Smoldering Conflicts in the South China Sea

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> "There are hundreds of small islands in the South China Sea, along with several underwater features, namely, uninhabited islets, shoals, reefs, banks, sands, cays and rocks. According to Workman, these islands mainly consist of coral reefs and are mainly categorised into four groups: the Pratas Islands (*Dongsha qundao* in Chinese), the Paracel Islands (*Xisha qundao* in Chinese and *Hoang Sa* in Vietnamese), the Macclesfield Bank (*Zhongsha qundao* in Chinese) and the Spratly Islands (*Nansha qundao* in Chinese and *Truong Sa* in Vietnamese)." (Zou 2009, p. 173)

The South China Sea (SCS) is one of the world's most important transition routes for commercial shipping. Oil, gas, and minerals are thought to exist in its seabed, and the area is highly disputed because of its unresolved maritime territorial boundaries. China claims sovereignty over most of the South China Sea for historical reasons, Vietnam claims a large part because of its continental shelf and also due to historical usage, the Philippines, Malaysia, and Taiwan claim part of the SCS's islands and effectively occupy some of them, while Brunei claims its share of the Sea, but wanting without any territorial possessions. When U.S. Secretary of State Hillary Clinton expressed that the peaceful resolution of the SCS disputes was an American national interest at last year's ASEAN Security Summit in Hanoi, she provoked an angry reaction from Beijing. Accordingly, the PRC considers the territorial claims in the SCS as one of China's core interests along with Taiwan and Tibet (Cerojano, 2010) – indeed, an issue important enough to risk a war over.

Besides controversies due to rhetoric, there is no shortage of physical conflicts over the SCS between the claimants' navies, coastal patrols, and involved fishermen. The latest incidents caused by newly contributed oil-exploration concessions in disputed waters date back to only the end of May 2011.

This article outlines the unresolved territorial disputes in the SCS, including a brief historical overview focusing on the several conflict-resolution efforts undertaken in the last twenty years. Additionally, an overview of the current situation of island occupations, ongoing military modernization programs in the region, and multilateral and bilateral discussions of the disputes is provided to allow an estimation of the conflict potential in this area.

Background

The area of the South China Sea consists of over 200 islands, islets, reefs, and shoals. The Spratly archipelago, in particular, has been divided into different cartographical sectors. Marwyn Samuels classified the Spratlys into three main areas, viz. the Western Spratlys, the Southern shoals, and the Dangerous Area, whereas Dieter Heinzig divided the area into twelve regions (Samuels 1982; Heinzig 1976). Many of the contested islands, islets, and reefs are claimed by various nations, and their claims overlap. The Paracel Islands as a whole are claimed by China, Vietnam, and Taiwan and have been completely under the PRC's control since 1974. The Spratly Islands are claimed by China, Taiwan, Vietnam, Malaysia, the Philippines, and Brunei, virtually all of whom occupy land in the contested area – with the exception of Brunei (Catley; Keliat 1997, p. 7).

The strategic location of these disputed areas in terms of economic trading routes and security interests (SLOC)[1] is not simplifying the search for a political solution. Japan and China obtain the vast majority of their oil imports through the South China Sea, so the various sea lanes connecting the Indian and Pacific Ocean are of the highest economic importance. The Strait of Malacca is one of the busiest routes in the world even though it is a bottleneck. More than half the world's trading ships and more than half its oil freighters pass through the Strait of Malacca and the SCS (Emmers 2010, p. 65).

In the event of a military confrontation in the SCS, it would be of the utmost interest for the littoral states to maintain the possibility of free passage. The territorial location of the Spratly Islands, situated in the southern part of the SCS, allows the maintenance of outlook and surveillance posts in a strategically crucial position. This is not only important in view of potential major military confrontations, but also in respect of minor threats to the security of commercial sea routes (e.g., pirate attacks on commercial vessels).

The expectation of finding fossil-fuel deposits (oil and gas) in the seabed of the SCS is further intensifying this conflict, although the actual amount of resources believed to exist is hotly debated. Besides the problematic location of the resources, most of the SCS seabed is at a difficult drilling depth, which requires highly specialized equipment and experts to overcome. The true volume of existing fuel deposits has not been verified yet (Tønnesson 2002a).

There is probably an understandable gap between the underestimation made by potential exploration companies and the overestimation of concession-contributing countries, a tactic adopted to yield the best price for the concessions. The estimations about the reserves of energy deposits vary immensely. An American geological survey cited by the U.S. Energy Information Administration estimates the

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[1]   "Sea lanes of communication" (SLOC) is the military phrase for strategically important sea routes.

volume of fossil fuels to be about 28 billion barrels,[2] while Chinese estimations vary between 105 and 213 billion barrels of potential oil resources (Zou 2006, p. 84).

However huge the amount of fossil resources might be, the existence of oil and gas fields in the SCS is an important issue in this conflict. And due to rising energy demands made by the region's industries (first and foremost by China) in conjunction with the rising cost of oil imports, the possibility to extract oil in the SCS is becoming even more attractive to the SCS claimant states.

Contributed concessions for the extraction of oil mainly date back to the 1990s: China contributed a concession to U.S. company Crestone Energy to explore a block southwest of the Spratlys; Vietnam signed a contract with Mobil Corporation and later with Conoco; and the Philippines did the same with the company Vaalco Energy. All of these firms are of U.S. origin. Vietnam granted a Norwegian oil company a concession for the same area as the Crestone concession. Later, the Crestone concession was passed to another U.S. company, Benton Oil, but no drilling of these projects in the Spratly area has taken place so far (Marley 1997, p. 206; Tønnesson 2002b, p. 56; Emmers 2010, p.78). Malaysia has also contributed a concession to Sabah Shell (Valencia 1995, p. 11; Emmers 2010, p. 77-81).

The strategic idea behind all this concession-granting activity is to gain Western support for one's own claims. Vietnam and China have both granted oil-extracting concessions to U.S. companies with the obvious intention of gaining American support for their cases. These concurring concessions prevent a one-sided U.S. position in favor of its oil companies, at least.

New tensions were caused by oil and gas exploration projects by the Philippines and Vietnam in parts of the SCS claimed by China. The Vietnam Oil & Gas Group (PetroVietnam) and its Canadian partner Talisman Energy Inc. are about to start exploration next year after conducting a seismic survey program this year. The area concerned is located 120 nautical miles off Phu Yen province in Vietnam. In an incident that occurred at the end of May 2011, three Chinese vessels cut the survey cables of PetroVietnam, thus prompting strong condemnation from Hanoi (Kate 2011a; Reuters, May 31, 2011; Thanh Nien News, May 30, 2011; Bowring 2011).

The Vietnamese Defense Minister Phung Quang Thanh labeled the incident a "pressing issue" (Thanh Nien News, June 4, 2011). And in the days that followed, Vietnam declared it was going to carry out live-fire naval drills in the region (Reuters, June 12, 2011).

Furthermore, Vietnam conducted military exercises with the U.S. Navy (although these exercises were arranged long in advance of the latest incidents). The sending of the guided-missile destroyer USS Chung-Hoon to the SCS indicates the heightened concern the SCS disputes cause in Washington (Hsiao 2011b).

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[2]   EIA (2008): *South China Sea*, online:
        www.eia.doe.gov/emeu/cabs/South_China_Sea/OilNaturalGas.html (accessed on August 6, 2011).

This incident is only the latest one in a series of Sino-Vietnamese clashes about sovereignty in the SCS. Vietnamese leased ships conducting seismic surveys have been the target of Chinese ships, which occasionally disturb them, and additionally, Vietnamese fishermen have been forced out of the Spratly area by Chinese naval boats firing warning shots (Thanh Nien News, June 1, 2011; Phong 2011). These incidents are directly related to the newly emphasized efforts by Vietnam to look for fossil fuels in the SCS, and it is unlikely that these tensions will ease while the exploration efforts continue in the contested waters. The issue was much debated at this year's IISS Asia Security Summit (Shangri-La Dialogue). Besides Talisman Energy Inc., the companies Exxon Mobil Corp. and Forum Energy Plc. are also planning exploration activities in areas claimed by China. These enterprises only highlight the need for a diplomatic solution (Kate 2011b).

The May 2011 incident involving PetroVietnam resembles another one between a survey ship and Chinese patrol boats near Reed Bank in the Philippines' Exclusive Economic Zone (EEZ). In 2005, the Philippines awarded a concession to Forum Energy, a UK-based oil company. On March 2, 2011, two Chinese patrol boats approached the survey ship, forcing it to withdraw and thus abandon its survey activities (Storey 2011).

Minor clashes about illegal activities in the contested territorial areas are commonplace in the region. Occasional tensions caused by uncertain borders have resulted in the harassment and temporary imprisonment of fishermen. The "EP-3 incident" is another such case – this refers to a collision between a Chinese fighter plane and a U.S. surveillance aircraft (the EP-3) in April 2001. This clash ended in the damaged American machine making an emergency landing on Hainan Island (Khurana 2008, p. 168).

So far, though, none of these incidents has led to any military confrontations; the predictable reactions have merely been public demonstrations and vigorous condemnation by officials.

The latest incident between Vietnamese seismic survey ships, Chinese coastal patrol intervention, and the ensuing anti-China demonstrations in Vietnam have a sense of déjà vu about them. In July 2007, Chinese patrol boats fired at Vietnamese fishermen and sank one of their boats, killing one of its crew members in the process. In December that year, China "founded" the town of Sansha on Woody Island and declared it the administrative center of the Spratlys and Paracels. These incidents led to vigorous demonstrations in front of the Chinese Embassy and Consulate in Vietnam, which were obviously not interdicted by Vietnamese officials.

As a result, in early 2008, the Philippines announced it would lengthen its airstrip at Kalaya'an Island in the Spratly archipelago and upgrade its military buildings on the island (Emmers 2010, p. 75).

In short, none of the incidents since the one at Mischief Reef in 1995 has led to any military conflicts so far. It should be noted, however, that every single incident has

aggravated the situation, led to existing military facilities being upgraded, and made negotiations concerning the ongoing territorial disputes more difficult.

Status quo

Besides the unresolved disputes about the legal solution of the territorial issues, the claimant states have continuously tried to create a *fait accompli*:

> The competing countries often physically occupy or build structures at various locations in the Spratlys without regard to the competing legal claims to the island or reef in question. These countries appear to be trying in this way to establish a *de facto* presence, which they hope may become *de jure* over time. (Gupta; Bernstein 2002, p. 89)

According to the United Nations Convention on the Law of the Sea ("UNCLOS"), there are several ways of gaining sovereignty over a certain territory. In the case of the Spratly Islands, the issue of effective control is of the highest importance. The UNCLOS differentiates geographical features in the open sea either as unpopulated rocks or as islands with the possibility of sustaining human life. This distinction is of the utmost importance for further territorial claims. A feature designated to be a rock possesses a mere 12-nautical mile (nm) zone of territorial waters surrounding it, while a feature designated to be an island can claim a zone of 200 nm around it, i.e., an Exclusive Economic Zone (EEZ) (Smith; Thomas 1998, pp. 64-82).

Accordingly, the military stance on inhabitable features in the SCS is important (a) to prevent other claimants from occupying them, and (b) to maintain that a feature is an island with its own EEZ. Furthermore, the International Court of Justice has referred to the fact of effective occupation in its decisions to award contested islands to specific claimants (see the case of Indonesia and Malaysia below).

The Pratas
The Pratas Islands are under Taiwanese control. China also lays claim to them, but because both claims are "in agreement" with each other in as far as they are Chinese, the Pratas are not considered to be one of the open conflicts in the SCS in this article.

The Paracels
The whole archipelago of the Paracel Islands is currently under Chinese control. The PRC first took control of the eastern part in 1956, while the other islands initially stayed under Vietnamese supervision. In 1974, China expelled the Vietnamese troops and also took part of the western part of the Paracels. Later on, China became the only nation controlling the Paracels and built military facilities there (Amer 2002a, p. 28; Tønnesson 2002a, p. 16). To manifest its claim over the whole Paracel archipelago, China has built a 2,600-meter airstrip on Woody Island, which is suitable for all the People's Liberation Army Air Force's (PLAAF) fighters. China has deployed more than 60 fighter aircraft to Woody Island and additionally built a 350-meter pier there with port facilities (Baker & Wiencek 2002b, p. 61).

Vietnam disputes China's occupation of the Paracels and still claims the islands, while China considers the dispute over the Paracel Islands to be over and is not willing to discuss the issue anymore (Schofield & Storey 2009, p. 20).

Since China effectively controls the whole Paracel archipelago and has established military facilities on its biggest feature, Woody Island (see below), it is unlikely that this situation will change in Vietnam's favor. Hanoi will not risk an escalation of military conflict over the Paracel Islands, and a bilaterally negotiated concession from China is hard to imagine. China and Taiwan do not contest each other's claims, thus the dispute over the Paracel Islands is actually "resolved," although Vietnam maintains its own claims.

The Spratlys

The Spratly Islands are currently occupied by five different nations and are subject to claims in whole or part by six different nations. [3]

China firstly established control over a Spratly islet in 1988. Since then, it has extended its reach and currently possesses ten reefs and islets in the Spratly archipelago. China has established permanent military outposts on the following reefs: Subi Reef, Fiery Cross Reef, Mischief Reef, Johnson South Reef, and Chigua Reef. These military outposts are equipped with self-defense capabilities such as anti-aircraft and naval guns (Baker & Wiencek 2002b, p. 52). The Chinese lay claim to *all* the Spratly Islands.

It is worth noting in this context that Chinese military buildings on the Spratlys have already reached a third-generation status:

> Chinese commentaries even speak of three generations of different island structures: First Generation 'sheds' were built of bamboo; Second Generation 'octagonal pavilions' were built of iron sheeting; and the Third Generation features 'permanent constructions' in the form of three-story white buildings on concrete platforms, which are referred to by the men who man them as 'fortresses in the sea' or 'sea bastions'. (Baker & Wiencek 2002b, p. 51)

The Chinese government strongly supports the soldiers stationed there and tries to ease their living conditions in this inhospitable area by providing air conditioning, television, and further modern comforts.

Malaysia first obtained a feature in the Spratly archipelago in 1983. The most important occupation for Malaysia was Investigator Shoal in mid-1999. A two-story concrete building was built in Penang and then shipped and erected on Investigator Shoal. Malaysia claims twelve islets in the Spratly archipelago and is currently occupying six of these islets. Besides Investigator Shoal, the most important occupations are Swallow Reef (obtained in 1983) and Erica Reef, on which Malaysia has built various structures (Baker & Wiencek 2002b, p. 53; Emmers 2010, p. 69).

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[3]   For the purpose of this paper, Taiwan (ROC) is treated as a separate nation from China (PRC).

Malaysia has already resolved some territorial border disputes with Singapore and Indonesia in this region (see below). Furthermore, it was not confronted with Chinese military intervention regarding its island occupations in the Spratly archipelago or in respect of granted oil concessions in the SCS. In comparison to Vietnam and the Philippines, Malaysia's claims seem to be the least contested and thus the most promising.

The Philippines currently controls eight islands and islets that are part of the Spratly archipelago, but claims a much wider area than that. Since the Philippines first took control of five islands in the 1970s, it has expanded its offshore claims. In 1974, Thomas Cloma and sympathizers of his occupied some of the islets in the Spratly archipelago off the Philippines and named this area Kalaya'an. Initially, this claim was not supported by Philippine officials, but it later became the basis of the Philippines' justification for its claims (Emmers 2010, p. 68; Tønnesson 2002b, p. 13).

The Philippines' claims lost fundamental backing after the withdrawal of U.S. troops stationed in the Philippines. The U.S. Army left its military base in Subic Bay in 1992 (Clark Air Force Base was left in 1991), and afterwards China took advantage of the Philippines' exposed security situation and occupied Mischief Reef – this occurred in 1995 (Marley 1997).

Vietnam currently controls some twenty-seven islands and islets in the Spratly archipelago. It has increased the number of its possessions since the 1970s when it controlled just six of the Spratly islands. On Spratly Island itself, it has built a 600-meter runway suitable for aircraft fighters. Vietnam claims the whole of the Spratly archipelago as its own (Amer 2002a).

This last country is the most troubled of the ASEAN claimants to the SCS as far as conflicts are concerned. The primary causes for concern are its conflicts with China due to the difficult history of these two countries, the undergoing military modernization programs, and the overlapping exploration concessions. In the past, Vietnam was the country that suffered the most from military fighting in the SCS. Besides its controversies with China, it is also at loggerheads with all the other SCS claimants owing to its extensive claim to most of the maritime territory in this region.

In sum, these claims to geographical features in the Spratly archipelago overlap in multiple ways. The most far-reaching claims are those made by the Chinese and Vietnamese, which include all the features of the Spratly Islands. These claims are in conflict with each other as well as with the further claimants, viz., Malaysia, the Philippines, and Brunei. Various efforts have been made to achieve a peaceful solution.

(Failed) resolution efforts

So far, several initiatives to resolve these open territorial conflicts have been undertaken, involving consultations of a bi- and multilateral character. There have been official negotiations between the concerned nations' statesmen in addition to unofficial workshops, so-called "track II" efforts, which are consultations involving politicians, scientists, and other experts, which have clearly been non-binding in nature. Discussions among the claimants took place under the mediation of a neutral third party and without any external involvement.

Although none of these initiatives has succeeded in achieving a final solution for the differing claims yet, at least some of them have been partially successful. Several parties to conflicts agreed on bilateral solutions to boundary disputes, a joint development model was tested, and the Association of South East Asian Nations (ASEAN) succeeded in formulating a Code of Conduct. In the following, the most important and most promising efforts to resolve the disputes shall be outlined. This brief overview summarizes the different diplomatic levels and various conflict-resolution techniques that have been applied to reach an agreement.

Bilateral initiatives

International Court of Justice

Malaysia, Singapore, and Indonesia, in particular, have tried to resolve their territorial disputes by deferring the issues to the International Court of Justice (ICJ) in The Hague. China and Vietnam reached an agreement concerning their disputed 1,300-kilometer land border in 1999, but could not solve their dispute over the Spratly and Paracel Islands (Suisheng 2004, p. 267).

Indonesia – Malaysia *(Pulau Sipadan and Pulau Ligitan)*

The small islands of Sipadan and Ligitan are located off the northeastern coast of Borneo, which is divided in an Indonesian and a Malaysian part (and of course comprises Brunei Darussalam, which is located on the northwestern coast). The location of Sipadan and Ligitan is virtually on the prolongation of the countries' land border on Borneo, thus complicating the sovereignty dispute.

The Indonesian president and the Malaysian prime minister agreed on October 6, 1996 to submit the territorial dispute to the ICJ. The formal agreement to defer the issue of Sipadan and Ligitan to the ICJ was signed and ratified by both countries in 1997.

In 2002, the ICJ awarded both islands to Malaysia, much to the discontent of Indonesia. The Court's decision was based on the effective occupation of the islands (albeit not by Malaysia itself, but its former colonialist, the United Kingdom) (Amer; Kivimäki 2002, p. 104).

Malaysia – Singapore *(Pedra Branca/Pulau Batu Puteh, Middle Rocks, and South Ledge)*

The islands of Pedra Branca (Pulau Batu Puteh in Malaysian), Middle Rocks, and South Ledge are located between the southern end of the Malaysian state of Johor and the northern top of the Indonesian island Bintan in the middle of the Singapore Strait, which is the connection of the Strait of Malacca and the South China Sea.

On September 6, 1994, the prime ministers of Malaysia and Singapore agreed to call on the ICJ to mediate in the Pedra Branca/Pulau Batu Puteh issue (Amer & Kivimäki 2002, p. 104). It took almost ten years for this official request to be addressed. On May 23, 2008, the ICJ finally decided that Pedra Branca belonged to the Republic of Singapore and Middle Rocks to Malaysia. In the question of sovereignty over South Ledge, the ICJ decided it should belong "to the State in the territorial waters of which it is located" (Lathrop 2008, p. 828), itself a territorial question that is still unresolved.

Multilateral initiatives

UNCLOS

The United Nations Convention of the Law of the Sea (UNCLOS) is an official international agreement on resolving boundary disputes in offshore areas. Reached in 1982, it is still the legal basis for handling any territorial sea dispute. Some experts argue that the UNCLOS has done more harm than good insofar as it legitimates territorial claims that have not been made before. Notably, the recognition of a 200-nm Exclusive Economic Zone (EEZ) led to new disputes:

> Far from reducing disputation in the South China Sea, the UNCLOS actually exacerbated disputation by setting out quite clearly that states could claim a 200-mile EEZ, without setting out equally unambiguously how a disputed EEZ should be resolved. (Catley & Keliat 1997, p. 9)

The area of the 200-mile EEZ is for most of the SCS claimants the minimum demand often extended on the legal ground of a prolonged continental shelf (e.g., in the case of Vietnam and the Philippines). But even the minimum demand of an EEZ is in conflict with China's and Vietnam's claims to SCS territories, thus, the UNCLOS manifested the claimants' demands without fundamentally contributing to a solution of the disputes.

Aside from its shortcomings, the UNCLOS has been a huge step forward in resolving concurring maritime territorial claims. It is the only internationally accepted legal framework for resolving maritime border disputes. Even China became a contractor to the UNCLOS (in 1996) and acknowledges its rules (Emmers 2010, p. 93).

ASEAN-PMC

The Spratly and Paracel disputes are not discussed in the multilateral meetings of the ASEAN Post-Ministerial Conferences (PMC) due to China's unwillingness to do so.

The Chinese prefer to negotiate the Spratly disputes bilaterally with the other claimants rather than in a multilateral discussion round. The Paracel dispute, as outlined above, is not considered an open question by the Chinese. Nevertheless, the ASEAN-PMC succeeded in establishing East Asia's first multilateral security dialogue, the ASEAN Regional Forum (ARF) (Amer 2002b, p. 124; Ba 2003, p. 629).

Indonesian workshops

In 1990, the Indonesian Department of Foreign Affairs initiated a series of informal and unofficial workshops on the situation of the Spratly Islands. These workshops were sponsored by the Canadian International Development Agency and initially only included ASEAN countries. Starting with the second workshop in 1991, however, extra-ASEAN claimants such as China, Vietnam,[4] and Taiwan participated, too. The participating experts and officials did so in a "personal capacity" intended to foster open discussions and enable the participants to discuss the territorial disputes more openly. After a series of annual workshops, however, this effort ended (in 1998), as the nations concerned had arrived at the conclusion that informal meetings of this kind would be an inappropriate means of resolving the territorial disputes in the South China Sea. The Indonesian attempt to raise the next workshop to a formal status was opposed by China and Taiwan (Catley; Keliat 1997, p. 18 and pp. 143-164; Valencia 1995, p. 12).

Nevertheless, the workshops were a success insofar as the participants issued a statement at the second meeting in 1991 declaring that force should not be used to solve the territorial disputes, but rather only peaceful negotiations. This statement was the predecessor of the ASEAN Declaration on the South China Sea, a set of principles to resolve conflicts in this maritime region, issued in Manila in 1992 (Djalal; Townsend-Gault 1999, pp. 118-123).

ASEAN-AMM

In 1992, ASEAN issued this declaration at the ASEAN Ministerial Meeting (AMM), calling for military restraint and joint development in the Spratly Islands while shelving the question of sovereignty.[5] The ASEAN Declaration on the South China Sea states that all signatories shall foster the possibilities of cooperation in the South China Sea and shall apply the principles of the Treaty of Amity and Cooperation. The declaration is important insofar as it expressed the ASEAN leaders' wish to handle the SCS disputes in official negotiations, much to the discontentment of China's Foreign Minister at the time, Qian Qichen, who preferred informal discussions (Hyer 1995, p. 53). The declaration was the predecessor of the 2002

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[4]   Vietnam became a member of ASEAN on July 28, 1995.

[5]   ASEAN (2002): *ASEAN Declaration On The South China Sea*, online: www.aseansec.org/3634.htm (accessed on June 8, 2011)

Declaration on the Conduct of Parties in the South China Sea, compelling all participants to restrain from the use of force in the SCS disputes.[6]

ASEAN-ARF

The ASEAN Regional Forum (ARF) was established in 1994 and is ASEAN's main multilateral instrument for discussing regional security matters in a broader dimension. It also includes extra-regional actors in its talks (e.g., the European Union and Russia). Furthermore, the ARF is the principal forum at which the member states of ASEAN can engage China multilaterally and create official agreements like a "code of conduct" for the South China Sea disputes (Baker & Wiencek 2002a, p. 8; Ho 2004, p. 300).

At the eighth ASEAN Summit, held in Phnom Penh in November 2002, the ASEAN member states and China signed the "Declaration on the Conduct of Parties in the South China Sea." This agreement was considered a major step towards achieving a peaceful solution to the territorial conflicts in the SCS, providing a framework for future discussions (Nguyen 2003; Emmers 2010, p. 73).

The early euphoria about the Declaration waned over the following years, because confidence-building measures (CBM) did not succeed in easing the tensions or facilitating progress during the negotiations. A working group consisting of ASEAN and Chinese delegates was set up to work on the Declaration of Conduct, but has only met four times since 2004 (England 2010; Yuzawa 2006).

Joint Marine Seismic Undertaking

In 2004, Chinese and Philippine state-owned energy companies agreed upon a Joint Marine Seismic Undertaking (JMSU) to conduct seismic studies in the SCS in preparation for later explorations. After some hesitation, Vietnam joined the JMSU in 2005 – an arrangement that was considered to be a "breakthrough" in the dispute (Storey 2008).

The JMSU was much criticized for its non-transparent nature; the details of the agreement (i.e., the exact location of the survey) remained secret until 2008. When it eventually became public that one-sixth of the area was in Philippine territorial waters, neither claimed by Vietnam nor China, the JMSU lost its support in the Philippines (Schofield; Storey 2009, pp. 24-28).

Although this joint exploration effort was unsuccessful, the idea is still promising nonetheless (and examples of successful joint exploration programs support it) (Joyner 1998). As outlined above, the existing oil and gas fields in the SCS are a major obstacle to solutions to the territorial disputes. Therefore, if an agreement about joint exploration of the fossil resources could be reached, this would probably facilitate a later solution of the sovereignty disputes. China has repeatedly signaled

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[6]   ASEAN (2002): *Declaration on the Conduct of Parties in the South China Sea*, online: http://www.aseansec.org/13163.htm (accessed on June 8, 2011)

that it would be open to proposals about joint exploration efforts. In 1992, China's then Foreign Minister, Qian Qichen, stated that the PRC was interested in joint exploration work while shelving the sovereignty question (Austin 1998, p. 304), but these plans were rejected by China at the fourth Indonesian workshop in August 1993, and the whole effort ceased until the above-mentioned agreement with Vietnam was reached in 1995 (Joyner 1998, p. 235).

CSCAP

The discussion of complicated disputes in "track II" workshops has led to the success of several attempts at international conflict-resolution. The informal meetings of diplomats and scholarly experts are meant to explore the possibilities of reaching agreements before official negotiations (i.e., "track I" talks) take place. In the case of the SCS disputes, the Council for Security Cooperation in the Asia Pacific (CSCAP) is organizing study groups with the purpose of consensus-building and problem-solving. The CSCAP consists of 21 member states represented by research institutes.[7] The Spratly disputes and, indeed, the whole security situation in the South China Sea have been discussed in the discrete environment of the CSCAP meetings (Amer 2002b, p. 124). The value of these unofficial meetings is felt to be high, because the participants are closely linked to their national decision-makers, so findings and recommendations made at CSCAP meetings have helped official meetings to proceed (Jones; Smith 2007, pp. 157-159; Simon 2002).

To briefly summarize the bilateral and multilateral efforts at conflict-resolution that have taken place to date, it can be said that the less official an effort is, the more promising it is likely to be. The International Court of Justice's call for adjudication resulted in partially unexpected judgments, making this effort an unlikely means for further resolution of the disputes, even more so as China rejects any internationalization of the disputes. The track II efforts by CSCAP and joint exploration enterprises seem to have the largest potential, since they are focused on pragmatic solutions while ignoring and postponing the more complex questions of sovereignty.

The various efforts made by ASEAN are promising because a steady process towards a solution to the SCS disputes is discernable. The 1992 Declaration led to condemnation of China's actions at Mischief Reef in 1995. This enabled multilateral discussion of the SCS disputes between the ASEAN member states and China for the first time. This development finally led to the signing of the 2002 Declaration. On the other hand, most of ASEAN's declarations and treaties are non-binding expressions of the participants' benign intentions, and it is highly doubtful whether ASEAN will be able to effectively prevent any state from taking unilateral action in the SCS conflicts.

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[7]   www.cscap.org (accessed on June 7, 2011)

Security aspects (military build-up)

As briefly outlined above, minor clashes between fishermen and the various claimants' navies are commonplace in the South China Sea. What are more important, though, are the military interventions that have taken place to obtain new possessions in this part of the world. The major strikes undertaken for this purpose were China's attack on Vietnamese-held Crescent Island in the Paracels in 1974, a similar Chinese attack on Vietnamese-held Johnson Reef in the Spratly Islands in 1988,[8] and China's occupation of Philippine-claimed Mischief Reef in 1995, which fortunately did not escalate into any military fighting (Khurana 2008, p. 163).

China

Since the early 1990s, China has been modernizing and upgrading its armed forces at an impressive pace. Its focus is on establishing a capable ocean-going navy (known in military jargon as a "blue-water navy") and on modernizing its air force to sustain air cover over long distances.

China's weapons acquisitions virtually all originate from Russia due to the export restrictions imposed by Western countries. Several newly acquired weapons systems possess long-range strike capabilities, so-called "power projection capabilities" that would enable China to take military action in the contested areas of the SCS if it deemed it expedient. The Su-27 fighters China ordered from Russia between 1991 and 1996 possess a combat radius of 1,400 km. This range can be further extended by 500 km by in-flight refueling. In 1996, China conceived a license concession to produce 200 modified Su-27s itself (Sergounin; Subbotin 1999; Kan; Bolkcom; O'Rourke 2000).

The PRC purchased one hundred Su-30 fighter aircraft between the years 2000 and 2004 – the follow-on model of the Su-27, possessing enhanced capabilities and a combat radius of 3,500 km. The modified model that China imported, the Su-30MKK, is especially designed for naval combat missions and is equipped with anti-ship capabilities.[9]

Additionally, China purchased Il-78 aerial refueling aircraft to refuel its Su-27/Su-30 fighter aircraft in-flight, the last batch of which was received in 2005.[10]

These acquisitions of high-standard jet fighters allow China to conduct military missions at any location in the South China Sea at short notice. This fact is increasingly unnerving other parties involved in the SCS disputes, especially since no-one knows how China is using the technical knowledge transferred through these acquisitions to indigenously develop fighter aircraft.

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[8]   70 Vietnamese soldiers were killed in this conflict.

[9]   Sinodefence (2009): *Su-30MKK Multirole Fighter Aircraft,* online: www.sinodefence.com/airforce/fighter/su30.asp (accessed on August 6, 2011)

[10] Global Security (2011): *Il-76 Candid*, online: www.globalsecurity.org/military/world/russia/il-76.htm (accessed on August 6, 2011)

Besides its acquisitions of fighters, China has purchased and indigenously developed new models of destroyers, frigates, and submarines.

In this respect, the most important acquisitions are the Sovremenny-class destroyers, four of which China obtained between 1997 and 2002. These destroyers, equipped with anti-ship cruise missiles, are considered to be a threat to aircraft-carrier strike groups (CSG) due to their long-range capability (O'Rourke 2005; Fisher 2008).

Completing this picture is China's purchase of Kilo-class diesel-electric submarines. Equipped with Russian anti-ship Klub-S missiles, these vessels are an impressive means of obtaining sea-denial capabilities (You 2008, pp. 213-215).[11] U.S. security experts even consider the Kilo-class submarines to be a threat to the American Aegis defense system used on board aircraft-carrier security ships (Murray 2007, p. 61; McVadon 2007, p. 9).

Woody Island in the Paracel archipelago has become an important post for surveillance and monitoring the SCS. China extended the runway to around 2.5 kilometers (8,200 feet); it is now suitable for all the Chinese combat fighters (Su-27/ Su-30/ J-8/ J-10), and an established dock of 500 meters allows destroyers and frigates to lay anchor there. One report highlights the dimension of the military outpost on Woody Island:

> Facilities on the island are sufficient to accommodate the daily lives of more than 1,000 people. Evidently, this island has become a key comprehensive base of the People's Liberation Army, navy and air force for the monitoring of intelligence. It seems that at least one landing craft would come each week to deliver provisions, including all types of fuel and food supplies (Chang 2008).

Recent rumors of a Chinese aircraft carrier which is said to be close to launch status (Hsiao 2011a; The China Post, April 7, 2011) have unsettled other claimants because an aircraft carrier is firstly the means of choice for a superpower to demonstrate its superiority and capability to end a potential military conflict before it escalates; and secondly a Chinese aircraft carrier would shift the security situation in the SCS, since China could deploy a unit of jet fighters in the vicinity of contested islands for weeks on end and thus effectively control the area militarily. But as outlined above, China already possesses the capability to react quickly from a military viewpoint (Su-27s/Su-30s and the airstrip on Woody Island). With an aircraft carrier on hand, however, the PLA Navy would be able to demonstrate its military might impressively.

In sum, China is focused on strengthening its Southern Fleet. In respect of the open SCS territorial disputes, this military modernization program is potentially threatening to the other claimants' occupations (Emmers 2010, p. 104). The appearance of a Chinese aircraft carrier, no matter whether built in the PRC or otherwise acquired and upgraded, would cause the situation to further deteriorate in the SCS.

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[11]   "Sea-denial capability" is the military phrase for the capability to deny any combatant to enter an area without possessing the effective control over this area.

ASEAN

As of the early 1990s, the Southeast Asian nations started military modernization programs by acquiring jet fighters from Britain (Brunei, Malaysia, and Indonesia) or Italy (the Philippines) and guided-missile frigates from Britain (Malaysia) and corvettes from the former East German Navy (Indonesia) respectively (Hindley & Bridge 1994, p. 110).

Vietnam acquired two Sang-o-class submarines from North Korea in 1998, thus becoming the only claimant besides China that possesses these state-of-the-art submarines (Baker & Wiencek 2002b, p. 56).

At the 10th Shangri-La Dialogue, which was hosted by the IISS in Singapore in 2011, Vietnam announced that it would be purchasing six Kilo-class submarines and several Su-30 fighter aircraft from Russia (Denmark 2011).

Accordingly, the Malaysian Navy was interested in purchasing two French Scorpène-class submarines. The Philippines has at least fortified its occupations in the Spratly Islands and equipped its bases there with heavy artillery and radar (Emmers 2010, pp. 83-84).

The overall picture is that the ASEAN nations were continually increasing their military spending and purchasing weapons systems until the financial crisis hit the Asian economies in 1997-98 (Møller 2002, p. 70). After a short interruption, this trend then resumed. According to the Stockholm International Peace Research Institute (SIPRI), military expenditure in Asia doubled between 1990 and 2010.[12] In 2010, SIPRI concluded:

> Transfers to South East Asia have increased dramatically between the periods 2000–2004 and 2005–2009. Indonesian, Singaporean and Malaysian arms imports have increased by 84 per cent, 146 per cent and 722 per cent respectively. Singapore is the first ASEAN member to be included in the SIPRI Top 10 arms importers since the end of the Vietnam War. Acquisitions of long-range combat aircraft and warships by these states have influenced the procurement plans of neighbouring states. SIPRI Asia expert Siemon Wezeman notes that 'In 2009, Viet Nam became the latest South East Asian state to order long-range combat aircraft and submarines. The current wave of South East Asian acquisitions could destabilize the region, jeopardizing decades of peace.'[13]

Conclusions

Time will not resolve the South China Sea disputes, but do exactly the opposite: the more interesting the exploration of fossil resources in the area becomes in economic terms, the more severe the territorial disputes are likely to grow.

Joint exploration programs seem to be promising to ease the urgent conflicts about

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[12]   SIPRI (2011): *Military expenditure in Asia & Oceania by subregion, 1988-2010,* online: www.sipri.org/research/armaments/milex/resultoutput/regional/Milex_asia_ocean (accessed on August 6, 2011)

[13]   SIPRI (2010): *New SIPRI data on international arms transfers reflect arms race concerns*, online: http://www.sipri.org/media/pressreleases/2010/100315armstransfers (accessed on August 6, 2011)

overlapping concessions while shelving the question of sovereignty. But so far, the claimants have been reluctant to agree on such exploration efforts.

A judicial solution to the territorial disputes is highly unlikely due to the unwillingness of important claimants to call on international institutions (such as the International Court of Justice or the United Nations) to come up with a definitive solution.

Furthermore, the entitlement of 200-nm Exclusive Economic Zones and the International Court of Justice's appreciation of effective control have actually aggravated the territorial disputes. Due to the mixture of historical claims, geographical claims, and effective occupation, a legal solution to the SCS disputes accepted by all the claimants seems highly unlikely.

The claimants' enforced practice of "effective occupation" of disputed islands in the wish to maintain *de facto* sovereignty is complicating any solution-finding, especially since all the claimants are upgrading their military presence on the occupied features and thus fortifying their claims.

Ongoing military modernization programs in the region in conjunction with the installation of military facilities on disputed islands highlight the need for a political solution. Occasional incidents between the claimants' naval ships (Navy and Coast Patrol) and foreign fishermen and survey ships illustrate the high degree of tension that exists in these territorial conflicts.

In sum, many minor clashes have taken place, but no severe military conflicts have occurred since 1995. This situation may lead some claimants to believe that the common interest of good and stable economic relations in the region is so highly desired that any military conflict would be avoided. This optimistic evaluation of the situation may encourage more confrontational policies (i.e., the contribution of oil-exploration concessions in highly contested waters).

There are currently a number of smoldering conflicts in the South China Sea upon large fields of oil and gas, so this constellation is dangerous enough as it is. Certain claimants are playing with fire.

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