

DOMESTIC POLITICS AND CONFLICT-RESOLUTION IN THE SOUTH CHINA SEA: CHINA AND THE SPRATLYS DISPUTES¹

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Artikel ini bertujuan untuk menganalisa kemungkinan penyelesaian konflik di kepulauan Spratlys, secara khususnya, dan juga di Laut China Selatan, secara umumnya. Ini akan dilakukan dengan mengkaji beberapa mekanisme kerjasama keselamatan dan ekonomi serantau seperti Kod Tingkahlaku ASEAN untuk kepulauan Spratlys (the ASEAN Code of Conduct for the Spratlys), Forum Serantau ASEAN (ASEAN Regional Forum), dan juga Bengkel-bengkel Pengurusan Konflik di Laut China Selatan (South China Sea Workshops on Managing Potential Conflicts). Artikel ini membuat tiga hujah utama. Pertama, mekanisme-mekanisme di atas telah berjaya untuk mengajak China berbincang kerana mereka telah mengambil kira kerisauan China tentang konsep multi-lateralisme dan sensitivitinya terhadap apa yang mungkin dilihat sebagai campur tangan dalam politik dalaman dan kedaulatan kebangsaan. Kedua, walaupun China secara hakikatnya akan menentukan hala tuju konflik ini, polisi China sebenarnya dipengaruhi oleh kombinasi faktor dalaman dan antarabangsa. Ketiga ialah pendekatan Parti Komunis China (CCP) dalam membangunkan negaranya yang melibatkan dua pola polisi yang berbeza, iaitu penggunaan konsep otoritarian untuk menjaga stabiliti dan kemakmuran negara, di samping membuka negaranya kepada konsep-konsep baru seperti demokrasi yang boleh menjanjikan penerusan pelaburan luar di negara ini. Kesemua perkiraan di atas memberi pengaruh kepada bagaimana konflik di Laut China Selatan ini dapat diurus dan diselesaikan dengan baik.

INTRODUCTION

The disputes over the Spratlys are generally regarded as the most serious inter-state external security problem existing in Southeast today (Dzurek 1996; Hill *et*

¹ An earlier version of this paper was first presented at the Universiti Sains Malaysia-Uppsala University International Workshop on New Dimensions of Conflict and Challenges for Conflict in Southeast Asia, Penang, December 6-7, 1999.

al 1991). The Spratlys Archipelago consists of about 170 small islands, islets, cays, shoals and reefs scattered in a southwestern arc across the South China Sea. China, Taiwan, Vietnam, the Philippines, Vietnam, Malaysia and Brunei claim all or parts of the Spratlys. These conflicting claims resulted in localised battles between Chinese and Vietnamese forces in 1988 off Fiery Cross Reef. In addition, the Chinese occupation of Mischief Reef in 1995, followed by the upgrading of the facilities there in 1999, and other actions in the Philippines-claimed area, resulted in heightened tensions.

Thus, it is believed that the Spratlys disputes, if unmediated, will be the sub-region's next flashpoint. China is regarded as central to the disputes because of its all encompassing sovereignty claims, and its unwillingness to take part in multilateral negotiations to resolve the issue. Besides the 1988 Fiery Cross battle, the People's Republic of China (PRC) had also, in 1974, seized the Paracels by force from the former South Vietnam. Consequently, China is seen as a threat to the *status quo*. Moreover, should China's claims be realised, it would have jurisdiction over the waters of the South China Sea and become, effectively, a Southeast Asian power (Leifer, 1999: 3). Several initiatives have, therefore, been made at the individual and sub-regional level to resolve the disputes. The most important of these are the Indonesia-Canada Workshops on Preventing Potential Conflicts in the South China Sea, and the proposed ASEAN Code of Conduct for the Spratlys.² These regimes or international institutions were specifically meant to address the Spratlys disputes by constructively engaging China and the other claimants.³ At the same time,

² The first of these annual workshops was held in Bali in 1990. Hereafter, these workshops will be referred to as the South China Sea Workshops. The ASEAN 1992 Manila Declaration, which called for the peaceful settlement of the Spratlys disputes, is generally regarded as the precursor of the proposed Code of Conduct for the Spratlys.

³ "Regime" at the state level usually refers to the existing political system (the norms beliefs, parties, organisations and elites) that define the collective interests of society and decide the way power is allocated and command state policies. International institutions or international regimes refer to the framework of rules, expectations and prescriptions between actors in international relations. The most widely accepted definition of an international regime is that of Stephen Krasner's. Regimes are "sets of implicit or explicit principles, norms, rules and decision making procedures around which actors' expectations converge in a given area of international relations". Krasner, Stephen D. (1983: 2). Regimes can be formal with clear decision-making procedures, or tacit, with informal rules. The ARF and ASEAN belong to the latter category.

attempts have also been made to use other sub-regional institutions, principally the Association of Southeast Asian Nations (ASEAN) and the ASEAN Regional Forum (ARF), to resolve or defuse the disputes.⁴ These efforts to resolve the disputes were modeled on the “ASEAN way” or process of consensual, almost informal socialisation based on mutually acceptable norms and practices.

So far, all efforts at resolving the disputes have failed. Consequently, the “ASEAN way” of consensus-seeking has been criticised as unsuitable for resolving regional disputes, and that more rules-based, more formal institutions would be needed, especially when dealing with China. This is because most analyses attribute the *impasse* principally to “Chinese intransigence”, in particular Beijing’s claim to all the South China Sea archipelagos and its refusal to even discuss its sovereignty claims. Although the Chinese avow that they are ready to discuss resource sharing, they are not prepared to compromise on the sovereignty issue in the slightest (Roberts, undated: 1). More significantly, the Chinese are seen as having the habit of using force to resolve their border disputes, of practicing “creeping” and opportunistic annexation while at the same time protesting that they will resolve the disputes through peaceful means (Amer, 1997: 108). In short, the Spratlys *impasse* has usually been blamed on China’s unpredictability, its position as the largest regional power, and perceived intractability (Ang, 1999: 21-22). As a consequence, a more rules-based institution is regarded as helpful in pinning China down. Such a conclusion, however, misses the point.

Almost all the analyses on the Spratlys disputes implicitly or explicitly adopt systemic analytical approaches which treat all the six disputants as rational, unitary actors concerned with security and wealth and thus out to maximise either relative or absolute gains. They assume that all the disputants are more or less interested in the resources of the South China Sea, and regard Sea Lines Of Communication (SLOC) security as equally vital. Their actions are also largely dictated by foreign policy constraints or opportunities offered by their rivals. While realists have identified China and its refusal to compromise on the sovereignty issue as the key stumbling block in the South China Sea, they fail to probe deeper and ask why that is so. Instead, they assume that since China is state-centric, it is therefore preoccupied with sovereignty. Realists and even neo-liberals are also at a loss to explain China’s apparent policy reversals and double-speak. Thus, the positions taken by China over the Spratlys becomes at

⁴ ASEAN was established in 1967 with Indonesia, Malaysia, the Philippines, Singapore and Thailand as founding members. Today, it includes all the 10 Southeast Asian countries. The ARF held its first meeting in Bangkok in 1994.

best an enigma, and at worst, that of an opportunistic practitioner of realpolitik in their eyes (Lim 1998). Injecting the role of domestic politics into the analysis overcomes the weakness of systemic international relations approaches (realism and neo-liberalism and its derivatives such as constructivism) that fail to look within the "black box" of the state.

A deeper analysis of domestic politics yields three insights. One, the Spratlys disputes is not equally important for all the disputants. Compared to the ASEAN disputants, China is the only party for whom the Spratlys has substantial domestic implications that might even threaten the survival of the ruling Chinese Communist Party (CCP) regime. The CCP has used nationalism and sovereignty as one of two instruments to legitimate its rule after the Cold War.⁵ The Spratlys disputes therefore has a domestic constituency in China lacking anywhere else, with the possible exception of Vietnam, and helps to explain the PRC's refusal to compromise on sovereignty. Moreover, unlike the majority of the disputants, the Spratlys is only one of a number of territorial and maritime disputes for China. Any concession over its South China Sea disputes will have serious ramifications for the Diaotayu (Senkaku) disputes with Japan, and even more critical, for the "recovery" and reunification of Taiwan.

Second, it explains why the CCP has no real policy autonomy to negotiate over the Spratlys, and hence appears intransigent, recalcitrant and even insincere because it has to deal with both a domestic constituency and external actors. Many studies have interpreted China's intransigence over the disputes as reflecting China's external economic and security concerns and its relative power in the region. It is domestic politics, however, especially the concern with rule legitimization, which makes it difficult for China to compromise on the sovereignty issue. In fact, the PRC's use of nationalism and sovereignty has made the preservation of China's "territorial integrity" very much part of Chinese political culture. At the same time, the second pillar of the CCP's rule legitimization is based on its ability to bring wealth and prosperity to China. China's economic successes over the past two decades depended on foreign

⁵ Regime legitimization remains a critical issue for China and many Southeast Asian states. Legitimacy is the belief by the governed in the moral right of rulers to issue commands, and in turn, their moral obligation to obey such rules. This relationship is legitimate if it is based on shared norms and values, power is acquired legally, and the rulers enjoy the support of the governed. When regimes lack complete or unconditional legitimacy, they often fall back on performance legitimacy, i.e. by delivering economic goods, and providing law and order, to the governed (Alagappa 1995: 29-30; Ayoob 1995).

investments and access to overseas markets. This has created a tension between these two instruments of legitimization.

Third, because of the linkage of the Spratlys to domestic politics, especially the CCP's regime survival, we gain new insights into the distinct limits that sub-regional institutions such as ASEAN, the ARF and the South China Sea workshops can do to resolve the disputes. Critics of the ARF, for instance, cite its failure to resolve the Spratlys disputes as an indication of the ineffectiveness of the consensus-based, lowest common denominator approach of the "ASEAN way" and call for a tightly structured, rules-based regime with a dispute resolution mechanism. By taking into account China's domestic sensitivities, we begin to realise why rules-based institutions cannot address the Spratlys *problematique*. Paradoxically, because of its use of nationalism as a key legitimating instrument, China is held hostage to domestic sentiments and the CCP does not have the policy autonomy to negotiate border disputes for the moment. Thus, the three key ASEAN-based institutions, namely the ARF, the South China Sea Workshops, and the proposed Code of Conducts for the Spratlys, have succeeded in engaging China only because they have, to a large extent, accommodated Chinese interests and sensitivities.

This is not to downplay the significance of the potential resource wealth of the South China Sea and its geo-strategic significance as the cause of the disputes. Nevertheless, this paper demonstrates that factoring in domestic politics into the analysis of the Spratlys disputes not only provides richer insights, it also helps us to understand more clearly the prospects for their resolution. The analysis also indicates that while China will determine the course of the disputes, the CCP (i.e. the Chinese government) itself has little policy autonomy in deciding outcomes. Opening up the "black box" of the state therefore provides additional analytical leverage. It shows the precise nature of the Chinese problem (which *realism* does not, or cannot, identify) and the prospects for dispute resolution using regimes or external pressure. Thus, by identifying the CCP's domestic constraints, we begin to understand that the notion that international institutions can moderate China's behaviour and bring her to the negotiating table is, at best, only partially correct. It will be domestic developments in China, for instance the resolution of the Taiwan dispute, or the coming into power of a popular government of a prosperous and contented China, that would be the decisive factor.

BACKGROUND TO THE DISPUTES

China and Taiwan claim all the archipelagos in the South China Sea, while the

Vietnamese claim the Paracels and the entire Spratlys. The Philippines claims the eastern portion of the Spratlys, covering the area off Palawan. Malaysia claims the southernmost part, totaling 15 reefs and other features, while Brunei lays claim to only Louisa Reef. To date, Vietnam occupies 27 features, China 11, the Philippines eight, Malaysia five and Taiwan one. The Spratlys claims can be divided into claims of historical sovereignty/colonial heritage, and claims based on the extension of coastal jurisdiction as part of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) process. The point to bear in mind is that sovereignty over islands gives the right to maritime zones (territorial sea, contiguous zone and Exclusive Economic Zone). Hence, the establishment of sovereignty is central to the Spratlys disputes. Only one claimant -- the Philippines -- bases its claim in part on the principle of *terra nullius*, or discovery of "unoccupied territory" abandoned by Japan after WWII, occupation, and close proximity to its Palawan Province. Both the Chinese and Vietnamese claims are based on historical claims of title dating back to imperial times.⁶ From the point of view of the Chinese and Vietnamese, UNCLOS will give them the sovereign rights to the three maritime zones generated by their sovereignty claims to the islands, reefs and cays in the South China Sea.

China, Taiwan, Vietnam and the Philippines at the end of the Second World War contested ownership of the Spratlys. Japan renounced all rights to the Spratlys and Paracels at the 1951 San Francisco Peace Treaty, but without designating which country was sovereign (Dzurek, 1996: 16). This resulted in the four early disputants all laying claims to the Spratlys in the late 1940s and early 1950s. Taiwan had garrisoned the largest island, Itu Aba in 1947. This garrison withdrew in 1950 after the Communist victory in China, but returned in 1956.

A newly reunited Vietnam became more assertive in its claims in 1976 by publishing a map that included the Paracels and Spratlys as its territory. In 1979, Malaysia published its *Peta Baru* (New Map) which showed the limits of its continental shelf, which covered 15 features, including features occupied by Vietnam and the Philippines, in the South China Sea. The inference is that Malaysia's title is based on its continental shelf claim. However, this has not been made explicit. Brunei inherited a continental shelf partially delimited by the British when it became independent in 1984. The lines, when extended, would include Louisa Reef. In 1993, Brunei declared its Exclusive Economic Zone (EEZ) encompassing Louisa Reef.

⁶ For one account for the basis of the historical claims, see Yu, Steven Kuan-tsyh (1991).

The Spratlys issue is complicated by both sovereignty and jurisdictional (boundary) disputes. In addition, there is no agreement as to what constitutes the Spratlys, while international law is ambiguous about the resolution of maritime sovereignty and jurisdictional claims. The disputes intensified after the Economic Commission for Asia and the Far East (ECAFE) published a report in 1969 suggesting that there were hydrocarbons in the Yellow and East China seas. Together with the steep increases in oil prices after the 1973 Arab-Israeli War, it sparked off the South China Sea oil rush in the early 1970s (Dzurek, 1996: 18). The Spratlys disputes came into focus again with the end of the bipolar balance of power after the Cold War, and especially after the settlement of the Cambodian War in 1991. The latter event allowed the disputants to turn their attention to events in the South China Sea.

The disputes arose also in part out of the Truman Declaration of 1945, under which the US unilaterally claimed the continental shelf up to a depth of 200 metres. The Truman Declaration was the result of evolving technology in the post-War years, which made it economically feasible to exploit the seabeds for oil and gas. The US move probably brought home to the littoral states of the South China Sea the realisation that the "ownership" of oceans could bring potentially great wealth. Hence, the little specks of islands in the South China Sea took on a new significance. They were not only important in SLOC strategy as demonstrated during the Second World War, or as symbols of nationalism and sovereignty, but they also held promise of oceanic wealth (Valero, 1994: 134). The post-War claims to the Spratlys and Paracels by China in 1951 and Vietnam in 1956 were very likely, among other reasons, a reaction to the Truman Declaration.

Legal experts are increasingly of the opinion that all the claimants have weak legal title and in the final analysis, "ownership derives from occupation, demonstrated by a continuous and effective display of sovereignty through permanent occupation" (Joyner, 1998: 203). If occupation is nine-tenths of the law, this could explain China's creeping assertiveness, and Malaysia's occupation of two more reefs in 1999. With its history of Sino-Vietnamese clashes and heightened tensions because of creeping or opportunistic occupation, the Spratlys area has often been described as Southeast Asia's next flashpoint.

THE NEED TO OPEN UP THE “BLACK BOX” OF THE STATE: THE ROLE OF DOMESTIC CONSTITUENCIES

The Current Literature: Privileging the Systemic Level

The possibility of the Spratlys disputes erupting into violence has spawned a good number of suggestions to resolve the disputes. Most of these proposals are based on two main assumptions. The first is that the disputes are essentially over the ownership of living and non-living resources. The second is that the Spratlys is strategically located and ownership will give control over the vital SLOCs that traverse the South China Sea (Smith 1994). This has led analysts of the neo-liberal school, such as Mark Valencia and Ian Townsend-Gault among others, to propose resource-sharing and joint cooperation to engage the disputants, principally China, and eventually substitute cooperation for confrontation.⁷ Realists, however, argue that only a united front against China would have any effect.

Chinese intentions and actions in the South China Sea are invariably portrayed in either realist or neo-liberal terms. Implicit in all these approaches is the assumption that China is only constrained in its freedom of action by its relative power position. Such systemic analyses generally adopt the unitary actor model and assume that China is a sovereign, unitary actor among other similar actors. However, such conclusions based on traditional international relations approaches are incapable of explaining to the full the reasons for the Spratlys disputes, and the prospects for their settlement.

A number of commentators have touched on the significance of the Spratlys and domestic politics without delving deeper into them. Shee, for instance, noted China's preoccupation with sovereignty and nationalism, but concluded that the Chinese were therefore nationalists “concerned with finding ways and means of to recover their lost territories and to prevent their precious natural mineral and maritime resources from being nibbled away by others” (Shee 1998). While he linked China's strategic thinking with internal security, political and economic needs, he still treats China as a unitary actor constrained only by external forces. Chris Roberts argued that China's actions in the South China Sea are attributable to the country's strategic culture. Deception is central to this strategy, which is to weaken the enemy and to subvert his alliances for an easy victory (Roberts, undated: 11-13). His proposed counter-strategy is to manipulate China's centre of gravity, i.e. the economic transformation occurring

⁷ <http://faculty.law.ubc.ca/scs/project.htm>, (undated). ‘Brokering Cooperation in the South China Sea, The South China Sea Informal Working Group’.

in China. But Roberts also suggests that China could be persuaded into joint development and resource sharing. In addition, a firm, united front towards Chinese irredentism should be maintained, at the same time promoting multilateral fora on resource development (Roberts, undated: 28-29). His strategy therefore encompasses both realist and neo-liberal elements with the state still as the principal, unitary actor.

The People's Liberation Army's (PLA) role as a contributing or domestic factor, on events in the South China Sea has been noted by authors such as G. Valero. Valero claimed the PLA instigated the seizure of the Paracels and pressured the National People's Congress into passing the 1992 territorial sea law that claimed various archipelagos, including the Spratlys, as Chinese territory. However, he sees the use of nationalism and historic claims only as an instrument "useful to local elites...to generate support for particular foreign policy decisions" (Valero, 1994: 328). Apart from the work by Downs and Saunders, the only study that links nationalism, rule-legitimation, and foreign policy is that of doctoral candidate Leni Stenseth's dissertation outline on "Nationalism and Foreign Policy – The Case of China's *Nansha* Rhetoric". Stenseth's preliminary conclusion is that the Chinese regime will not negotiate the country's sovereignty claim because the "domestic political costs of doing so could simply be too great" (Stenseth 1998).

Why does China continue to maintain that its sovereignty over the Spratlys cannot be disputed, and why have concrete proposals to solve the sovereignty issue not been forthcoming, even at the usually highly innovative track two level? (Ang, 1999: 22) Integrating the domestic level into the analysis gives us the answer and reveals the link between domestic politics and China's territorial border disputes. The CCP cannot compromise on sovereignty claims until the Taiwan issue is settled, and the need to use nationalism as a legitimating device is over. By injecting the role of domestic politics into the analysis, a better understanding of the issue is attained.

Domestic Constituencies in ASEAN and Taiwan

Unlike economic policy issues, foreign policy issues seldom have domestic constituencies, especially in Southeast Asia. This is because foreign policy is formulated independently, with the people having little say unless elites wish to mobilise public support for certain foreign policies, or gain popular support domestically by pursuing a particular foreign policy. Religion, for instance, has been successfully used to engender popular support.

The Malaysia-Singapore disputes over Pedro Blanca island or Pulau Batu Putih

resonates in Malaysia only because of the often-volatile relations between the two countries. Apart from that, no other maritime or border dispute has captured the popular imagination of Malaysians. The Spratlys have no native inhabitants, and the claims of the Philippines, Malaysia and Brunei are new, post-independence claims largely based on international law and the UN Law of the Sea Convention. These claims are not therefore associated with notions of a struggle for national liberation, sovereignty and independence, unlike the case of China and Vietnam. A senior Foreign Affairs Ministry official in Malaysia, for instance, admitted that the government in power would not be toppled even if it gave up its claims to the Spratlys.⁸ Conversely, Malaysia's occupation of two additional features in late 1999, Erica Reef and Investigator Shoal, passed almost unnoticed by the Malaysian public. There were no public demonstrations either in support of, or against, the occupation. The Malaysian claim is important for the economic wealth it generates, not because of any nationalistic sentiments or for purposes of rule legitimization. Indeed, there is virtually no literature on the role or use of nationalism as an instrument to back up the claims of the Philippines, Malaysia and Brunei. It is only of late that the Philippines has attempted to whip up a measure of domestic support by portraying itself as a victim of Chinese bullying over Mischief Reef after China completed "fortifying" it in 1999, despite earlier Chinese assurances that it would not do so. Mischief and Scarborough reefs have received some attention among Filipinos only because of geographical proximity. Scarborough Reef lies about 350 kilometres from Kalayaan, and considerably farther from Hainan Island. While geographical proximity to claimed features does not give valid title, it can generate a sense of domestic outrage if a claimant country far away presses its claims to reefs very near to that of a rival. Malaysia, for instance, could quite easily raise the spectre of an encroaching threat if China were to occupy James Shoal, Beijing's southernmost claimed point, which is just 160 kilometres from Sarawak. Chinese occupation of geographically proximate features to Malaysia and the Philippines could therefore create a 'nationalist' reaction in the two latter countries.

In the case of Vietnam, Hanoi was able to separate domestic politics from foreign policy until the late 1980s because national security decision-making was in the hands of a very select number of autonomous leaders (Abuza, 1996: 407). Vietnam embarked on economic reforms, the *doi moi* programme, and started opening up to the outside world only in 1988. Compared with the CCP, regime legitimization is less of a problem for the Vietnamese Communist Party. Although Vietnam also cites historical ownership of the Spratlys as one basis for its claims, the latter are also based on the argument that Vietnam is the legal In

⁸ Interview March 2000.

the absence of such Chinese moves, the Spratlys is more important for its resources, potential or real, rather than as a symbol of sovereignty or a nationalist rallying point for the Philippines and especially, Malaysia. Indeed, Malaysia is keen to maintain the *status quo*, since it is the only country with significant amounts of hydrocarbons found in its claimed area, which it is busily exploiting. The Philippines, on the other hand, has cited economic necessity as one of the reasons giving credence and legitimacy to its claims, despite the fact that little oil or gas has been found within its claimed area.

successor to the French claims to the archipelago. In this sense, its South China Sea claims do not invoke such strong nationalistic feelings. Vietnam's South China Sea disputes take on a nationalistic dimension only in the context of historical Sino-Vietnamese hostility. The Spratlys dispute therefore is seen as part of China's continuing attempt to dominate Vietnam. Vietnam's membership of ASEAN is therefore partly designed to constrain China's freedom of action, because ASEAN is "too important for China's long-term development" (Abuza, 1996: 411).

On its part, Vietnam is increasingly unlikely to take unilateral action over the Spratlys as it develops trade and political linkages with ASEAN and the rest of the Asia-Pacific. Its willingness to get involved in as many international institutions as possible implies that Vietnam has moved away from realism in foreign relations. The implication is that Hanoi will be willing to enter into serious negotiations. Indeed, it is notable that Hanoi, together with Manila, agreed on a nine-point code of conduct for the Spratlys in November 1995. This agreement was a key initial draft of the proposed ASEAN Code of Conduct. That the Spratlys do not have any significant domestic constituency in Vietnam is reflected by the fact that "we had sovereignty in principle but no people" (Abuza, 1996: 416). The 1992 Memorandum of Understanding between Malaysia and Vietnam for the exploration and exploitation of petroleum in a disputed area outside the Spratlys also indicates that sovereignty is not such a crucial issue for the Vietnamese regime. Overall, Hanoi appears committed to settling the dispute peacefully and in accordance with international law (Abuza, 1996: 416).

The election of a pro-independence government in Taiwan in 2000 will keep Taipei focused on the PRC rather than the Spratlys. Its preoccupation with the PRC leaves little room for the Taiwanese to worry about the Spratlys. Indeed, it might even end the "coordinated" positions of the PRC and Taiwan in the area, with the Taiwanese garrison on Itu Aba even providing PRC ships with fresh water. Given the present state of Taiwan-PRC relations, it is very unlikely that Taiwanese are concerned with their South China Sea claims. In fact, in a bid to

convert economic success into political gains in the ASEAN region, former president Lee Teng-Hui launched his "southward policy" in March 1994 (Ku, 1995: 283). ASEAN was targeted because besides being an important trading partner, it was also the venue for several international organisations that Taiwan hoped to be member of. Through economic assistance and investments in the ASEAN region, Taiwan hoped to "upgrade" its political status (gain political legitimacy) by being involved in international organisations such as the Asia-Pacific Economic Cooperation (APEC) and ARF. A second important reason for the "Southward policy" was to reverse Taipei's declining investments in ASEAN as Taiwanese businessmen sought new ventures in the PRC. The policy was also aimed at minimising economic dependence on the PRC, while at the same time building up "political clout" with the ASEAN members (Ku, 1995: 289).

The "Southward policy" of persuading ASEAN to facilitate Taiwan's membership of international organisations ultimately failed because the PRC blocked any such moves. The failure illustrates the importance of the PRC in regional organisations, and also its political and economic influence over ASEAN. It is also equally clear, however, that Taiwan is conscious that only a multilateral approach will end its political isolation. As such, it is even possible to envisage Taiwan trading off its Spratlys claim for regional allies and international legitimacy. Obviously, China will not tolerate such a development.

The People's Republic of China: Domestic Constituencies and the Importance of Sovereignty

Unlike the other claimants, sovereignty is central to China's claim. Resources can be jointly exploited and shared, whereas sovereignty is indivisible. Sovereignty has a domestic resonance in China absent among its rivals to the Spratlys. The late Chinese leader Deng Xiaoping made national sovereignty and national security a "top priority" (Deng, 1998: 313). Modern Chinese nationalism has its roots in the "humiliation" of Qing China by the Western powers during the Opium Wars of the 19th century. By the 1890s, China appeared about to be dismembered by foreigners. The Qing's inability to stem the foreign advance resulted in China's "100 years of shame". Chinese intellectuals therefore turned to the western concept of sovereignty and territorial integrity, and invoked the idea of "nationalism" to mobilise the people to save China. Modern Chinese nationalism therefore has given "sovereignty and territorial integrity intense symbolic value" expressed in terms of protecting the nation's sovereignty and its territorial integrity (Downs and Saunders, 1998: 118). The CCP, ironically, has used the restoration of imperial China's frontiers

as a central tenet of its nationalism, which is therefore rooted in history.⁹ The concept of historical sovereignty and territorial integrity has also been extended to China's maritime space.

"...the South China Sea has always been part of (China's) internal lake...Chinese school students are taught...that the southern-most point of Chinese territory is Zengmu Ansha, or James Shoal, which is located about one-hundred and sixty kilometres north of Sarawak, Malaysia." (Shee, 1998: 369)

Any challenge to China's claims to the Spratlys is therefore considered a challenge to its sovereignty.

Nationalism was increasingly invoked by the CCP to legitimate its rule because of the reforms of the late 1970s. One thrust of the reforms was to boost the Chinese economy by decentralising and loosening the command economy, which, in turn, weakened the central control of the CCP. A more liberal economy led to calls for liberal democratic reforms, which culminated in the Tiananmen crackdown of 1989 (Zao, 1997: 732). After Tiananmen, because of its perceived loss of popular support, the CCP increasingly resorted to nationalism to legitimate its continued hold on power. Nationalism and sovereignty also provided the political cement to hold an ideologically bankrupt China together. But nationalism by itself was inadequate to ensure continued support for the CCP.

In the search for normative arguments to legitimate its rule, the Party therefore turned to economic growth as well. These two normative arguments - nationalism and economic growth - however run in contradictory directions. The nationalist argument emphasises the role of the CCP in restoring China's lost greatness and stature. The economic argument attributes China's economic success to the political stability and the strong, central authority provided by the CCP. However, China's economic growth has been highly dependent on foreign investments.

"Ideally, the CCP would like to maximize its legitimacy by making strong appeals to nationalism while simultaneously raising living standards...but a development strategy that relies heavily on foreigners mean trade-offs exist between nationalism and economic performance" (Downs and Saunders, 1998: 120-121).

⁹ "The authorities of the People's Republic now wrap themselves in the mantle of "Five Thousand Years of Chinese Culture"...such an idea of the Chinese past is itself an invention...." Waldron, Arthur (1992: 222).

Too strong an emphasis on nationalism could trigger off popular demands for an over-assertive international policy that the CCP cannot handle. Moreover, patriotism when expressed in xenophobic terms can scare away potential investors. Maximising economic growth, on the other hand, means increased reliance on foreigners, more interdependence and the loss of even more political and policy autonomy in an increasingly globalised world economy. But without continued and sustained economic growth, or even worse, if there is economic contraction, there will be widespread public discontent. Despite its very statist orientation, the Chinese government was forced to place “‘global interdependence’ at the heart of its Ten-Year Economic Blueprint for the 1990s” (Scholte, 1997: 22). However, the process of “globalisation” threatens ethnic, national and even regional identities because of the emergence of so-called global values, institutions and norms (Makinda, 1998: 6-7). In short, too much openness and economic interdependence can undermine China’s identity, and the very notion of sovereignty.

Caught between a rock and a hard place, the CCP relies on the short-term strategy of stressing nationalism and blaming foreigners when the economy is down. When the economy is doing well, the Party emphasises its sound economic management and the importance of the political stability that only the CCP can provide (Downs and Saunders, 1998: 122-123). The CCP’s nationalism therefore is statist, portraying the Communist state as the embodiment of the nation’s will. At the same time, economic development becomes a national cause, and China’s transformation into a powerful and modernized country is “a collective effort led by the Communist state” (Zhao, 1997: 732). Another related reason for the CCP’s continued emphasis on nationalism and sovereignty is because “global values”, with its emphasis on liberal democracy, free markets, individual liberty and human rights, threaten state sovereignty and legitimacy. Thus the CCP is forced to reemphasise both its internal and China’s external sovereignty.¹⁰

¹⁰ Globalisation is perhaps best described as the “processes whereby social relations acquire relatively distanceless and borderless qualities, so that human lives are increasingly played out in the world as a single place”. (Scholte, Jan Aart, 1997: 14). If one accepts the notion that China is essentially still a realist nation, for which globalisation will not alter the basic structure of world politics based on the nation-state, then its emphasis on sovereignty becomes more explicable. Not only is the CCP attempting to wipe out the 100 years of shame, but also it is asserting China’s sovereignty and independence despite growing interdependence. The state is therefore still central in the international order, and force and the balance of power are still important instruments available to states. China, too, perhaps sees

The Spratlys is one of a number of symbols, invoked by the CCP, of China's lost greatness. In the final analysis, can the sovereignty disputes be detached from China's nationalist agenda? Given China's present political culture, the CCP cannot compromise on sovereignty in the South China Sea. The people will see negotiations on sovereignty as appeasement and a betrayal by the Party. Although not as central as the Taiwan issue, the Spratlys has nevertheless become part of the CCP's central body of myths. Backing down on sovereignty in the Spratlys will have adverse repercussions for all of China's border disputes, and could be interpreted as a sign of weakness by irredentists within China.

Other developments have also constrained the CCP in its South China Sea policy. Externally, it was hamstrung initially by the Soviet-Vietnamese alliance during the Cold War. The Tiananmen crackdown of June 1989 was a domestic setback, while the entry of Vietnam into ASEAN in 1995 gave Hanoi greater regional political legitimacy, and therefore made it harder for Beijing to unilaterally occupy or seize the features occupied or claimed by Vietnam. The 1997 Asian financial crisis, however, could have given the CCP more regional credibility as a responsible actor, which makes any kind of ASEAN coalition or "united front" against China over the Spratlys highly unlikely.

CHINA'S EXTERNAL CONSTRAINTS

While domestic politics is a crucial factor in Chinese foreign policy towards the Spratlys, China's position and policy in the South China Sea is also shaped by external or international level developments. This paper argues that there were five defining external events with regard to China's policy autonomy vis-à-vis the South China Sea.

- The end of the Cold War, the Soviet military withdrawal from the Asia-Pacific in the late 1980s and early 1990s; the demise of the Soviet-Vietnamese alliance, and the Paris Agreement of 1991 which ended the Vietnam-Cambodia war.
- The Tiananmen crackdown on dissidents by the CCP and the PLA.
- Vietnam's membership of ASEAN.
- The restoration of US-Vietnamese diplomatic ties.
- The 1997 Asian economic crisis.

globalisation as nothing more than the latest stage of Western imperialism.

The first event allowed the People's Republic, for the first time, the opportunity to physically occupy some of its claimed features in the Spratlys. Vietnam could no longer play the Soviet card as the Soviet Union gradually collapsed. This accounts for why China was the last claimant but one to physically stake its claims.¹¹ It had earlier decided that because of domestic constraints, as well as the concern that further deterioration of Sino-Vietnamese relations would only benefit the Soviet Union, it would not "publicly protest the island-snatching by Vietnam, the Philippines and Malaysia" (Sheng, undated: 8).

Thus in the early 1980s, the CCP's Central Committee decided to shelve the Spratlys issue in order not to weaken its overall strategy of "opposing Soviet expansion" (Sheng, undated: 9). When China finally moved into the Spratlys, it decided on the Vietnamese-held area. Not only was Vietnam militarily weak at sea, but the Chinese were still smarting from the "ingratitude" of Vietnam despite the large amounts of military aid given by China during the Vietnam wars. In addition, Vietnam was still a political "pariah" because of its invasion of Cambodia. The opportunity to exploit Vietnamese weakness began to diminish after the Paris Peace Accord of 1991, and when Vietnam became a member of ASEAN in 1995, and restored diplomatic relations with the US.

Tiananmen, in turn, made China the international "pariah", and China carefully weighed the political cost of occupying more reefs and other features in the Spratly archipelago. The CCP concluded that further physical expansion in the Spratlys would only make its already negative image – that of an authoritarian regime prone to use force – only worse. The People's Republic needed friends and economic investments more than it needed reefs and islands in the South China Sea immediately after Tiananmen. This accounted for a hiatus in Chinese occupation after 1989. The immediate post-Tiananmen period was a difficult one for China's Spratlys policy. Tiananmen doomed the chance to recover the Spratlys for China, since the "extremely unfavourable international situation that followed the incident made any such action impractical" (Sheng, undated: 12).

By 1995, however, China's international image had improved considerably. China's occupation of Mischief Reef that year, followed by Scarborough Reef, shocked ASEAN. The conventional wisdom was that China would never move into zones claimed by ASEAN members. But by 1995, Vietnam international image had also improved considerably following its *doi moi* programme. In contrast, the Philippines was militarily weak, and the withdrawal of the US from Subic and Clark bases meant that China would be unlikely to face any US retaliation. The then Ramos administration made a token of reinforcing the

¹¹ Brunei has yet to occupy its claimed feature, Louisa Reef.

Kalayaan garrison, but diplomacy was the only realistic option for the Philippines (Storey, 1999: 97).

The Spratlys code of conduct proposed by ASEAN also probably accounted for China's 1995 decision. One of the key proposals of the code was a freeze on new occupation in the Spratlys.¹² From the legal perspective, all the rival claims to the Spratlys are weak. Claim to ownership would in fact, derive from "occupation, demonstrated by a continuous and effective display of sovereignty" through settlement and administration (Joyner, 1998: 203). Thus all the claimants, including Malaysia which occupied two more reefs in 1999, are trying to establish "occupation and sovereignty" before all future occupation is frozen. This could well have been another reason for China's move into the "Kalayaan" area. In any event, since China occupies only 11 features at the moment, it has steadfastly refused to agree to any "no new occupation" clause.¹³ This is the reason why China did not accept the ASEAN version of the Code of Conduct for the Spratlys at the 1999 ASEAN-China meeting in Manila.

Finally, domestic politics could also explain China's Mischief Reef move. In 1982, rumours of Chinese leader Deng Xiaopeng's ill health was already circulating in China. In 1987, he resigned from the CCP's Central Advisory Commission. Deng, who suffered from Parkinson's disease, in all probability was mentally incapacitated well before his death in 1997. Chinese analyst Sheng Lijun, writing before Deng's death, therefore predicted that

"...a new leader [after Deng] is more likely to use force or take a firm position [in the Spratlys], to enhance his political control by winning support from the army, just like Deng once used the putative war against Vietnam to enhance his political power over that of Hua Guofeng, to show he himself could control the army and, therefore, the stability of the whole nation" (Sheng, undated: 24).

¹² A code of conduct remains problematic. For instance, although China and the Philippines signed a bilateral code shortly after the first Mischief Reef incident of January 1995. A minor skirmish between the two parties took place a year later. Other incidents, including new building and the upgrading of Chinese facilities followed in 1997 and 1998. The Philippines then accused China of violating the code of conduct. (James Storey, (1999: 97-98).

¹³ Of the 53 or so features in the Spratlys occupied by the various claimants, China holds 11, the Philippines has eight, Malaysia five, Taiwan one, while Vietnam occupies the remainder.

Mischief Reef should therefore be seen as the result of the interplay of a number of domestic and international forces in Chinese politics, not least of which was the power struggle to succeed Deng as China's paramount leader. Overall therefore, China's Spratlys policy has been affected by its domestic economic development strategy and politics, and by the external environment, including the phenomenon of globalisation.

The 1997 financial crisis strengthened the position of China *vis-à-vis* the ASEAN members. With a relatively strong economy and adequate currency reserves, China could theoretically have attempted to insulate itself from the contagion effect. China did not do that, but instead took a leading role in attempts to rescue the Thai economy. This was in sharp contrast to Japan's somewhat slow and measured responses. Moreover, although the Yuan was under some pressure, China repeatedly refused to devalue the currency (Swanstrom, 1999: 6-8). The CCP could not afford to devalue the Yuan because it would have hit the "pocketbooks" of the Chinese people and therefore affected the CCP's popularity, and because Yuan devaluation would have made the crisis worse for the ASEAN members. Since ASEAN was an important trading partner for China, any deepening of the crisis would also affect China eventually. The CCP therefore made virtue out of necessity, and in the process gained for itself a newfound respect and an enhanced leadership role in the region. The crisis not only divided the ASEAN members over the course of action to be taken, but gave China the moral high ground. The end result was that the CCP gained in stature in the region, further diluting any hope of a common ASEAN stand over the Spratlys.

ASEAN'S ENGAGEMENT STRATEGY

Realists who argue that China should be contained or constrained are in the minority nowadays. Instead, most ASEAN scholars are of the opinion that it would be more profitable to engage China. At the policy level, uncertainties as to China's future intentions, as well as past negative interactions with Beijing, led ASEAN members in recent years to engage China in institution-building, with the hope of making Beijing more amenable to compromise and negotiations. Indeed, Southeast Asian multilateralism has been seen as vital for engaging China and integrating it into a system of regional order (Acharya, undated: 8). The Canada-Indonesia South China Sea Workshops on Managing Potential Conflicts, the ASEAN Regional Forum (ARF), and the ASEAN Code of Conduct for the Spratlys are three key attempts at the constructive engagement of China over the South China Sea disputes. Such constructivist approaches, however, in particular the ARF, have been increasingly criticised

for being unable to address core regional security issues such as the Spratlys. Amitav Acharya, for instance, notes that multilateralism in Asia has been “constrained by the primacy of state interests”.¹⁴ Roy, more explicitly, describes ASEAN strategy as one of “appeasement” rather than engagement, with the hope that China will practice self-restraint. (Roy, 1996: 766). In this sense, constructivist and other approaches to engagement are said to be either marginally useful, or even worse, doomed to irrelevance because of their consensual approach and the “absence of enforcement in the ARF’s vision for the future development of its security agenda”.¹⁵ Other critics have been harsher, claiming that the ARF has been characterised by “muddled strategic thinking” (Lim, 1998: 121). Neo-liberal institutionalists and constructivists reply in rebuttal that it is the process of norm-building that is important. Tightly structured institutions and regimes will not be acceptable to China, and even to the ASEAN members themselves.

Proposals to resolve the Spratlys problem invariably revolve around two issues. How to engage China into becoming a responsible regional player, and how to persuade the claimants to share the resources of the South China Sea through joint development schemes. The latter argument seems persuasive when one makes the assumption that China’s need for fuel would overcome “antagonistic political considerations” (Joyner, 1998: 216). However, as this paper has tried to argue, the substantive issue for the principal actor, the CCP, is not that of fuel or food resources, but the legitimacy and survival of the incumbent regime in China.¹⁶

In this sense, the Spratlys disputes essentially lie outside the scope of regional institutions and regimes to resolve. ASEAN and its various South China Sea initiatives, including the ARF, have succeeded in engaging China only because they largely accommodated Chinese interests and reservations with regard to national sovereignty and non-interference in its internal affairs. Although the process of globalisation and interdependence has made Beijing more amenable

¹⁴ Acharya, (undated: 18). Winston Lord, the US Assistant Secretary of State for East Asian and Pacific Affairs at the time of the Mischief Reef incident in 1995, commented that the ARF must address key regional security issues if it was to be credible (James Storey, 1999: 111).

¹⁵ Garofano, (1999: 84). Garofano argues that inclusive regimes such as the ARF that emphasises informality and consensus are the least helpful in problem solving. Such “toothless” regimes are often characterised by their high levels of compliance, i.e. non-defection, and very low levels of enforcement.

¹⁶ See Stenseth (1998).

to participating in regional institutions, China agreed to participate in them because they guaranteed China's sovereignty. In this sense, while these international institutions have not been captured by Beijing, Chinese interests have been largely accommodated.¹⁷ Consequently, these regimes are unlikely to be able to resolve the disputes, since China is essentially setting the pace.

While China can be engaged, its ruling elite's autonomy to negotiate on disputed territories is highly constrained. In other words, domestic politics will determine when, and if, the CCP can compromise and negotiate over the Spratlys. This, in turn, will depend on China's political economy. Hence, citing the Spratlys disputes as evidence that ASEAN's initiatives in this area, notably the ARF, are increasingly marginalised in regional security is irrelevant and misses the point that the Spratlys disputes fall outside the scope of regional institutions to resolve. Final resolution will depend on domestic developments in China as well as in the other claimant countries. Interdependence can result in a China that is more liberal and internationalist. On the other hand, the process can also lead to a backlash, with an alienated CCP and inward-looking China.

ASEAN, the ARF and the South China Sea Workshops represent the three current attempts to get China involved in regional multilateralism, based on what has been described as the "ASEAN way". The ASEAN way is characterised by its loose, informal agenda and consensual mode instead of a rigid, rules-based structure. The structure and content of the ARF and South China Sea Workshops have been largely informed by the ASEAN experience. Indeed, it has been argued that an ASEANised regional order is beginning to emerge in East Asia (Haacke 1998). However, it can also be argued that these ASEAN "solutions" developed and succeeded to the limited degree they have, only because they accommodated Chinese interests. While China might not have captured these institutions, they certainly do reflect a high degree of Chinese interests.

ASEAN is an institution whose primary objective until 1997, when the region was hit by economic recession, was the preservation of state autonomy and regime perpetuation. This overarching aim is embodied in the 1976 ASEAN "Treaty of Amity and Co-Operation in Southeast Asia" which emphasises:

¹⁷ It must be noted that ASEAN accommodation is not confined to China. A non-confrontational attitude, instead, is adopted towards all difficult states as part of the ASEAN policy of constructive engagement. See Antolik (1994: 121).

- . The right of every state to lead its national existence free from external interference, subversion or coercion.
- . Non-interference in the internal affairs of one another.
- . Settlement of differences or disputes by peaceful means.
- . Renunciation of the threat or use of force.

ASEAN succeeded in engaging China, and to finally persuade China to join the ARF, because of the existence of these norms which assured China that its sovereignty and political autonomy would not be compromised. ASEAN (and all the other institutions that it spawned) is therefore unique as a regime because of the centrality it places on the preservation of state and policy autonomy, and on non-intervention in the internal affairs of another state. ASEAN members traditionally did not have to worry about the loss of policy autonomy, or trading off sovereignty to achieve regional gains. The explicit understanding that the Association will move forward on any issue only if there is unanimous agreement protects members' interests. Regimes such as ASEAN are therefore

"based on the protection of states' political autonomy through recognition of their rights to control activities within their territories and within areas adjacent to their territories. Such regimes are certainly compatible with the neorealist perspective that states' preeminent goal is survival or security" (Zacher and Sutton, 1996: 20).

Most international relations literature describe Chinese foreign policy as being realist or *realpolitik*, implying that it is state-centric. Thus ASEAN's core values resonate with the CCP, which is equally preoccupied with sovereignty and non-intervention.

The ASEAN Regional Forum

The ASEAN Regional Forum or ARF was set up with ASEAN in the "driver's seat", to serve as a multilateral consultative forum aimed at promoting preventive diplomacy and confidence-building among Asia-Pacific states. The ARF was founded on the notion of extending the ASEAN way of cooperative security to a wider Asia-Pacific community. The approach is constructivist, which, among other things, is to encourage China to behave according to ASEAN norms. Thus the idea of engaging China is central to the ARF, which goes a long way to explain why the consensual, non-legalistic approach is

emphasised within the ARF. At the same time, China views the ARF (as it is currently structured), as an acceptable multilateral institution that does not constrain its political space.

The ARF Concept Paper issued in 1994/95 noted that the "ARF should recognise and accept the different approaches to peace and security and try to forge a consensual approach".¹⁸ It outlined a three-stage process, beginning with confidence-building measures, followed by the development of preventive diplomacy mechanisms, before embarking on the final stage of developing conflict-resolution mechanisms. To date, the progress of the ARF has not gone beyond that of discussing the concept of "preventive diplomacy", much less reach the dispute resolution stage. Significantly, the objective of dispute resolution in the ARF Concept Paper was watered down to an ambiguous "elaboration of approaches to conflicts" as a concession to China at the Brunei ARF meeting in August 1995. The Chinese found conflict-resolution "too formal" and opposed any such role for the ARF (Acharya, 1999: 12-13; Ortuoste, 1999).

The reason for this and other concessions is simply that there "can be no substantial progress with the development of preventive diplomacy in the Asia-Pacific region without the endorsement of China." It was also noted that China had been wary about multilateral security processes, and remained extremely concerned about the inclusion of any intra-State matters. The definition and key principles of preventive diplomacy endorsed by the Council for Security Cooperation in the Asia Pacific (CSCAP) Working Group in Bangkok in February-March 1999 "accommodated these concerns" (Ball, 1999: 12).

Preventive diplomacy is considered a crucial next step of ARF development into a more structured and rules-based institution.¹⁹ The debate on preventive diplomacy has bogged down because China fears that other ARF members could use the concept to justify intervening in the internal affairs of other countries. For example, comments by the US that preventive diplomacy must be backed up by military force, and the willingness to use it, cannot be reassuring for China (Gates 1996). Similarly, the observation by US officials that for preventive diplomacy to work, there must be strong leadership best provided by

¹⁸ *The ASEAN Regional Forum: A Concept Paper*, p. 1.

¹⁹ Preventive diplomacy is diplomatic, political, military economic and humanitarian action taken by governments, multilateral organisations and international agencies to prevent inter-state disputes, and to prevent those disputes which do arise from escalating into armed violence. (Acharya, 1999: 19).

Washington, has also contributed to the ARF's *impasse* (Haacke, 1998: 12).

The result of China's reservations was that the CSCAP working group on Preventive Diplomacy defined the key principles of preventive diplomacy as being first, all about diplomacy, with the emphasis on persuasion, negotiation, mediation and conciliation. Next, it must be voluntary and non-coercive, that is, the direct and indirect use of force, such as sanctions, would be outside its scope. Most important, it is to be based on respect for sovereignty and non-interference in the internal affairs of a state (Ball, 1999: 9). Thus were China's interests accommodated at this stage in the development of the ARF. Significantly, at the first ARF meeting in 1994, accommodation again was the order of the day when ASEAN failed to endorse an Indonesian proposal to discuss putting all claims in the Spratlys on hold. Instead, some ASEAN members including Malaysia, moved towards individual accommodation with China (Roberts, undated: 21).

The South China Sea Workshops On Managing Potential Conflicts & The ASEAN Code Of Conduct For The South China Sea

These two related and more specific initiatives, with the aim of preventing the South China Sea disputes from escalating into open conflict, have their roots in China's move physically into the Spratlys in the latter half of the 1980s which resulted in the Sino-Vietnamese clash of 1988. The basic objectives of these initiatives are to:

- Ensure the non-use of force.
- Promote mutual respect for the national sensitivities of opposing claims.
- Freeze further occupation/annexation of territory.
- Promote joint development/cooperation.

The thawing of the Cold War gave the PRC the opportunity to stake its claim to the Spratlys through physical occupation. Starting with aerial reconnaissance in the early 1980s, China followed up with maritime surveys and maritime scientific research. It established its first outpost in the Spratlys in 1987, with construction of the station on Fiery Cross commencing in 1988. Five other reefs were rapidly occupied after that around the Vietnamese-held area. This led to increasing tensions between the Chinese and Vietnamese. In February 1987,

Chinese and Vietnamese warships opened fire on each other. In March 1987, both sides lost a vessel each off Union Reef. The next year, in 1988, the Vietnamese lost three vessels and 74 men in a clash off Fiery Cross Reef (Joyner, 1998: 209). This led the Vietnamese to embark on another round of reef occupation, and the Philippines and Malaysia also occupied more positions in their claimed areas during this time. By 1989, it appeared that Sino-Vietnamese conflict was inevitable, and there were signs that China was preparing to take military action against Vietnam (Roberts, undated: 18).

The resulting tensions prompted Indonesia, with the backing of Canada, to embark on the South China Sea Workshops. This initiative, as alluded to earlier, had the objective of defusing tensions in the Spratlys and to focus not on the intractable issue of jurisdiction and sovereignty, but on cooperation in a variety of ocean sectors. China stayed away from the first workshop held in Bali. But things became more propitious for the South China Sea initiative after China's crackdown on pro-democracy demonstrators at *Tiananmen* in 1989. Domestic turmoil and the resulting international condemnation of China's crackdown against the democracy movement meant that the CCP could not afford to battle on both the domestic and international fronts. China needed international support, and it therefore decided to take part in the South China Sea workshops provided the question of sovereignty was excluded from the agenda.

The Chinese were present at the next workshop, but made it very clear that although it was prepared to consider any proposal for cooperation and that it would resolve the disputes by peaceful means, the Spratlys irrevocably belonged to China (Roberts, undated: 18). Significantly, the Chinese remain suspicious of Indonesia's motives in hosting the workshops. Many Chinese scholars do not view Indonesia as an "honest broker", but an interested party that has "annexed" 500,000 square kilometres of the South China Sea from China in a 1969 agreement with Malaysia that unilaterally divided the continental shelf between the two countries (Sheng, undated: 9). Some analysts have interpreted China's involvement in the South China Sea workshops as in line with its strategic culture based on the use of stratagems.

"...the Chinese had simply made a strategic 'withdrawal' in the face of international condemnation over the Tiananmen incident and were playing for time. In the prevailing circumstances, it is not surprising that they had attended the [South China Sea] seminar. They could manipulate the ASEAN centre of gravity that was forming by maintaining some influence over the discussions and preventing cohesion from developing between other claimants" (Roberts, undated: 18).

China's participation may or may not have been a stratagem. However, China eased its military pressure on Vietnam in the Spratlys partly because it wanted to improve its international post-Tiananmen image so as not to set back its "open door" policy of attracting foreign capital and investments. Chinese domestic interests therefore again had a direct bearing on its South China Sea policy.

Despite its conciliatory tone, China raised the suspicions of the other disputants when its National People's Congress passed the 1992 "Law on the Territorial Seas and their Contiguous Zone" which stated that claimed as "territorial land" the Xisha (Paracel) Islands and Nansha (Spratly) Islands (Herriman, 1997: 1). This was followed by Beijing granting the US firm, Crestone Energy Corporation, an oil exploration concession in an area disputed with Vietnam. It also occupied two more reefs that year (Amer, 1997: 89).

These Chinese moves alarmed ASEAN, which then issued in July 1992 the "ASEAN Declaration on the South China Sea" (the substance of which had been formulated at the Second South China Sea Workshop) (Townsend-Gault, 1998: 186). Signed by all six ASEAN foreign ministers, the declaration called on parties to resolve the disputes peacefully, to "exercise restraint" and to explore the possibility of cooperation in the South China Sea, without prejudice to their respective sovereignty claims. Significantly, it called on all disputants to apply the principles of ASEAN's Treaty of Amity and Cooperation as the basis of a code of international conduct over the South China Sea. This declaration was the prelude to the formal proposal for a regional code of conduct for the Spratlys.

These two initiatives, the South China Sea Workshops and proposed code of conduct, consciously took into account Chinese sensitivities and reservations with regard to their participation in international regimes and institutions. There is the explicit understanding that topics on which a "consensus cannot be reached, or approached" will be completely avoided at the South China Sea Workshops.²⁰ The Fifth Workshop held in Bukittinggi in 1994 developed further the idea of an ASEAN code of conduct for the South China Sea by discussing the topic of "non-expansion of military presence".²¹ This "non-expansion" or "freeze" proposal was however, opposed by several participants, including China. In any event, China has steadfastly refused to upgrade the workshops to a more formal level.

²⁰ "Brokering Cooperation in the South China Sea". [Http: faculty.lw.ubc.ca/scs/project.htm](http://faculty.lw.ubc.ca/scs/project.htm)

²¹ Meeting Summaries, [Http: faculty.lw.ubc.ca/scs/](http://faculty.lw.ubc.ca/scs/)

Following Mischief Reef, China agreed to develop codes of conduct for the Spratlys with Vietnam and the Philippines "to resolve the disputes peacefully". China however, rejected both the drafts by the Philippines and Vietnam at the 1999 ASEAN-China meeting in Manila. The apparent sticking points were the inclusion of the "freeze" clause on new occupation and the ban on the upgrading of existing facilities. China's own proposals, while stressing the importance of joint cooperation and peaceful resolution of the disputes, apparently remain silent on the "no new occupation" clause and the moratorium on upgrading existing facilities.

The eventual success of the South China Sea Workshops, and indeed of all the initiatives designed to engage China in multilateralism, is not assured. China remains suspicious of multilateral organisations, including those devoted to economics and the environment, and usually participate to avoid "loss of face" (Christensen, 1996: 38). Thus, as far as the proposed ASEAN Code of Conduct and the South China Sea Workshops are concerned, these initiatives were relatively successful so long as they accommodated Chinese interests. However, as the disagreement over the proposed Code of Conduct illustrates, China still wants the right, the autonomy, to occupy new features in the Spratlys. Ownership and occupation of the Spratlys thus remain China's primary interest and concern.

CONCLUSION

China is pivotal to any dispute resolution in the South China Sea. However, in pursuing its regional seas policy, China has more to contend with than just other regional actors do. As I have tried to argue, domestic considerations often inform much of China's foreign policy. It is this complex interplay between domestic forces and external factors, which makes it difficult to predict how China will behave in the future with regard to the South China Sea. In any event, the CCP is a constrained actor as the history of China's expansion into the South China Sea has shown. China obviously will not compromise on the issue of sovereignty until and unless its political culture changes. This will be difficult as the legitimacy of the CCP still rests on the mythology of sovereignty, territorial integrity and nationalism to restore China to its rightful place as a great power. This is reinforced by its own perceived vulnerability to "outside" interference in Xinjiang, Inner Mongolia and Tibet (Sheng, 1995: 119). Moreover, the CCP cannot participate in multilateral negotiations on the issue because this presumes acceptance of the *status quo* as the basis for negotiations (Joyner, 1998: 212). Even the Chinese use and interpretation of international law is unique. China is not only attempting to reinforce its historical claims with UNCLOS, but its *1992 Law on the Territorial Sea and Contiguous Zone of the People's Republic of*

China was a Chinese declaration that the South China Sea was the country's internal waters.²² This, in effect, was a challenge to international law, with China converting a disputed claim into national legislation (Odgaard, 1999: 15, 19).

As for the role of multilateral institutions, confidence-building and the establishment of cooperative regimes to resolve the disputes, ASEAN's initiatives have met with limited success thus far. Importantly, these initiatives have developed at a pace dictated by China, and they have succeeded only when they accommodated China's interests and took into account the latter's reservations over key issues, such as preventive diplomacy. One has to accept that for a China, which many analysts have labeled as ultra-realist, it has shown a good degree of flexibility in its foray into multilateralism. Nevertheless, the form of multilateralism that China will participate in will be confined to those regimes and institutions that include the preservation of state sovereignty and political and policy autonomy as their core interests, while at the same time allowing their members to gain from political and economic interaction with the world. Such a regime is offered by ASEAN and to a far lesser degree, the ARF. This is because China is convinced that the US and its neo-liberal, democratic allies are out to "capture" the ARF. Thus, an ASEAN-China regime (ASEAN with Chinese characteristics?) is far more to China's liking. In this sense, the ASEAN-China relationship is an unequal one. While China has stressed sovereignty and freedom of action, the ASEAN members have been restrained by the perceived need not to alienate China. This is certainly reflected in the regional institutions, which have had, their pace more or less set by China. The 1997 financial crisis and subsequent Chinese behaviour has reinforced the belief by certain ASEAN members that China is a significant and responsible regional

²² In July 1995, Chinese Foreign Minister Qian Qichen told ASEAN officials that China was prepared to use international law and the 1982 UNCLOS as a basis for negotiations. Subsequently, Qian also said that China's sovereignty over the Spratlys was indisputable and that its national laws asserting sovereignty over the "islands" would play a role in resolving the issue. This apparent *volte-face* could well reflect the Chinese paradox or "dual identity". The first is that it wants, and needs to, be a responsible international actor to promote regional stability essential for its domestic economic growth. Hence it needs to abide by international norms and rules. The second is that of the "weak and victimised developing nation", a victim of 100 years of national shame". The CCP is likely to continue promoting the latter image because of its continued reliance on nationalism to maintain its legitimacy. See Bessho, (1999: 31-32). Another view is that the territorial sea law was primarily meant for a domestic audience.

player, more in tune with Southeast Asia than the other powers. The event seemed to prove that ASEAN was on the right track in its attempts to integrate China into the international system, and to engage it in constructive partnership. Hence, it is unlikely that this "unequal relationship", which has been described as "massaging" or appeasing China, will change in the near future.²³

As for conflict-resolution in the Spratlys, time is on China's side, and time is not on China's side. Time is on China's side because Chinese leaders have traditionally a sense of history, which enables them to assess problems and solutions in generational terms. They are therefore prepared to wait for a decade, or two or three, until China's indisputable sovereignty over the South China Sea is internationally recognised. On the other hand, time is not on China's side because of growing economic interdependence and globalisation. This could erode China's autonomy and change the nationalistic values of the Chinese people. A Chinese people for whom imperial borders and lost territories mean little would be quite likely to negotiate with the other claimants to the Spratlys. Over-reliance on the US and West to fuel its economic growth, too, would mean that China would become increasingly vulnerable to trade-linked political pressure.

In addition, if a "freeze" on new occupation is agreed upon, China must seize this narrow window to occupy as many features in the Spratlys as possible. China occupies only 11 features. Since current literature on international law increasingly argue that occupation and administration gives the best title to claims in the Spratlys, possession is already 90 percent of the legal battle won. The evidentiary contest that Vietnam and China have been engaged in proves little except that Chinese and Vietnamese traders used the Spratlys, or that Chinese artifacts were common articles of trade.

For the moment, China's Spratlys policy cannot be delinked from its legitimization agenda based on nationalism and economic growth. China therefore faces a dilemma - how to assert its sovereignty claims without initiating "destructive effects" on its ties with ASEAN. In terms of conflict-reduction, all three ASEAN initiatives described above might, at best, result in a cooperative security regime that acknowledges the primacy of state interests, but which will also ensure that all its members have a shared and genuine interest in the preservation of peace and the non-use of violence, for the South China Sea.²⁴ In

²³ Attributed to former Singapore Foreign Minister Wong Kan Seng, quoted in Antolik (1994: 121).

²⁴ The term "cooperative security" here includes the notion of a gradualist approach to institutionalism, habits of dialogue, and the importance of state

short, the Spratlys disputes will not be solved in a hurry. Nationalism, however, might eventually lose its appeal as a legitimating instrument when the Chinese economy becomes stronger, and China uniformly prosperous. With a strong economy and equitable wealth distribution, it would be easier for the CCP, or any PRC government, to begin negotiations over the Spratlys. However, this implies that any eventual resolution of the Spratlys disputes would have to depend on developments in China's domestic political economy. In the meanwhile, the CCP will continue regarding the Spratlys as an inseparable part of the motherland, a notion "grounded in the Chinese identity" (Stenseth).

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interests in conflict-resolution. See Dewitt, (1995: 66-75).

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