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**The De-escalation of the Spratly Dispute  
in Sino-Southeast Asian Relations**

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## ABSTRACT

The paper argues that the Spratly dispute has shown signs of de-escalation in recent years. This has occurred however in the absence of significant changes in material terms and in the circumstances pertaining to the dispute as well as in the absence of major progress in conflict management and resolution. The paper seeks therefore to understand what explains the de-escalation process. It claims that it derives from a combination of wider domestic and regional developments. These include the lessening of the China threat image, the limited Chinese power projection in the South China Sea, Vietnam joining the Association of Southeast Asian Nations (ASEAN) in 1995, the downplaying of nationalist rhetoric, the limited proven oil reserves in the area, and restrained US involvement in the dispute. These transformations have eased the climate of relations over the Spratlys and made possible the signing of the Declaration on the Conduct of Parties in the South China Sea by China and the ASEAN members in November 2002. Nonetheless, the situation in the Spratlys remains fragile and possibly volatile. In the absence of actual progress toward conflict management and resolution, tension could rise again if any of the factors discussed were to change for the worst.

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# **The De-escalation of the Spratly Dispute in Sino-Southeast Asian Relations<sup>1</sup>**

## **Introduction**

The territorial dispute over the Spratly Islands was in the 1990s often described as a major regional security flashpoint. The dispute was one of the crucial problems afflicting China and the four Southeast Asian claimant states—Vietnam, the Philippines, Malaysia and Brunei. Part of the defence modernization undertaken by the Southeast Asian states was related to this issue. The seriousness of the matter was demonstrated in February 1995, when China encroached on the Philippine-claimed Mischief Reef in the Spratlys. Then Philippine Defence Secretary Orlando S. Mercado later described the Chinese occupation of Mischief Reef and the fortification of its structures in late 1998 as a strong indication of China’s “creeping invasion” of the “disputed South China Sea chain”.<sup>2</sup>

This paper argues that the Spratly dispute has de-escalated in recent years. The Spratly question is no longer perceived as a significant security flashpoint capable of undermining order in the region and it has to some extent been shelved in Sino-Southeast Asian diplomatic relations. The paper does not suggest, however, that the territorial dispute has been removed from the security agenda altogether but rather that the parties involved have de-escalated what remains inherently a security issue. The distinction is important to note as it implies that the Spratly dispute continues to be regarded as a security question by the claimant states, only one of a much less salient nature. Interestingly, this shift in perception has occurred despite the absence of significant changes in material terms and in the circumstances pertaining to the dispute as well as in the absence of major progress in conflict management and resolution. On the contrary, China has continued to modernize its navy and has constantly stated that its sovereignty over the South China Sea is indisputable. Likewise, the Southeast Asian claimants have been unwilling to make concessions with regard to their territorial claims. China and the members of the Association of

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<sup>1</sup>This paper was prepared for the Conference on “The South China Sea: Towards a Cooperative Management Regime”, organized by the RSIS Maritime Security Programme, Singapore, 16–17 May 2007.

<sup>2</sup>BBC Reports, 25 May 1999.

Southeast Asian Nations (ASEAN)<sup>3</sup> have also so far failed to agree on a code of conduct for the South China Sea.

The paper seeks to understand what explains the de-escalation of the Spratly dispute in recent years. It claims that it cannot be explained by significant progress in conflict management and resolution, but rather by a combination of wider domestic and regional developments. These include the lessening of the China threat image, the limited Chinese power projection in the South China Sea, Vietnam joining ASEAN in 1995, the downplaying of nationalist rhetoric, the limited proven oil reserves in the area, and restrained U.S. involvement in the conflict. The paper argues that these wider domestic and regional changes have eased the climate of relations over the Spratlys and made possible the signing of the Declaration on the Conduct of Parties in the South China Sea by China and the ASEAN members in November 2002. The declaration is thus not described as the source of the de-escalation process but rather as the outcome of wider transformations. That said, the paper concludes that the situation in the South China Sea remains fragile, dynamic and possibly volatile. While an armed conflict seems unlikely in the short term, the situation could change rapidly again in the longer run, as the de-escalation of the dispute is not derivative of actual progress toward conflict management and resolution. In short, tension could rise if these factors were to change for the worst.

The paper consists of three sections. It first reviews the nature of the Spratly dispute by discussing the territorial claims in the context of the Law of the Sea and the interests involved. The second section analyses the Spratly dispute in China-Southeast Asian relations from 1991 onwards. It describes the escalation of the issue in the 1990s, followed by the gradual improvement of relations that led to the signing of the 2002 political declaration and oil pre-exploration surveys in 2005. Finally, the paper provides a combination of domestic and regional factors that help us explain the de-escalation of the Spratly dispute today.

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<sup>3</sup>ASEAN was established in Bangkok in August 1967. The original members were: Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei joined in 1984, Vietnam in 1995, Laos and Myanmar in 1997, and Cambodia in 1999.

## The Nature of the Spratly Dispute

The Spratly Islands are claimed by China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei. The second territorial dispute in the South China Sea concerns the Paracel archipelago, which is claimed by Vietnam and Taiwan. This paper focuses only on the Spratly issue. The claims made by the parties involved in the Spratly dispute can be separated into historical claims of discovery and occupation, and claims that rest on the extension of sovereign jurisdiction under interpretations of the provisions of the United Nations Convention on the Law of the Sea (UNCLOS). Beijing views the South China Sea as an exclusive Chinese sea and claims nearly its entire territory. Its historical claims are based on the discovery and occupation of the territory.<sup>4</sup> Relying on its claim to historical administration of the area, Beijing has not provided a legal explanation for or given specific delimitations to its territorial claims. Claiming a comparable area in the South China Sea, Taiwan relies on similar historical arguments to China. Since 1956, Taipei has occupied the island of Itu Aba, the largest feature in the Spratly group. Since 1975, Vietnam has claimed the Spratlys on historical claims of discovery and occupation. In 1977, Vietnam also established a 200-nautical-mile Exclusive Economic Zone (EEZ).

The original ASEAN members involved in the dispute present conflicting claims that differ from those discussed above.<sup>5</sup> Claims are limited to specific parts of the Spratly archipelago and tend to rely on International Law, including the extension of the continental shelf, rather than on historical arguments.<sup>6</sup> Among the member states, the Philippines claims the largest area of the Spratlys, a zone referred to as Kalayaan. First officially proclaimed in 1971, a 1978 presidential decree declared Kalayaan as part of its national territory. As in the case of China, Taiwan and Vietnam, the Philippine claims are not clearly defined and Manila has, like most other parties, so far declined to clarify its position. The Philippines has also established a 200-nautical-mile EEZ. Meanwhile, Malaysia extended its continental shelf in 1979 and included

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<sup>4</sup>See Lu Ning, *Flashpoint Spratlys!*. New York: Dolphin Books, 1995, pp. 5–35.

<sup>5</sup>ASEAN was established in Bangkok in August 1967. The original members were Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei joined in 1984, Vietnam in 1995, Laos and Myanmar in 1997, and Cambodia in 1999.

<sup>6</sup>Amitav Acharya, *A New Regional Order in South-East Asia: ASEAN in the Post-Cold War Era*, Adelphi Paper No. 279. London: International Institute for Strategic Studies, 1993, pp. 33–34.

features of the Spratlys in its territory.<sup>7</sup> Brunei then established in 1988 an Exclusive Economic Zone of 200 nautical miles that extends to the south of the Spratly Islands and comprises Louisa Reef. Finally, though Indonesia has no sovereign claims in the Spratly dispute, its neutrality in the South China Sea issue was retracted in 1993 by the suspected extension of Chinese claims to the waters above the Natuna gas fields, an area currently exploited by Indonesia.

It is questionable, however, whether the Spratly Islands may generate maritime zones. UNCLOS III defines an island as “a naturally-formed area of land, surrounded by water, which is above water at high tide”.<sup>8</sup> An island is also capable of naturally supporting life. In contrast, UNCLOS declares that “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf”.<sup>9</sup> Features that cannot sustain human life and artificial islands are only entitled respectively to a 12-nautical-mile territorial sea and a 500-metre safety zone. These terms of the 1982 Convention seem to apply to most features in the Spratly archipelago. In short, due to their status, the disputed features in the South China Sea may not be a legitimate basis for claiming maritime jurisdiction.

The Spratly dispute is influenced by economic, strategic and political interests. The free navigation of commercial vessels in the South China Sea is essential for regional and international trade. Moreover, the area is rich in fishery resources and is expected to have oil and gas reserves.<sup>10</sup> Brunei, Malaysia and Vietnam are already oil producers but China became a net energy importer in 1993. The Spratly dispute also has an obvious strategic dimension. If it ever succeeds in realizing its territorial claims, China will be able “to extend its jurisdiction some one thousand nautical miles from its mainland so as to command the virtual Mediterranean or maritime heart of Southeast Asia with far-reaching consequences for the strategic environment”.<sup>11</sup> A Chinese naval presence at the heart of the sub-region is threatening not only to

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<sup>7</sup>See Lo Chi Kin, *China's Policy Towards Territorial Disputes*. London: Routledge, 1989, pp. 153–154.

<sup>8</sup>Article 121, 1982 Convention.

<sup>9</sup>Article 121(3), 1982 Convention.

<sup>10</sup>See Bob Catley and Makmur Keliat, *Spratlys: The Dispute in the South China Sea*. Aldershot: Ashgate, 1997, pp. 44–65.

Vietnam and the Philippines, but also to Malaysia, Brunei and Indonesia. In addition, control of the maritime communication routes is strategic as it endangers the security interests of the U.S., Japan and other maritime powers that cross these waters. Finally, the territorial claims are of nationalist importance and the claimants have been inflexible on the sovereignty issue.

### **The Spratly Dispute in Sino-Southeast Asian Relations**

#### *The Escalation of the Spratly Issue in the Early 1990s*

During the Cambodian Conflict (1978–1991), the problem of the overlapping claims in the South China Sea was set aside in Sino-ASEAN relations. The common objective shared by China and the ASEAN countries to isolate Vietnam internationally meant that the territorial question was overlooked during most of the decade. A naval confrontation with Vietnam on 14 March 1988 that led to the first seizure of territory by China in the Spratlys did not cause much concern in most ASEAN capitals. It was commonly assumed that China would not act aggressively against any of the ASEAN claimants. The Paris Accords of October 1991 and Vietnam's military withdrawal from Cambodia put an end to the complementary security interests that had united China and ASEAN. Moreover, rather than being a threat to Southeast Asian stability, Vietnam was now keen to reach a *détente* with the United States and ASEAN members.<sup>12</sup>

In the regional strategic context of the post-Cold War, the territorial dispute over the Spratly Islands became a regional security flashpoint. The modernization of China's naval force that started in the late 1980s, which included the slow acquisition of limited blue-water capabilities, was regionally regarded as a source of concern. The ASEAN states sought, however, not to antagonize China or to over-emphasize the South China Sea question in their bilateral and multilateral talks with Beijing. In

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<sup>11</sup>Michael Leifer, "Chinese Economic Reform: the Impact on Policy in the South China Sea" in Gerald Segal & Richard H. Yang (Eds.), *Chinese Economic Reform: The Impact on Security*. London: Routledge, 1996, p. 142.

<sup>12</sup>See Richard K. Betts, "Strategic Predicament" in James W. Morley and Nasashi Nishihara (Eds.), *Vietnam Joins the World*. London: ME Sharpe, 1997, pp. 94–114.

addition, although all the ASEAN claimant states were confronted with China's rising power in the early 1990s, they did not all share the same threat perception.

The Philippines had maintained good ties with China after the opening of bilateral relations in July 1975. The Philippines had supported ASEAN's tacit alliance with China during the Cambodian conflict. Yet post-Cold War bilateral relations were complicated by the Spratly question. Manila sought to internationalize the issue and proposed in 1992 to organize an international conference on the problem under the auspices of the United Nations.<sup>13</sup> China, however, refused any form of international mediation.

During the 1980s, Malaysia had been generally suspicious of China. This changed in the post-Cold War era as a result of a more cooperative relationship with Beijing. Political and economic ties were enhanced in the early 1990s, first manifested by the visit of Chinese Premier Li Peng to Malaysia in December 1990. Rather than perceiving China as a threat, Malaysia sought to concentrate on the opportunities provided by its economic growth and expected China to be constrained by regional economic interdependence.

Indonesia perceived China as an external security concern. Bilateral relations had only been normalized in August 1990 after having been suspended by Jakarta in 1965. Feelings of mistrust and suspicion towards China remained strong in Indonesia, especially among the armed forces. Indonesia feared external interference from China and was concerned about its remaining subversive influence. Bilateral relations between Jakarta and Beijing were complicated in 1993 by the suspected inclusion of the waters above the Natuna gas fields into Chinese claims in the South China Sea. Finally, Brunei generally shared Indonesia's threat perception toward China.

China's apparent willingness to show restraint vis-à-vis the ASEAN claimants was first questioned in February 1992 when Beijing passed the Law of the People's Republic of China on the Territorial Waters and Contiguous Areas. It reiterated China's claims in the South China Sea and stipulated the right to use force to protect

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<sup>13</sup>Catley and Keliat, *Spratlys: The Dispute in the South China Sea*, p. 102.

its islands, including the Spratlys, and their surrounding waters. The law questioned the peaceful management of the territorial dispute and was regarded by ASEAN as a political provocation.

Partly in response to the Chinese new territorial law, ASEAN foreign ministers signed the ASEAN Declaration on the South China Sea in Manila in July 1992. The declaration did not deal with the problem of sovereign jurisdiction but was instead an attempt to promulgate an informal code of conduct based on self-restraint, the non-use of force and the peaceful resolution of disputes. It relied on the norms and principles initially introduced in the ASEAN Treaty of Amity and Cooperation (TAC) of 1976.<sup>14</sup> The informal code of conduct for the South China Sea was based therefore on the notions of conflict avoidance rather than conflict resolution. While supported by Vietnam, China was not receptive to the declaration and did not formally adhere to its principles. Beijing repeated its preference for bilateral rather than multilateral discussions on the South China Sea.

On 8 February 1995, the Philippines discovered the Chinese occupation of Mischief Reef, located in Kalayaan. China had, for the first time, taken territory claimed by an ASEAN member. The Mischief Reef incident also indicated that the Philippines had become the most vulnerable actor in the Spratly dispute since the 1992 U.S. withdrawal from Subic Naval Base and Clark Air Base. The American departure from its military bases in the Philippines had removed a source of deterrence against Chinese actions in Kalayaan. Then Philippine President Fidel Ramos strongly criticized China's action. Manila responded to the discovery of the Chinese occupation by seeking multilateral support and taking retaliatory measures that included the destruction of Chinese territorial markers and the arrest of Chinese fishermen in March 1995. The Philippines also announced a defence modernization programme. China and the Philippines eventually signed a bilateral statement in August 1995 that rejected the use of force and called for the peaceful resolution of

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<sup>14</sup>Adopted at the first ASEAN Summit held in Bali in 1976, the TAC constitutes a norm-based code of conduct that enunciates ASEAN's core principles, including the respect for sovereignty and non-interference in the affairs of other states.

their bilateral disputes in accordance with the principles of the 1982 Convention on the Law of the Sea.<sup>15</sup>

### *The De-escalation after 1995*

The de-escalation of the dispute started in the mid 1990s and was illustrated by a process of multilateral dialogue that began shortly after the 1995 Mischief Reef incident. Culminating with the signing of the Declaration on the Conduct of Parties in the South China Sea in 2002, the matter marked a turning point in China's management of the Spratly dispute. While it had so far opposed any multilateral discussion, China was, after the diplomatic backlash that followed the Mischief Reef incident, willing to soften its stand to accommodate the Southeast Asian countries. Yet China's concession did not change its territorial objectives in the South China Sea, as Beijing was still unwilling to address the question of sovereign jurisdiction and repeated its territorial claims over nearly the entire area.

Following the Mischief Reef incident and under pressure from the Philippines, ASEAN repeated its commitment to the ASEAN Declaration on the South China Sea during a meeting held in Singapore on 18 March 1995. Though China was not mentioned, the ASEAN foreign ministers expressed their "serious concern over recent developments which affect peace and stability in the South China Sea".<sup>16</sup> They also called "for the early resolution of the problems caused by the recent developments in Mischief Reef".<sup>17</sup> The statement was supported by Vietnam. On the eve of the first ASEAN-China Senior Officials Meeting (SOM) in Hangzhou in April 1995, Chinese and ASEAN officials met for an informal meeting during which the latter expressed their concern over China's aggressive action. This diplomatic initiative surprised the Chinese representatives, who were made to understand the political consequences of the Mischief Reef incident. Prior to the second ASEAN Regional Forum (ARF) meeting in August 1995, China's Foreign Minister Qian Qichen made some concessions to the ASEAN members. He declared that China was prepared to hold multilateral discussions on the Spratlys rather than limit its diplomacy to bilateral

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<sup>15</sup>Joint Statement on RP-PRC Consultations on the South China Sea and on Other Areas of Cooperation, 9–10 August 1995.

<sup>16</sup>Statement by ASEAN Foreign Ministers on the Recent Development in the South China Sea, Singapore, 18 March 1995.

<sup>17</sup>Statement by ASEAN Foreign Ministers on the Recent Development in the South China Sea.

talks, and to accept the 1982 Convention on the Law of the Sea as a basis for negotiation.<sup>18</sup>

At the informal ASEAN Summit of November 1999, the Philippines, supported by Vietnam, proposed a new version of a code of conduct. The initiative was more specific than the 1992 Manila Declaration. It tried to move beyond the simple assertion of standard principles by proposing joint development of the Spratly Islands. The Philippine proposal was rejected by both China and Malaysia. The latter was concerned that such a code would be too legalistic. Malaysia had, until the early 1990s, been critical of China's actions in the Spratly Islands, but its diplomatic stand on the South China Sea had gradually changed over the subsequent years and come closer to the Chinese position. Malaysia refused to address the question of sovereignty. It favoured bilateral negotiations with China and preferred to avoid a constraining regional code of conduct or external mediation. The chairman's press statement at the informal summit declared that the heads of state and government "noted the report of the Ministers that ASEAN now has a draft regional code of conduct, and further consultations will be made on the draft with a view of advancing the process on the adoption of the code".<sup>19</sup>

Malaysia proposed a declaration for the Spratly Islands at the 35<sup>th</sup> ASEAN Ministerial Meeting (AMM) in Brunei in July 2002. The non-binding document, crafted to regulate conduct in the disputed territory, was a watered-down compromise, even failing to mention the Spratlys by name. It was also unclear whether the agreement would be referred to as a code of conduct or as a declaration. The ASEAN foreign ministers had hoped to approve the document during their ministerial meeting in order to submit it to China's Foreign Minister Tang Jiaxuan at the ASEAN-China session. The common position would therefore have served as a basis for negotiations with Beijing. Yet, most member states refused to support the Malaysian proposal, with Vietnam insisting for instance on the adoption of a binding document on the South China Sea. Unable to reach a consensus, the foreign ministers announced in their joint

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<sup>18</sup>Sheldon W. Simon, "ASEAN Regional Forum" in William M. Carpenter & David G. Wiencek (Eds.), *Asian Security Handbook: An Assessment of Political-Security Issues in the Asia-Pacific Region*. New York: ME Sharpe, 1996, p. 47.

<sup>19</sup>Chairman's Press Statement, Third Informal Summit of the ASEAN Heads of State and Government, Manila, Philippines, 28 November 1999.

communiqué their decision to work closely with China towards a Declaration on the Conduct of Parties in the South China Sea.<sup>20</sup>

The ASEAN foreign ministers and China's Vice Foreign Minister Wang Yi finally signed a Declaration on the Conduct of Parties in the South China Sea on the sidelines of the ASEAN summit in Phnom Penh in November 2002. As the first political declaration signed by ASEAN and China on the issue, the agreement was intended to prevent further tensions over the disputed territories and to reduce the risks of military conflict in the South China Sea. The parties stipulated their adherence to the principles of the UN Charter, UNCLOS, the Treaty of Amity and Cooperation (TAC) and the Five Principles of Peaceful Coexistence, and reaffirmed their respect and commitment to "the freedom of navigation in and over flight above the South China Sea".<sup>21</sup> They agreed to resolve their territorial disputes by peaceful means, "without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law".<sup>22</sup> The parties also pledged to practise self-restraint in activities that could spark disputes, such as inhabiting still uninhabited features, while enhancing their efforts to "build trust and confidence between and among them".<sup>23</sup> They agreed to exchange views among defence officials, to provide humane treatment to any person in danger or distress, and to give advance notice of military exercises on a voluntary basis. The political declaration was meant to be a first general step and a platform for further cooperation, as the parties were expected to continue working on the adoption of a code of conduct. As an interim accord, it stated:

The Parties concerned reaffirm that the adoption of a code of conduct in the South China Sea would further promote peace and stability in the region and agree to work, on the basis of consensus, towards the eventual attainment of this objective.<sup>24</sup>

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<sup>20</sup>Joint Communiqué of the 35<sup>th</sup> ASEAN Ministerial Meeting, Bandar Seri Begawan, Brunei, 29–30 July 2002.

<sup>21</sup>Declaration on the Conduct of Parties in the South China Sea, Phnom Penh, Cambodia, 4 November 2002.

<sup>22</sup>Declaration on the Conduct of Parties in the South China Sea.

<sup>23</sup>Declaration on the Conduct of Parties in the South China Sea.

<sup>24</sup>Declaration on the Conduct of Parties in the South China Sea.

The Philippines and Vietnam were disappointed as they had pushed for a binding document. Moreover, Vietnam had demanded that the declaration include a commitment not to build new structures, which was rejected by China. The political declaration also made no reference to its specific geographical scope, primarily because China opposed any mention of the Paracel Islands.

By putting off the question of boundaries, the 2002 Declaration increased the possibility of reaching agreements on joint oil exploration and development schemes. Such an agreement was signed in March 2005 by the state-owned oil companies of China, Vietnam and the Philippines with regard to the conduction of oil pre-exploration surveys in the Spratlys. It is worth noting that the agreement was signed by oil companies rather than states, which simplified the process. Philippine President Gloria Arroyo stated then that the agreement was a first implementation of the provisions of the 2002 Declaration.<sup>25</sup> The signing of such bilateral agreements guarantees Manila and Hanoi to be at least included in the exploration process in areas where they have overlapping sovereignty claims with Beijing. Yet the discovery of substantial oil reserves for commercial usage could raise tensions and leave the Philippines and Vietnam in a fragile situation due to the overwhelming asymmetry in power with China and the absence of an overall agreement on the sovereign rights of the coastal states. Moreover, the signing of such agreements gives legitimacy to the more questionable Chinese claims in the South China Sea.

In short, the signing of the Declaration on the Conduct of Parties in the South China Sea in 2002 symbolized a high point in diplomatic attempts to de-escalate the Spratly dispute. The diplomatic process started shortly after the Mischief Reef incident. The declaration indicated a desire by the different parties involved in the Spratly dispute to pursue their claims by peaceful means. It openly denounced the use of force in the South China Sea and sent a signal that the different parties were willing to cooperate in certain functional areas. In that sense, it contributed towards conflict avoidance and the easing of tensions between the claimant states. The declaration was essentially part of ASEAN's search "for explicit confirmation that China's presence in the South

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<sup>25</sup>Luz Baguioro, "Three Nations Sign Pact for Joint Spratlys Survey", *The Straits Times Interactive*, 15 March 2005.

China Sea will not jeopardize peaceful coexistence”.<sup>26</sup> That said, although an important symbolic document, the 2002 Declaration cannot be seen as a major step toward conflict management and resolution as it is unable to prevent territorial clashes or other possible sources of conflict, such as the arrest of fishermen by foreign navies and the expansion of military structures on already-occupied reefs. As Tonnesson points out, the declaration “does not establish a legally binding code of conduct: it is simply a political statement”.<sup>27</sup>

### **Sources of the De-escalation Process**

The previous section has argued that the de-escalation of the Spratly dispute, as typified by the signing of the 2002 Declaration, has not been linked to significant changes in the circumstances pertaining to the dispute nor to major progress in conflict management and resolution. In terms of the former, no mechanism has been put in place to prevent possible sources of conflict or clashes of arms. In terms of conflict resolution, all the claimant states have repeated their sovereignty over the Spratlys and they have been unwilling to make any concessions with regard to their territorial claims. The claimants have not agreed to discuss the problem of sovereign jurisdiction over the islands and their overlapping claims have not been presented to the International Court of Justice (ICJ) or the International Tribunal for the Law of the Sea. Circumstances pertaining to the conflict have therefore remained unchanged. In light of these significant limitations, what explains the de-escalation of the Spratly issue? This section claims that it derives from a combination of wider domestic and regional developments. These include the lessening of the China threat image, the limited Chinese power projection in the South China Sea, the downplaying of nationalist rhetoric, the limited proven oil reserves in the area, and restrained U.S. involvement in the conflict. The paper argues that it is this series of wider transformations that have eased the climate of relations over the Spratly dispute and made possible the signing of the Declaration on the Conduct of Parties in the South China Sea in November 2002.

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<sup>26</sup>Liselotte Odgaard, “The South China Sea: ASEAN’s Security Concerns about China” in *Security Dialogue* Vol. 34 No. 1, March 2003, p. 22.

First, the perception of China has gradually changed among Southeast Asian policy elites. This has resulted from China acting as a status quo rather than as a revisionist power. Self-restraint and accommodation have characterized China's foreign policy towards Southeast Asia since 1995. China has added diplomatic activism to its growing economic and military might. Shambaugh explains that, both at a bilateral and multilateral level, "Beijing's diplomacy has been remarkably adept and nuanced, earning praise around the region".<sup>28</sup> China's "charm offensive" towards ASEAN is in sharp contrast to its previous suspicion of multilateralism. In October 2003, China was the first non-Southeast Asian state to adhere to the Treaty of Amity and Cooperation. This has been part of China's overall courtship of ASEAN in recent years, as well as a further demonstration of its willingness to respect the association's norms of interstate behaviour.

The relative moderation in China's foreign policy has also been observed in the context of the Spratly dispute. Although China expanded its structures on Mischief Reef in late 1998, it has not seized additional disputed features in the Spratlys since 1995. The 2002 Declaration was also an indication of Beijing's willingness to adhere to the principles promoted by the ASEAN countries. China's readiness to accommodate the Southeast Asian countries over the Spratly dispute can be explained by Beijing's economic priorities as well as by its difficult relations with Japan and its concern over an increased U.S. military presence in the region, particularly since the terrorist attacks of 11 September 2001.

A second factor contributing to the de-escalation of the Spratly dispute has been the weakness of China's power projection in the South China Sea. China has not extensively increased its ability to sustain naval operations away from its mainland bases. Shambaugh writes that the People's Liberation Army (PLA) "does not seem to have made much progress in enhancing its power projection capabilities, nor do these seem to be a priority".<sup>29</sup> China has no aircraft carrier battle group to project its power;

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<sup>27</sup>Stein Tonnesson, "Sino-Vietnamese Rapprochement and the South China Sea Irritant" in *Security Dialogue* Vol. 34 No. 1, 2003, pp. 55–56.

<sup>28</sup>David Shambaugh, "China engages Asia: Reshaping the Regional Order" in *International Security* Vol. 29 No. 3, Winter 2004/05, p. 64.

<sup>29</sup>Shambaugh, "China engages Asia: Reshaping the Regional Order", p. 85.

it has few destroyers and its submarines usually remain within its territorial waters.<sup>30</sup> Most features in the Spratly archipelago are also too small to offer bases for further naval activities. Hence, China does not currently possess the necessary capabilities to control the Spratly group militarily. Furthermore, command over the maritime communication routes that cross the South China Sea can only result from a significant naval dominance and superiority in the region rather than the occupation of tiny features that may not offer a legitimate basis for claiming maritime jurisdiction.<sup>31</sup> It is important therefore to dissociate the military control of reefs that can only generate limited maritime zones from the control of Sea Lanes of Communication (SLOCs) and wider naval areas. China does not yet possess the technology, military capabilities and power projection to impose such a naval hegemony in Southeast Asia.<sup>32</sup>

Nonetheless, the so-called weakness of the Chinese Navy needs also to be examined in relative terms. The build-up of China's Southern Fleet, even if it is slow and gradual, is a concern for the other claimants, especially because its geographical area of operation will naturally be the South China Sea. This is particularly true in the context of Vietnam and the Philippines, which feel threatened by China's actions in the Spratlys. Vietnam perceives its relation with Beijing over the South China Sea as a reflection of its traditional antagonism and patterns of power with China. It is worth noting that the Chinese Navy has acted aggressively against Vietnam to consolidate its position in the South China Sea. In January 1974, China completed its control over the Paracel archipelago by acting militarily against South Vietnam before the expected fall of Saigon and the reunification of the country. A naval confrontation with Vietnam on 14 March 1988 led to a new Chinese seizure of territory.<sup>33</sup> Despite being weaker at the time and disposing over a more restricted power projection, the Chinese Navy thus used force against Vietnam to strengthen its position. Vietnam does not marshal sufficient naval power to impose its will in the South China Sea, nor

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<sup>30</sup>Jonathan Power, "The So-called Rise of China", *International Herald Tribune*, 8 April 2005.

<sup>31</sup>Michael Leifer, "The Maritime Regime and Regional Security in East Asia" in *The Pacific Review* Vol. 4 No. 2, 1991, p. 130.

<sup>32</sup>See the International Institute for Strategic Studies, *The Military Balance 2004–2005*. Oxford: Oxford University Press, 2004, pp. 161–162, 170–173.

<sup>33</sup>See Shee Poon Kim, "The March 1988 Skirmish over the Spratly Islands and its Implications for Sino-Vietnamese Relations" in R. D. Hill, N. Owen & E. V. Roberts (Eds.), *Fishing in Troubled*

does it have access to an external source of countervailing power to constrain China's actions. Vietnam has not forged a formal or tacit alliance with the United States, despite a significant improvement in ties since the establishment of diplomatic relations on 11 July 1995. Regardless of whether a future de facto alliance is forged, the U.S. has so far been unwilling to become involved in the territorial dispute. The Philippines has remained the weakest military party in the dispute. To strengthen its deterrence capabilities, the Philippines ratified a Visiting Forces Agreement with the United States in May 1999 to resume joint military exercises.

A third factor contributing to an improvement of regional relations and to a de-escalation of the Spratly dispute has been the Vietnamese membership in ASEAN. In November 1991, Vietnam's Prime Minister Vo Van Kiet visited Indonesia, Malaysia and Singapore. Prior to the trip, Vietnam had indicated its desire to become a member of the association. Regional relations had thus been radically transformed by the early 1990s. Vietnam adhered to the TAC in July 1992 during the annual meeting of ASEAN foreign ministers and eventually joined the association in July 1995. This has helped transform the Spratly dispute into a multilateral question discussed at an ASEAN-China level. Ang argued in 1998 that "Vietnam's best and perhaps only solution in order to pre-empt a *fait accompli* in the Spratlys is to depend on ASEAN support and to 'internationalize' the issue as much as it possibly can".<sup>34</sup> ASEAN thus provided Vietnam with an institutional vehicle to internationalize its territorial dispute over the South China Sea with Beijing. Together with the Philippines, Vietnam became actively involved in negotiating a code of conduct on the South China Sea. Yet, as discussed above, Vietnam was forced to accept some concessions. Hanoi failed in the context of the Sino-ASEAN negotiations to include the Paracels, as demonstrated by its omission in the Declaration on the Conduct of Parties.

Fourth, the various claimant states have in recent years refrained from playing the nationalism card. Significantly, Beijing has been careful not to allow the South China Sea question to become an issue in Chinese domestic politics or to use this point as a

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*Waters: Proceedings of an Academic Conference on Territorial Claims in the South China Sea.* Hong Kong: Centre of Asian Studies, University of Hong Kong, 1991, pp. 177–191.

<sup>34</sup> Ang Cheng Guan, "Vietnam-China Relations Since the End of the Cold War", IDSS Working Paper No. 1, Singapore: Institute of Defence and Strategic Studies, November 1998, p. 28.

subject of domestic propaganda. This is in contrast to the situation over the Senkaku/Diaoyu Islands in the East China Sea. One has observed, with regard to that specific territorial dispute, increased activity from nationalist groups in China and Taiwan criticizing the Japanese occupation of the islands to be an infringement of Chinese territory. It is important to note that the South China Sea dispute does not provoke domestic national sentiments in China contrary to the Senkaku/Diaoyu dispute, which is associated with Japanese aggression during the Second World War. This is not to say, however, that nationalism has stopped being an important factor in the Spratly dispute. The territorial claims are of nationalistic importance and the claimant states have been inflexible on the sovereignty issue. Nationalism and its impact on the management of the dispute has in particular remained an important factor in Sino-Vietnamese relations. Retracting territorial claims or a willingness to make concessions on the question of sovereign jurisdiction would be costly domestically and perceived regionally as a sign of weakness. Nonetheless, it is worth noting that the claimants have at least downplayed their nationalist rhetoric in their attempts at managing the dispute.

Fifth, the de-escalation of the dispute derives from the limited proven oil reserves of the South China Sea. As exploration techniques have improved, oil reserves lying under the seabed in the deep water have become more viable. Yet, the oil reserves of the South China Sea are still uncertain and initial estimations have been revised to lower figures. As oil prices have risen substantially over recent years, the situation in the South China Sea may change for the worst, however, if proof of sufficient oil reserves for commercial use is found.

Finally, the restrained involvement of the United States has been another source of stability in the South China Sea. Washington does not consider the Spratly dispute as a vital security concern and does not want to further complicate its relations with China by getting involved in the question of sovereign jurisdiction. Though following closely the developments in the South China Sea, the U.S. has consistently limited its interest to the preservation of the freedom of navigation and the mobility of its Seventh Fleet. Following the Mischief Reef incident in 1995, Washington stated, for example, that the Philippine-claimed territories are not covered by the Mutual Defence Treaty of 30 August 1951 that ties the Philippines to the United States. The

incident therefore did not lead to a strong U.S. diplomatic reaction, except for a statement on freedom of sea lanes. The U.S. Department of State declared on 10 May 1995:

The United States takes no position on the legal merits of the competing claims to sovereignty over the various islands, reefs, atolls and cays in the South China Sea. The United States would, however, view with serious concern any maritime claim, or restriction on maritime activity, in the South China Sea that was not consistent with international law, including the 1982 United Nations Convention on the Law of the Sea.<sup>35</sup>

Moreover, the United States and China have a common interest in preserving the safety of navigation in the South China Sea. Indeed, due to its own economic interests, China is not expected to interrupt the shipping lanes that cross the South China Sea.

## **Conclusion**

The de-escalation of the Spratly dispute can be explained by a combination of domestic and regional developments rather than by significant progress in conflict management and resolution. These developments include the lessening of the China threat image, the limited Chinese power projection in the South China Sea, Vietnam joining ASEAN in 1995, the downplaying of nationalist rhetoric, the limited proven oil reserves in the area, and the restrained U.S. involvement in the conflict. In the short term, an armed conflict seems unlikely although there exist risks of miscalculations or accidents that could lead to limited confrontation. In the longer run, however, the Spratly dispute could again become a primary security concern in Southeast Asia if one sees a reverse process in some of the developments discussed in the last section of this paper. China increasing its power projection capabilities in the area and/or the upsurge of nationalist rhetoric can, for instance, complicate the peaceful management of the dispute. Moreover, proof of sufficient oil reserves in the South China Sea linked with high-energy pressure in East Asia can also transform security circumstances in the Spratlys. Finally, the worsening of Sino-U.S. and/or Sino-Japanese relations will undoubtedly increase security competition in the

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<sup>35</sup>Christine Shelly, Acting Spokesperson of U.S. Department of State, "Spratlys and the South China Sea", 10 May 1995.

maritime domain and undermine stability in the South China Sea. The United States has in recent years been distracted by the war in Iraq. Yet, a more assertive U.S. policy in East and Southeast Asia would be considered as a source of great concern in Beijing, which could lead towards more assertive Chinese diplomacy and naval activity in the Spratlys.

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