for China to make its archives equally accessible to researchers. Thus, researchers have still not been able to fully, if at all, document and account for many of Beijing's policies and actions. In the case of the 1974 and 1988 naval encounters, we are no wiser today than we were twenty years ago. However, the following facts when put together would reveal a certain pattern in Chinese actions in the South China Sea.

The Paracel, January 1974

Of all the four disputed chains of islands in the South China Sea, the chain that is most within China's military reach is the Paracel. The Chinese were already occupying Eastern Paracel, also known as the Amphitrite Group, before 1974. South Vietnam then occupied Western Paracel, also known as the Crescent Group. By 1974, it was quite clear that the power configuration among the United States, the Soviet Union and China was shifting. The shift probably began after the 1968 Tet Offensive, which consequently led to the announcement of the Nixon Doctrine in July 1969. Thus began the gradual withdrawal of US troops from South Vietnam. In tandem, also in 1969, subtle changes in US-China relations were developing, which culminated in Nixon's visit to China and the signing of the Shanghai Communiqué of 1972. China-North Vietnam relations, on the other hand, deteriorated as a result, and Beijing was concerned that Hanoi would move closer to Moscow.

With the signing of the Paris Peace Agreement in January 1973, the focus was on the final stage of US disengagement from Vietnam as well as the Watergate scandal. The general impression at the time, as a consequence of all these developments, was that of a United States that was becoming more inward looking and that appeared to be

distancing itself from Southeast Asia. Meanwhile, Saigon had since 1969 been searching for an alternative source to fund the on-going war in Vietnam. On 4 June 1973, the US Senate approved a bill that blocked the funding of any US military activity in Indochina. The following month, the South Vietnamese government finally announced that it had awarded 8 oil exploration contracts mainly situated in the western edge of the Spratlys to Shell, Exxon, Mobil and a consortium of Canadian oil companies. Following the announcement, in September of the same year, the Spratlys were made part of the administrative unit of South Vietnam and troops were stationed on at least 5 of the islands. China, which claimed all the islands in the area, responded by taking over Western Paracel (Crescent Group) some time between 17-20 January 1974.

We now know that Mao Zedong, who also headed the Central Military Commission (CMC) and Premier Zhou Enlai ordered the Paracel operation. Ye Jianying, then the Minister of Defence and vice-chairman of the CMC, and Deng Xiaoping, who had been rehabilitated nine months earlier, jointly supervised the operation.⁶ The Chinese sources do not reveal the reasons for Mao's decision to take the Paracels at this point although the general view is that the Chinese leadership wanted to pre-empt the Russians from using the islands after the war.

The Paracel operation was a relatively uncomplicated military maneuver that did not require the deployment of significant naval assets, which the Chinese did not possess very much of at this time. It was also almost risk-free since there was practically no likelihood of American intervention. On 7 November 1973, both the Senate and Congress had overridden Nixon's veto of the War Powers Act which limited presidential power to wage war abroad without congressional approval. True enough, US as well as Soviet reaction to the event was muted. The US Navy (and the Red Cross) had confined their roles to helping the South Vietnamese evacuate from the islands. Despite several attempts by the Vietnamese to retake the islands between 1979 and 1982, the Chinese remain in effective control of the whole of the Paracel, and it is unlikely that Vietnam will be able to regain it. In an effort to prevent Chinese control

⁶ John W. Garver, "China's Push through the South China Sea: The Interaction of Bureaucratic and National Interests" in *The China Quarterly*, Number 132, December 1992. Garver's sources include two official histories of the Chinese People's Liberation Army Navy (PLAN) published in the late-80s.

of the Spratlys, Hanoi, on 11 April 1975, seized six islands in the Spratlys that were held by South Vietnamese forces.

But in the immediate years after Saigon fell to the communists, attention in the region shifted to the squabble, which was emerging into full view, between Hanoi and Beijing. On 30 May 1978, Beijing suspended all aid to Vietnam and a month later, on 29 June, Vietnam joined the COMECON. By 30 October, it was evident that ongoing negotiations on normalisation of relations between Vietnam and the United States had broken down completely. On 3 November 1978, Vietnam signed the Treaty of Friendship and Co-operation with the Soviet Union. Soon after the Treaty was signed, Vietnam invaded Cambodia in December, which then led to the Sino-Vietnam war in February 1979. Of the many consequences brought about by the above events were three that are of immediate relevance to this study. One, Hanoi allowed the Russians to use Cam Ranh Bay (till 2004) which meant that the Russians could now, for the first time, effectively project their military power in the region. Two, relations between China and the United States improved because both countries viewed the Soviet Union as their common adversary in the region. This good relationship, although there were ups and downs, lasted till 4 June 1989. Three, Chinese relations with the ASEAN countries also gradually improved in the 1980s. One contributing factor was that ASEAN and China (as well as the United States) were united in getting Vietnam out of Cambodia.

The Spratlys Clash, March 1988

The second oft-cited major clash between China and Vietnam took place in March 1988, from which the former again emerged the victor. It is worth noting that before this naval encounter, China, although it claimed the whole of the Spratlys, had not physically occupied any of the islands. According to a *Far Eastern Economic Review* report of 11 June 1982, China had in the previous two years staged deployments comprising destroyer-led flotillas lasting several weeks around Taiwan, through the Bashi Channel, into the South China Sea, and then back to Zhanjiang, the base of the South China Sea Fleet. China had been attempting to improve its navy but was

hindered by budgetary constraints and obsolete equipment.⁷ This began to change in mid-1985, however, because of the shift in Chinese attitude towards the Soviet Union. Soon after Gorbachev assumed power, the Chinese leadership initiated a radical change in its defence policy, which since the 1970s was to prepare for an “early, major and nuclear war” with the Soviet Union. But from mid-1985, the new focus of the Chinese military was to fight local and limited wars around China’s periphery. The territorial disputes in the South China Sea were considered to be a potential area for local military conflict. The task of the PLAN was therefore to review its naval requirements so that it could defend its territorial claims as far as the South China Sea. The target of the PLAN was to develop an offshore-capacity navy by the year 2000 and a blue-water navy by 2050. China began to establish a physical presence in the Spratlys in 1987. From 16 May to 6 June 1987, the PLAN carried out its first large-scale patrol of the Spratlys, from Bei Dao (North Island) to Zengmu Ansha (James Shoal). In October-November, in what was reported as the longest cruise to date by the PLAN, an East China Fleet squadron travelled from Qingdao through the western Pacific to James Shoal, thereby demonstrating its ability to reinforce the South Sea Fleet.⁸

The March 1988 clash took place in the Western Spratlys where Fiery Cross Reef, Johnson Reef, Gaven Reef and Cuarteron Reef are situated. The PLAN intended to build an oceanic observation station on Fiery Cross Reef. The battle should therefore be seen in the context of a more assertive and focused PLAN in the still early days of its modernisation, under a new commander Zhang Lianzhong (appointed by Deng Xiaoping, chairman of the CMC). According to the official naval history, after the victory, Deng cabled his congratulations and praise to the PLAN units involved.⁹ It is perhaps worth noting that during the March naval clash, China occupied only reefs, which did not house any garrisons, and did not attempt to dislodge either Vietnam or the Philippines from the islands.¹⁰ Later in the year, in the autumn of 1988, a major naval exercise code-named ‘Guangzi-15’ was conducted by the Guangzhou Military

⁷ “The Wide, Blue Yonder” in *Far Eastern Economic Review*, 11 June 1982, pp.21-25.

⁸ John W. Garver, *op.cit.*, pp.1009-1010.

⁹ *Ibid.*, p.1013.

¹⁰ Victor Prescott in his review of Frederic Lasserre’s *Le Dragon et La Mer: Strategies geopolitique chinoises en mer de Chine de Sud*, (Montreal: Harmattan Inc., 1996) in *Geopolitics and International Boundaries*, Volume 2, Number 2, Autumn 1997, pp.152-154.

Region to assess the navy's ability to defend both the coastal territorial waters as well as islands claimed by China in the South China Sea.¹¹

The political landscape in the region during this period must also be considered. From about late-1984, the Hanoi leadership was beginning to feel the grind of its occupation of Cambodia and was beginning to search for an exit strategy. When Robert Shaplen met Le Duc Tho and Nguyen Co Thach in Hanoi in August and September 1984, he detected "a beginning interest in reaching a compromise on the Cambodian question". In February 1985, Le Duan who almost a decade ago, described China as Vietnam's principle enemy, in his speech marking the 55th anniversary of the founding of the Vietnamese Communist Party, declared that he was "firmly convinced that friendship between China and Vietnam would have to be restored". Not long after that, Le Duc Tho attended the French Communist Party Congress in Paris. This was unprecedented and it was believed that he had secretly met with the Chinese while there. In the same year (1985), Robert Shaplen reported that when he met the Vietnamese delegation at the United Nations, he found them "more willing, if not eager, to reach a political solution prior to 1990". By August 1985, it was public knowledge that Hanoi intended to withdraw their troops from Cambodia by the end of 1990.

Meanwhile, Moscow, which had been bankrolling the Vietnamese, was also moving towards a change in its foreign policy. Relations between Hanoi and Moscow have cooled considerably since Gorbachev took power in March 1985. It is more than likely that Beijing would be aware that Vietnam was in dire straits. On 28 July 1986, Gorbachev delivered the landmark 'Vladivostok speech'. Of direct relevance to this paper are his views that would impact on Vietnam's relations with both China and the Soviet Union, of which there were four. According to Gorbachev, the Soviet Union intended to improve relations with China, Moscow would withdraw from Afghanistan, Vietnam and China needed to normalise their relations, and the future of Kampuchea should be decided by its own people. Thus began the gradual decline of Soviet military presence in the region as Moscow turned its attention towards its domestic affairs.

¹¹ The above account is summarised from Paul H.B. Godwin, "From Continent to Periphery: PLA Doctrine, Strategy and Capabilities Towards 2000" in David Shambaugh and Richard H. Yang (eds.), *China's Military in Transition*, (Oxford: Clarendon Press, 1997), pp.200-223.

Thus as in the naval encounter over the Paracel in 1974, China could have calculated that the naval clash with Vietnam over the Spratlys would not attract external intervention. True enough, the Soviet Union gave only verbal support to the Vietnamese and there was hardly any reaction from the United States.

The Mischief Reef, 1995 and 1999

Whereas in 1974, the lack of logistic reach of the PLAN prevented the Chinese from moving beyond the Paracels into the Spratlys¹², the situation had changed by the 1990s. According to Paul Godwin, “Force projection in the South China Sea to enforce China’s sovereignty claims is now more plausible than it was a decade ago”. The PLAN can now conduct small-scale amphibious operations particularly against smaller garrisons. For sustained military operations in the South China Sea, China would need aircraft carriers (which she does not presently possess) and have to improve its aerial capability, specifically in the aspect of air-refueling.¹³

Although China had all along claimed that it has ‘indisputable sovereignty over the Nansha islands and the adjacent waters’, from the mid-1970s through the 1980s, the disputes over the South China Sea had been very much a China-Vietnam affair. This began to change from 1992.

In February 1992, Beijing passed the Territorial Waters Law which essentially claimed suzerainty over the whole of the South China Sea. In May of the same year, Vietnam and China were involved in a high profile argument over the contract signed between China Offshore Oil Corporation and Crestone Energy Corporation to jointly conduct oil exploration in an area which Vietnam claimed to be within its territorial waters. A year later, the Chinese published a map that showed that its territorial waters extended into part of the Natuna’s Exclusive Economic Zone (which belonged to Indonesia). Until today, Beijing has still not responded to Indonesia’s query about that map. From mid-1994, the Chinese started occupying Mischief Reef, which was also claimed by the Philippines. This incident is significant because this was the first time

¹² Selig S. Harrison, *China, Oil and Asia*, (New York: Columbia University Press, 1977), p.198.

¹³ Paul H.B. Godwin, “From Continent to Periphery: PLA Doctrine, Strategy and Capabilities Towards 2000” in David Shambaugh and Richard H. Yang (eds.), *China’s Military in Transition*, (Oxford: Clarendon Press, 1997), pp.200-224.

that China had occupied a reef that was claimed by an ASEAN country. Previously, disputes had always been with Vietnam. And, in 1996, when China finally ratified the UN Convention on the Law of the Sea (UNCLOS III), she used a method of measurement that was reserved for archipelagic countries (of which she is not one) to calculate her territorial waters, provoking protests from Vietnam and the Philippines. Like it or not, the Spratlys dispute has expanded beyond just China and Vietnam to become an ASEAN issue. In October 1991, the Paris Peace Conference reached a final settlement regarding Cambodia and a general election held under UN auspices was scheduled for 1993. Having acceded to the ASEAN Treaty of Amity and Cooperation in July 1992, Vietnam was no longer considered hostile. Vietnam became a member of the regional grouping on 1 July 1995.

Coinciding with the above, some time in the early 1990s, there emerged what Gary Klintworth described as “a small cottage industry predicated on forecasts about growing regional insecurity and in particular, on China as a great power threat”.¹⁴ While it may have started as a ‘small cottage industry’, it has been influential. There is today a lively debate between two groups comprising people both in academia and in government, one arguing for viewing China as a threat and the other arguing against viewing China as a threat.¹⁵

Beijing, not unexpectedly, is in the forefront in debunking the “China threat” theory but Chinese actions with regards to the South China Sea further lent credibility to the arguments forwarded by the “China threat” camp. These Chinese actions added fuel to the “China threat” theory. Referring to the passage of the Chinese Territorial Waters Law, B. A. Hamzah, then assistant director-general of Malaysia’s Institute of Strategic and International Studies wrote, “China’s intentions in the South China Sea are very much more than settling old scores with Vietnam. Peking’s recent action strongly suggests that its ultimate aim is to replace the US and Russia in the region.”¹⁶

¹⁴ Gary Klintworth, “Greater China and Regional Security” in *Australian Journal of International Affairs*, Volume 48, Number 2, November 1994, pp.211-228.

¹⁵ For some examples of the earliest writings/comments on this subject, see Gary Klintworth, *ibid.*, p.211 footnotes 1, 2, 3 and 4. A good summary is Denny Roy, “The ‘China-Threat’ Issue: Major Arguments” in *Asian Survey*, Volume XXXVI, Number 8, August 1996.

¹⁶ B. A. Hamzah, “China’s Strategy” in *Far Eastern Economic Review*, 13 August 1992, p.22.

The opaqueness of the decision-making process in Beijing matched by the contradiction between words and deeds compounded the matter. When then Premier Li Peng visited Singapore in August 1990 and Malaysia in December 1990, he said that China was willing to discuss joint efforts to develop the Spratlys and shelf the question of sovereignty. The then Chinese president Yang Shangkun conveyed a similar message during his visit to Thailand and Indonesia at the beginning of 1992. But soon after, Beijing passed the controversial Territorial Waters Law on 25 February 1992. Almost immediately after attending the Third Indonesian-sponsored Workshop on “Managing Potential Conflicts in the South China Sea” (29 June – 3 July 1992) in Jogjakarta, the Chinese occupied Da Lac Reef which was claimed by Vietnam.¹⁷ Despite having expressed support for the *ASEAN Declaration on the South China Sea* during the 26th ASEAN Ministerial Meeting in July 1992, Beijing built structures on the Mischief Reef, which was also claimed by the Philippines, in 1994. Soon after the Mischief Reef episode in early 1995, Filipino and Chinese representatives met in August in an attempt to resolve their differences. A *Joint Statement on PRC-RP Consultations on the South China Sea and on Other Areas of Cooperation* was subsequently signed on 10 August 1995. Despite this, in January 1999, the Chinese were again constructing structures on another part of Mischief Reef.

We now know that the 1974 and 1988 naval clashes were carried out on the instructions of the highest echelon in the Chinese leadership. But given the inconsistencies between words and action with regards to the South China Sea disputes in the last ten years, we are less sure of who is in fact making the decisions. Indeed, through the 1990s, what captivated China-watchers was the succession issue in China. Although Jiang Zemin assumed the position of Chairman of the Central Military Commission as well as General Secretary of the Chinese Communist Party in 1989, no one could be certain how long he could remain in those positions. Four years later, Jiang became President of the People’s Republic in 1993. But till as late as 1995, and even though Jiang had been at the helm for the last six years, China specialists were still discussing the issue of a possible power struggle in China. Some even argued that the

¹⁷ *Voice of Vietnam*, 7 July 1992, SWB/FE/1428/A2/1.

struggle was already taking place.¹⁸ Deng passed away in February 1997 but it was only fairly recently, some time in 1998, that Jiang seemed to have consolidated his position.

With regard to the South China Sea issue, what is known is that the South China Sea comes under the purview of at least three agencies: (a) The marine office on Hainan Island which oversees 'dual central and local leadership with an emphasis on local initiative'. The South China Sea is supposedly under Hainan province jurisdiction and its authorities had been empowered by the Central Chinese government to manage and develop it.¹⁹ It is perhaps worth noting that Hainan is one of the poorest Chinese provinces. (b) The Chinese Navy (PLAN) which argues for the protection of China's maritime interests, and which according to Lu Ning, is involved in an on-going battle with the Ministry of Foreign Affairs which opposes more assertive actions in enforcing the Chinese claim over the Spratlys.²⁰ And, (c) the Foreign Ministry which is supposedly in overall charge. At issue is the extent to which Jiang is able to balance his control over the military with his need for the support of the military, in this case the PLAN. According to John W. Garver, the Tiananmen Incident, and imminence of a succession struggle as well as the political weakness of the contenders all add to enhancing the PLA's influence, which has been growing since 1989.²¹

According to one source, the construction on Mischief Reef, which apparently took place between June and December 1994 but was only discovered by the Filipinos in February 1995, was undertaken by elements in the PLAN without the sanction of the top leadership. Chinese officials had apparently told the Philippines Government that this was the case. In addition, elements within the PLAN were involved in smuggling activities and piracy in the South China Sea.²² The skeptics, however, argue that even if it were true that the decision to occupy Mischief Reef was not made by the top civilian leadership, the senior military leaders must have approved of it.

¹⁸ Joseph Fewsmith, "Jockeying for Position in the Post-Deng Era" in *Current History*, September 1995, pp.252-258.

¹⁹ *Ming Pao*, Hong Kong, 4 July 1994, SWB/FE/2042/G/1.

²⁰ Lu Ning, *The Dynamics of Foreign-Policy Decision Making in China*, (Boulder: Westview Press, 1997), pp.124-127.

²¹ John W. Garver, "China's Push through the South China Sea: The Interaction of Bureaucratic and National Interests" in *The China Quarterly*, Number 132, December 1992, particularly, pp.1025-1028.

²² Ian James Storey, "Creeping Assertiveness: China, the Philippines and the South China Sea Dispute" in *Contemporary Southeast Asia*, Volume 21, Number 1, April 1999, pp.95-118. Storey cites two sources: "Philippines Orders Forces Strengthened in Spratlys", *Reuters News Service*, 15 February 1995, and "Hye Micko Attack Triggers Upsurge in Piracy" in *South China Morning Post*, 28 June 1995.

Beijing has apparently shifted its focus from Vietnam to the Philippines. Sino-Vietnamese relations had improved considerably since both countries normalised relations in November 1991 and notwithstanding the historical baggage and asymmetry of power of the two countries. During Jiang Zemin's visit to Hanoi in November 1994, both sides agreed to establish a joint working group to discuss the Spratlys issue. This was set up at the Third Vice-Ministerial meeting of the two countries in July 1995 when the working mechanism of the working group was discussed. The first meeting took place from 13-15 November in Hanoi, the second from 2-7 July 1996 in Beijing, the third in April 1997 during the Kanto 3 incident, and the most recent from 8-10 July 1998 in Beijing. Since the establishment of the working group, only one high-profile dispute took place between them. On 7 March 1997, the Chinese sent the Kanto Oil Platform Number 3 and two other pilot ships Number 206 and 208 to conduct exploratory oil drilling in what was supposedly Vietnam's continental shelf. Hanoi protested and called for the halting of the exploratory drilling. The Chinese maintained that they were prospecting within Chinese continental shelf and exclusive economic zone (EEZ). This dragged on for about a month till 3 April when it was announced that both sides would meet on 9 April 1997 in Beijing. Details of the meeting from 9-10 April were not made public. Both sides however agreed that although their differences could not be resolved immediately, it would not affect the friendly relations between the two countries.

Like that of the Vietnamese, the weakness of the Filipino navy and air force is common knowledge. Although the US and the Philippines have a Mutual Defence Treaty Arrangement, the US position of remaining neutral in the South China Sea disputes is also public knowledge. Furthermore, in 1996 (and this was after the *first* Mischief Reef incident), the US and the Philippines suspended all major military exercises until a formal agreement on the treatment of visiting US defence and military personnel was finalised. It took another two years to negotiate the terms of the Philippine-US Visiting Forces Agreement (VFA), as it was called, which was eventually signed on 10 February 1998. The VFA was submitted to the Philippine Senate for ratification at the beginning of October 1998 and was only endorsed by the Senate at the end of May 1999, after the second Mischief Reef incident occurred in January 1999. Two other factors need to be mentioned. One was that the whole region was in the

throes of the Financial Crisis, which began in July 1997. The other was that the United States was pre-occupied internally with the Monica Lewinsky affair and externally with developments in Kosovo. Either it was the Chinese military acting on its own or on the direction of the civilian leadership; or the civilian leadership acting on the advice of the military, they probably calculated that the construction on Mischief Reef in 1998-1999 was unlikely to elicit strong international response. And the Chinese were correct.

It is perhaps useful, at this juncture, to take stock of the American attitude with regards to the South China Sea.

The United States' Position

The US position regarding the South China Sea disputes has been very consistent throughout. In the wake of the Paracel clash in January 1974, the US State Department said that the South China Sea disputes were “for the claimants to settle among themselves”.²³ In his annual report to Congress, then US Defence Secretary Harold Brown hardly mentioned the South China Sea except in the context of Soviet interests in Cam Ranh Bay and Danang, and how that would complicate “the task of the seventh fleet in helping to defend Japan’s lines of communications”.²⁴ This was also the case with Admiral William J. Crowe, then Commander-in-Chief, US Pacific Command, in an interview in 1984. His concern was with the growing Soviet presence in Cam Ranh Bay and how that gave the Russians the ability to interdict the sea lines of communication in the South China Sea.²⁵ Since 1990, the US Department of Defence (DOD) has delivered four reports to Congress regarding US policy towards East Asia. The first entitled, “*A Strategic Framework for the Asia-Pacific Rim: Looking Towards the 21st Century*”, was submitted in April 1990. The report was crafted during the period which saw the Soviet withdrawal from Afghanistan and the collapse of communism in Eastern Europe. The study paid particular emphasis to the situation in Northeast Asia, which despite the end of the Cold War, was still unstable and volatile. There was hardly any mention of the South China Sea except that one of the US wartime objectives for East Asia was to maintain the security of the lines of communication (LOCs) throughout the

²³ Michael Morrow, “Today Hsisha, Tomorrow ...?” in *Far Eastern Economic Review*, 28 January 1974.

²⁴ “America’s Attitude to the Asian Region” in *Pacific Defence Reporter*, April 1980, pp.25-28.

²⁵ “Help Wanted in Protecting Vital Sea Lines” in *Pacific Defence Reporter*, Annual Reference Edition, December 1984/January 1985, pp.53-57.

Pacific.²⁶ In an interview in Malaysia in October 1991, Admiral Charles Larson, then Commander-in-Chief, US Pacific Command, made the following points regarding the Spratlys: (a) The US maintained a non-committal stand as there was no interest for the US to intervene; (b) It was a regional issue and the US had no contingency plan to go to the Spratlys in the event of a conflict; (c) It would be up to the countries concerned to work together and regional groupings (such as ASEAN) to find a solution; (d) The US preferred that the claimants resolve the issue through political channels rather than by military means; and (e) If China and Vietnam became hostile in asserting their claims, the US might work with ASEAN, the Soviet Union and other nations under the auspices of the United Nations to ensure that the aggressor followed accepted international behaviour.²⁷

In the second Department of Defence report that was submitted to Congress in mid-1992, the Spratlys was briefly mentioned as one of nine potential sources of East Asian and Pacific regional instability. However, it was not assessed to be imminent.²⁸ During a Worldnet dialogue with panelists from Kuala Lumpur, Manila, Jakarta and Tokyo, in March 1992, the then US Assistant Defence Secretary said that although the US still had a formidable force in Asia despite its troop withdrawal from the Philippines, Washington had no specific commitment in the Spratlys. He also dismissed regional concerns that followed China passing a law on 25 February declaring its sovereignty over the islands, saying that the move was just a reaffirmation of Beijing's long-term stance. He also mentioned that ASEAN could work with China to resolve the Spratlys row.²⁹ Then US Ambassador to the Philippines, Frank Wisner also said that the US opposed the use of force to back any claims on the Spratlys and that there were limits to what the US could do if fighting broke out over the area. Wisner added that he did not expect rivalry in the Spratlys to flare into the next flashpoint.³⁰ According to then US Undersecretary of State, Robert Zoellich, Washington's position on the South China Sea remained unchanged, that is, the US would not make

²⁶ *A Strategic Framework for the Asia-Pacific Rim: Looking Toward the 21st Century*, April 1990 (Prepared by the Office of the Assistant Secretary of Defense for International Security Affairs [East Asia and Pacific Region]).

²⁷ "US 'Will Not Interfere' in Spratly Conflicts" in *The Straits Times*, 23 October 1991.

²⁸ *A Strategic Framework for the Asia Pacific Rim*, (Department of Defense, Office of International Security Affairs, 1992).

²⁹ "Work with China on Spratlys Row, US Urges ASEAN" in *The Straits Times*, 28 March 1992.

³⁰ "Work with China on Spratlys Row, US Urges ASEAN" in *The Straits Times*, 28 March 1992; US Has to Help If Navy Is Attacked in Spratlys, says Manglapus" in *The Straits Times*, 14 March 1992.

judgements on the merits of the claims, wanted freedom of navigation to be preserved and supported a peaceful resolution of disputes.³¹

Whereas there was at least one short paragraph about the Spratlys in the Department of Defence 1992 report, the subsequent DOD report submitted in February 1995 hardly mentioned the Spratlys issue. The fourth and most recent report in November 1998 did not mention the South China Sea at all.

The 1995 report noted the on-going official and non-official discussions regarding the matter and repeated the US concern that the high seas remain as an international commons. A statement issued by the State Department on 10 May 1995 regarding the Spratlys and the South China Sea made four and by now familiar points: (a) The US opposes the use of force; (b) The US has an abiding interest in the maintenance of peace and stability in the area; (c) Maintaining freedom of navigation and all maritime activities consistent with international law are fundamental interests of the US, and (d) The US takes no position on the legal merits of the competing claims.³²

In a 1998 interview, Admiral Archie Clemins, Commander-in-Chief, US Pacific Fleet said that while the US was aware that the Spratlys was a contentious area, it would like to see a peaceful resolution of the matter. He reiterated the point that the US would not support any one claimant over another. While some of China's actions have led others to believe that she had expansionary ambitions, the US did not think so.³³

Most recently, US Chief of Naval Operations Admiral Jay Johnson told reporters that the US was watching the situation in the South China Sea "very carefully". He expressed hopes that rival claims could be resolved peacefully. Finally, he reiterated the importance of keeping sea lanes open as 90% of the world's commerce was moved by sea.³⁴

As far as we know, try as they did, the Filipinos were unable to elicit any American commitment to assist Manila in the dispute. Indeed, at a House International

³¹ "Washington's Priorities" in *Far Eastern Economic Review*, 13 August 1992, p.18.

³² Ralph A. Cossa, (ed.), *Security Implications of Conflict in the South China Sea*, (Honolulu: Pacific Forum, CSIS, 1996, Appendix G).

³³ Interview with Admiral Archie Clemins, Commander-in-Chief of US Pacific Fleet in *Asian Defence and Diplomacy*, September 1998, pp.14-17.

³⁴ "Exercises with Asian Allies 'to Continue'" in *The Straits Times*, 7 April 1999.

Relations Committee (East Asia sub-committee) hearing on 12 February 1999, Stanley Roth, Assistant Secretary of State for East Asian Affairs, was reported to have told congressmen that Chinese forces in the Spratlys were “not a major security threat”. According to Roth, “it’s the trend and the fact that China claims all this territory that’s troubling, not the situation on the ground”. The US assessment was that the situation on the ground did not indicate that there was a massive build-up of Chinese military forces. The US preferred to work with ASEAN either through the Indonesian-led South China Sea Workshops or the ASEAN Regional Forum to resolve the Spratlys issue.³⁵

ASEAN

Until 1995, ASEAN had not taken a public position regarding the South China Sea. But a series of unilateral Chinese actions from 1992 cited earlier, culminating in the Mischief Reef issue (of January 1995) led to a change of stance. Two days before the bilateral talks between the Philippines and China in Beijing, on 18 March 1995, ASEAN, for the first time, adopted a united stand by issuing a statement calling for all parties concerned to adhere to the letter and spirit of the Manila Declaration on the South China Sea.³⁶

However, four years on, in response to the second Mischief Reef incident (of January 1999), ASEAN apparently was unwilling to confront Beijing more strongly despite the fact that this was China’s second transgression. At the ASEAN-China meeting in Kunming (4-8 April 1999), it only managed to obtain Beijing’s agreement to give “serious” and “earnest” consideration to the Philippine’s proposal of a new regional code of conduct with regards to the South China Sea. The Code of Conduct is presently being drafted. According to Lauro Baja Jr., Philippines Foreign Affairs Undersecretary, it is expected to include provisions prohibiting the use of force, maintaining the status quo and promoting joint cooperation.³⁷ What remains unclear is the extent to which the proposed Code of Conduct will be different from the *ASEAN Declaration on the South China Sea* (signed on 22 July 1992) which Beijing had expressed

³⁵ “US Rejects Talk of Massive Spratlys Build-up” in *The Straits Times*, 12 April 1999.

³⁶ *The Nation*, 21 March 1995, in *FBIS-EAS-95-055*.

³⁷ *Manila Business World* (Internet Version), 19 April 1999, *FBIS-EAS-1999-0419*.

agreement with, the Joint Statement on *PRC-RP Consultations on the South China Sea and On Other Areas of Cooperation* (signed on 10 August 1995) and the joint statement signed between ASEAN and China during the ASEAN Summit meeting in December 1997.

According to Baja, Manila was not getting international community aid in protesting China's continued occupation of Mischief Reef. In his words, "On Mischief Reef, we were left alone. The other countries said that while they sympathise and understand our situation, the issue is only a Philippine-China problem".³⁸ It was further reported that Baja, in a speech before the Rotary Club on 15 April 1999, described the Philippines as "an orphan in its campaign" (referring to Manila's recent efforts to internationalise the South China Sea issue). Baja also said that the Spratlys had no immediate significance to Manila's "so-called friends in the international community". He added that "even some of our ASEAN friends are either mute, timid or cannot go beyond espousal of general principle of peaceful settlement of disputes and polite words of understanding given in the corridors or meeting rooms".³⁹

Although the Mischief Reef dispute has been in the limelight in recent years, it is easy to forget that besides China, Vietnam and the Philippines, there are other claimants to the reefs, rocks and islands in the South China Sea. Indeed, as Stanley Roth observed, China is not the only country to maintain military outposts in the South China Sea. It also does not have the largest number of outposts.⁴⁰ That honour goes to Vietnam. Malaysia claims twelve of which it occupies six. Brunei claims two but it has not stationed troops or put up any installations on them. Taiwan is also a claimant and in fact occupies the largest of the Spratly islands – Itu Aba. So as not to further complicate an already complex situation, it is perhaps useful to view both the claims of the PRC and Taiwan as one. According to Lu Ning, Taiwan and the PRC generally shared the same attitude with regards to the South China Sea, and that the PRC garrisons in the Spratlys receive fresh water supplies from Taiwanese troops stationed on Itu Aba.⁴¹ Within ASEAN, just to cite a few prominent examples, Vietnam and Philippines presently occupy Amboyna Cay and Commodore Reef respectively, both

³⁸ *Manila Business World* (Internet Version), 13 April 1999 in *FBIS-EAS-1999-0413*.

³⁹ "Concern over Spratly Statement" in *The Straits Times*, 27 April 1999.

⁴⁰ "US Rejects Talk of Massive Spratlys Build-up" in *The Straits Times*, 12 April 1999.

⁴¹ Lu Ning, *The Spratly Archipelago: The Origins of the Claims and Possible Solutions* 27-28 (Washington D.C.: International Center, 1993) cited in Mark J. Valencia et al, *Sharing the Resources of the South China Sea*, (The Hague: Martinus Nijhoff Publishers, 1997), p.32.

claimed by Malaysia. Vietnam also occupies Barque Canada Reef, which is also claimed by Malaysia. Malaysia occupies Louisa Reef (Terumbu Semarang) which is also claimed by Brunei.

Observations and Prognosis

As described in this paper, one can discern a pattern of Chinese opportunism from 1974 to the most recent Mischief Reef incident in 1999. It was perhaps easier for the Chinese during the Cold War years, specifically in 1974 and 1988, when they targeted Vietnam, then perceived as a Soviet proxy and regional threat. ASEAN was then able to argue that the dispute was essentially a bilateral matter. The Mischief Reef incident in 1995 compelled ASEAN to adopt a united position vis-à-vis China, albeit pressured by the Philippines. Beijing then realised that she has now to balance between exercising her sovereignty over some reefs and islands and provoking the ASEAN countries, which for geo-strategic reasons, she would want to cultivate. Nevertheless, she waited for the next opportune moment to re-exert her claim, which she found in January 1999 when ASEAN was distracted by both the teething problems of its expansion and the economic crisis. Some analysts have been somewhat critical of ASEAN's lame response to the second Mischief Reef incident. The view is that ASEAN's 'fecklessness' can only embolden the Chinese whose structures still stand on Mischief Reef.⁴²

Although China is not the sole claimant to the Spratlys, she is the principal source of worry. This is not surprising given her size and power vis-à-vis the other claimants. It is aggravated by the fact that Beijing's words regarding maintaining the status quo and her deeds have not been entirely consistent. According to the Pentagon, the Chinese are expected to project even larger naval forces in the South China Sea over the next five years. The structures on Mischief Reef are, in the view of Pentagon officials, "a component of a comprehensive strategy for gaining ascendancy as a regional military power".⁴³ In contrast, the other claimants, all members of ASEAN,

⁴² See for example, Michael McDevitt, "China and the South China Sea – A Conference Summary Report", Pacific Forum, CSIS, Pacnet #15, 16 April 1999.

⁴³ Philippines Foreign Undersecretary Lauro Baja quoting Pentagon officials in "Expect Larger Chinese Force in Spratlys, Manila Told" in *The Straits Times*, 25 April 1999.

are committed to the Treaty of Amity and Cooperation, which is the basis for the code of conduct over the South China Sea.⁴⁴ So far, they have adhered to the treaty.

The Chinese position has remained constant over the years: China's sovereignty over the Spratlys is undisputable. In the same breath, Beijing also says that the sovereignty issue can be amicably resolved amongst the countries involved in the dispute. This is also the public position of all the other claimants. However, to this day, there has not been a concrete proposal forwarded for how the sovereignty issue could be settled – not even at the Track Two level where one would expect room for unofficial and creative ideas to surface. Indeed, after five years of discussions, by the fifth South China Sea Workshop in 1994 (the first was in 1990), it was decided to move the subsequent workshop agenda to discuss issues other than politics and security, sovereignty and jurisdiction.⁴⁵

Though Beijing claims sovereignty over the region, China is presently unable to exercise complete control over the Spratlys and the South China Sea. Neither can the rest of the claimants. Beijing lacks the strategic reach⁴⁶, which is perhaps one reason why she has not crossed swords with Malaysia and Brunei over their claims. Beijing has therefore adopted a strategy described as “creeping jurisdiction” or “creeping assertiveness”, seizing opportunities whenever she is presented with them to physically control the islands.

The Southeast Asian countries, in the main, have depended on the presence of the United States in the region to balance China. This ‘balance of power’ strategy has so far been successful in a grand strategic sense; but it may not be sufficient to deal with the disputes in the South China Sea. As described earlier in the paper, the position of the US on the South China Sea maritime dispute is well known. Beijing has assiduously assured the international community, particularly the United States, that her claims would not affect the freedom and safety of navigation – the principal concern of

⁴⁴ See *ASEAN Declaration on the South China Sea*, signed in Manila on 22 July 1992.

⁴⁵ Song Yann-Huei, *Managing Potential Conflicts in the South China Sea: Taiwan's Perspective*, (East Asia Institute Occasional Paper Number 14, 1999), p.27. For more information on the Workshops of which there have been ten to date, also see Ian Townsend-Gault, “Preventive Diplomacy and Pro-Activity in the South China Sea” in *Contemporary South East Asia*, Volume 20, Number 2, August 1998.

⁴⁶ See for example, Felix K. Chang, “Beijing's Reach in the South China Sea” in *Orbis*, Volume 40, Number 3, Summer 1996.

the United States.⁴⁷ Beijing could be right. According to Daniel J. Dzurek in an article published in the *IBRU Boundary and Security Bulletin*, press reports citing that the Spratlys straddle major shipping routes is misleading. The truth is that mariners avoid the area because of shallow shoals and poor charting. The most important South China Sea shipping routes pass well west of the Spratlys. Dzurek cites the example of the main Hong Kong-Singapore route which comes no closer than 140 kilometres to Vanguard Bank and 260 kilometres to Spratly Island. The only significant shipping route, according to Dzurek, is the Jakarta-Manila route that hugs the coasts of Borneo and Palawan, and is over 150 kilometres east of Mischief Reef. Furthermore, contrary to the view that the implementation of the Chinese Territorial Waters Law would affect international navigation, Dzurek's research show that no territorial sea zone would overlap current shipping lanes.⁴⁸ If Dzurek is correct, then it is even more unlikely that the United States would get involved in the dispute. As Michael Leifer observed, "in the absence of suitable access to external countervailing power, regional states have been thrown back to their own resources in an attempt to prevent China from pushing its way into the maritime heart of South-east Asia". The problem however, as Leifer noted, is that ASEAN states have long been unable to assume a common position on China.⁴⁹

One other point that may be to the advantage of the Chinese is that unlike in 1974 and 1988, Beijing has managed to obtain and extend her foothold on Mischief Reef not once but twice without resorting to military force. As the well-known Chinese strategist advised: to conquer the enemy without resorting to war is the acme of skill and is the most desirable. Beijing had repeatedly said that she would not use force to exert her claims. It appears that she does not need to. As John Garner noted, the Chinese incremental approach has ameliorated international reaction. Consequently, there has been minimal adverse international reaction to China's slow march through the South China Sea. China's relations with the ASEAN countries have also not suffered.⁵⁰

⁴⁷ See for example, "Beijing: Feel Free to Cross S. China Sea" in *The Straits Times*, 18 May 1999.

⁴⁸ Daniel J. Dzurek, "China Occupies Mischief Reef in Latest Spratly Gambit" in *IBRU Boundary and Security Bulletin*, April 1995, pp.65-71.

⁴⁹ Michael Leifer, "Chinese Economic Reform and Security Policy: the South China Sea Connection" in *Survival*, Volume 37, Number 2, Summer 1995, pp.44-59.

⁵⁰ John W. Garver, *op.cit.*, pp.1027-1028.

Beijing's decision to provoke the Philippines could backfire. The Philippines Senate finally ratified the Visiting Forces Agreement at the end of May 1999. The US and the Philippines can now resume joint military exercises and these exercises are in the pipeline. After an almost three year hiatus, the 19,200 ton USS Blue Ridge, command ship of the US Seventh Fleet, visited Manila in July. The United States Senate has also approved US\$5 million foreign military aid to the Philippines. While this may not necessarily mean that Washington is now ready to be militarily involved in the South China Sea dispute, nor is this what the ASEAN countries really want at the moment, it does enhance US naval presence in the region, which pragmatic Beijing cannot ignore. With the South China Sea dispute, the question one might reasonably ask is whether it is possible to achieve at the diplomatic table that which cannot be obtained on the battlefield. A strong US naval presence in the background is definitely a useful stopgap measure until such time when ASEAN can get its full act together.

Manila is also now trying to 'internationalise' the issue as much as it can, possibly with the (understandably) quiet support of Vietnam. If Manila can keep the issue on the headlines and if ASEAN can get its act together, Beijing, which has all along opposed multilateral talks on the Spratlys issue, may have to concede. Bilateral talks, such as the series between China and Vietnam, have so far made no headway. In a keynote address to regional business leaders at a gathering organised by the Pacific Basin Economic Council, President Estrada warned, "China's sweeping claim to the Spratlys is not merely about barren and uninhabitable islands. It is about South East Asia's bottom-line security". He added that there were "political anxieties currently centering on China's efforts to projects its power into the region's maritime heartland".⁵¹ Whether the Philippines can lead ASEAN in a diplomatic campaign to challenge the Chinese claim to the South China Sea in the same way that Singapore and Thailand did against Vietnam's occupation of Cambodia is questionable.

Perhaps it is fortunate that there may not be as much oil or hydrocarbon in the South China Sea as it was earlier thought to have.⁵² If that is true, the full impact

⁵¹ "Beijing Is Biggest Security Threat in Region: Estrada" in *The Straits Times*, 19 May 1999.

⁵² See Greg Englefield, "Managing Boundaries in the South China Sea" in *IBRU Boundary and Security Bulletin*, July 1994, p.36-38; E.F. Durkee (President, Cophil Exploration Corporation), "Spratly Islands Not So Rich After All" in *Philippine Daily Inquirer*, 13 March 1995, *FBIS-EAS-95-052*.

China's actions in the South China Sea may not be felt in the near future. However, the ball is now clearly in ASEAN's court. If ASEAN wants to hold the initiative in the South China Sea dispute, it must take a number of steps: Vietnam, which in fact controls the most islands and reefs in the area, should refrain from further consolidating its position on the disputed islands. For example, Vietnam's construction of structures in September 1998 on the Nanan (Orleana) and Jindun (Kingston) Shoals, which Beijing also claims, is not helpful.⁵³ ASEAN should quickly complete the much-touted Code of Conduct on the South China Sea, which apparently is still in its drafting stage. It was unfortunate that the document was not ready for discussion at the recent ASEAN Ministerial meeting in July 1999. The four ASEAN claimants, namely, Vietnam, Philippines, Malaysia and Brunei, should work out a concrete proposal regarding joint-development of the South China Sea, rather than publicly quarrel or disagree amongst themselves (which they did in June 1999, not long before the ASEAN and ARF meetings, over two disputed reefs). The proposal, with full ASEAN support, could then be presented to China as a basis for negotiations. In this respect, much spade work has already been done by the series of workshops on Managing Potential Conflict in the South China Sea initiated and led by Ambassador Dr Hasjim Djalal, particularly the Technical Working Group on resources assessment and ways of development (TWG-RAWD).⁵⁴ China is represented in this series of workshops of which nine have been held since 1990 and has publicly expressed support for joint development. Contrary to what Beijing believes, discussions must necessarily be multilateral since many of the disputes involve more than two claimants. Bilateral discussions such as those between China and Vietnam, and China and the Philippines do not appear to have borne any concrete results so far. It is evident that only a united ASEAN can possibly move China, as in 1995.

⁵³ *Xinhua News Agency*, 8 September 1998, *FBIS-CHI-98-251*.

⁵⁴ See Hasjim Djalal, "Joint Development in Cases of Dispute", draft paper presented at 13th Asia-Pacific Roundtable, Concurrent Session Five, 1 June 1999.