



Investigating Confidence-Building Measures in the Asia–Pacific Region

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About the Project

The Henry L. Stimson Center has been working to promote confidence-building measures (CBMs) in regions of tension since 1991. Our CBM Project programming now focuses primarily on India, Pakistan, China, and Japan. We have also carried out workshops in Latin America and the Middle East and briefings for officials and visitors from these regions.

The Center's CBM programming has six main components:

- First, we hold a series of meetings on CBMs in Washington for diplomats and military attachés, media, executive and legislative officials, and representatives from nongovernmental organizations. These meetings provide an opportunity to discuss problem-solving ideas in a congenial setting.
- Second, we commission papers to stimulate thinking and problem-solving CBM approaches within regions of interest. We are interested in developing the theory as well as the practice of CBMs. Towards these ends we compare CBM experiences in different regions. We are also interested in collaborations across borders to encourage networking. We publish commissioned work as funding permits.
- Third, with local co-sponsorship, we convene workshops on CBMs within countries of interest, reaching key target audiences: government officials, military officers, journalists, academics, and researchers.
- Fourth, we host a Visiting Fellows program, whereby talented individuals from India, Pakistan, Japan, and China carry out research and writing on the theory and practice of CBMs at the Stimson Center.
- Fifth, we publish and distribute widely materials on CBMs. We also place our CBM publications and non-published work on the Stimson Center's website (www.stimson.org).
- Sixth, we moderate a cross-border internet dialogue, known as the Southern Asia Internet Forum, designed to generate open dialogue, and broaden the scope of discussion, among individuals working on security issues in the region.

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List of Abbreviations

APEC	Asia–Pacific Economic Cooperation
ARATS	Association for Relations Across the Taiwan Strait
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
CAR	Central Asian Republics
CBMs	Confidence-building measures
CSCAP	Council for Security Cooperation in the Asia Pacific
EEZ	Exclusive Economic Zone
JDA	Japan Defense Agency
LAC	Line of Actual Control
LDP	Liberal Democratic Party (Japan)
LOS	1982 Law of the Sea Convention
MSDF	Maritime Self-Defense Forces (Japan)
ODA	Official Development Assistance
OSCE	Organization for Security and Cooperation in Europe
PLA	People’s Liberation Army (China)
PRC	People’s Republic of China (China)
ROC	Republic of China (Taiwan)
ROK	Republic of Korea
SDF	Self-Defense Force (Japan)
SEF	Straits Exchange Foundation (Taiwan)
TMD	Theater Missile Defense

Introduction

Benjamin L. Self and Ranjeet K. Singh

The Henry L. Stimson Center has been supporting research and writing on the theory and practice of confidence-building measures (CBMs) since 1991. CBMs are diverse national security tools such as hotlines, people-to-people exchanges, prior notification of military exercises, and cross-border economic projects that can help defuse tension, resolve misunderstanding, and promote cooperation to address security concerns. The Stimson Center's Handbook of Confidence-Building Measures for Regional Security, now in its third edition, explores the origins of CBMs during the Cold War in Europe and their adaptation to various regions around the world. It includes an essay by Ralph Cossa, Pacific Forum-CSIS, on CBMs in the Asia-Pacific Region, focusing on region-wide CBMs under the auspices of the ASEAN Regional Forum (ARF) and the Council for Security Cooperation in the Asia Pacific (CSCAP).

In 1997, the Stimson Center published a collection of essays by Chinese specialists on arms control and regional security issues, entitled *Chinese Perspectives on Confidence-Building Measures*. This report further extended the Center's work on CBMs into East Asia. The present collection of essays, *Investigating Confidence-Building Measures in the Asia-Pacific Region*, provides detailed analysis of the role of CBMs in crucial regional security challenges and their use by key regional actors. The Stimson Center is particularly interested in the use of CBMs by China and Japan, and the relevance of CBMs to problems such as the South China Sea and relations across the Taiwan Strait.

Kenneth Allen's first essay in this publication, *China's Approach to Confidence-Building Measures*, looks at how the People's Republic of China (PRC) and the People's Liberation Army (PLA) have viewed, negotiated and implemented CBMs as part of their security relations with their neighbors. Included in the essay are comparisons of various ways China has used military CBMs in dealing with different countries in the past and how this has evolved over the past two decades. The Chinese foreign military relations program has undergone profound changes which have allowed them to increase their relations by leaps and bounds in the 1990's. As China's role and involvement continue to be at the forefront of security issues in the Asia-Pacific region as well as its relationship to the West, careful application of CBMs is of increasing importance.

The second essay, by Benjamin Self, reviews Japan's application of CBMs in multilateral, bilateral and unilateral contexts, and investigates the usefulness of a CBM-intensive approach to enhance Japanese security. The essay, *Confidence-Building Measures and Japanese Security Policy*, explores how the Japanese cultural and historical views of defense since World War II have hindered its use of CBMs and its ability to promote trust and security in the region. Japan's role in its relationship with the US has complicated this picture given the difficulty that goes along with professing to be peaceful yet being protected under the US nuclear umbrella. Use and promotion of CBMs have become essential ingredients in allowing Japan to overcome the barriers which have prevented it from becoming a major player in defense issues, and provide a basis for leadership in building confidence with its neighbors, especially with the rising and potentially revisionist China. With proposals being passed in the Diet on the Self Defense Force, the time is ripe for Japan to adopt a new approach. This essay provides recommendations for CBM use in Japan that will help move Japan into the 21st century.

The next two essays discuss the competing claims to territory in the South China Sea and the relationship between China and Taiwan. In *The Spratly Islands Dispute in the South China Sea: Problems, Policies and Prospects for Diplomatic Accommodation*, Christopher Joyner of the Georgetown University Law Center first describes the geographic and historical complexity of the Spratly Island dispute, the most significant of the various contested island groups. Placing the claims by each of the seven parties in the context of the United Nations Convention on the Law of the Sea, he then reviews the diplomatic and military aspects of the disputes. Against the backdrop of the energy, environmental, and economic factors that shape the claimants' interests in the potential resources of the South China Sea and their willingness to negotiate and compromise, Professor Joyner explores how CBMs and other forms of preventive diplomacy might help reduce tension and contribute to peaceful resolution of this complex issue.

The final essay, *Military Confidence-Building Measures Across the Taiwan Strait*, also by Kenneth Allen, is the most forward-looking, exploring how the increased use of military CBMs by mainland China opens up the possibility for military CBMs across the Taiwan Strait. While the short-term expectations for any such developments remain low, Allen lays out several specific steps that the two sides might take to reduce tension and prevent potentially disastrous mistakes once the political environment becomes conducive. Given the inevitable impact on outside actors of any change in the cross-Strait relationship, the ideas and proposals in this essay merit attention in the entire Asia-Pacific region.

This Stimson Center report, like its predecessors, is designed to prompt more analytical

work in the theory and practice of confidence-building. We hope this collection of essays will help improve understanding, generate reaction, and promote pragmatic steps toward the idealistic objective of an East Asia free of tension and conflict.

The authors would like to thank Belinda Jackson, Julie Sadoff and JoEllen Gorg for research assistance, Ranjeet Singh for invaluable contributions to both research and editing, as well as David Froman, for his diligent editorial support. Additional editorial and production assistance was provided by Elizabeth Crothers, Jane Dorsey, Leslie-Anne Levy, and Michael Newbill. We would also like to thank Caroline Earle for production assistance and making this publication available on our website at <http://www.stimson.org>.

The Henry L. Stimson Center would like to acknowledge the William and Flora Hewlett Foundation's generous support of its Project on Confidence-Building Measures in Regions of Tension. Our gratitude goes to Dr. Stephen Toben of the Hewlett Foundation, who provided the funds that enabled the Stimson Center to expand coverage to Japan and to produce this publication. The W. Alton Jones Foundation also contributed to the CBM Project, sponsoring the China-related research presented here. George Perkovich of the W. Alton Jones Foundation has long supported the Stimson Center's CBM programming in southern Asia.

China's Approach to Confidence-Building Measures

Kenneth W. Allen

During 1998, China continued to follow its independent foreign policy of peace, our unity and cooperation with the vast number of developing countries became even stronger, and our good-neighborly relations with neighboring countries continue to strengthen. We made new headway in promoting Sino-US, Sino-Russian, Sino-European, and Sino-Japanese relations. Showing a high sense of responsibility, China contributed positively to mitigating the Asian financial crisis. China also played a constructive part in handling other important international issues. We are determined to work hard with people of all countries in promoting the lofty cause for world peace and development.

President Jiang Zemin's 1999 New Year's Message¹

China presents numerous challenges, as well as opportunities, in the United States' regional security strategy. As a nuclear weapons state, a leading regional military power, and global player with a permanent seat on the UN Security Council, China plays a key role in Asia-Pacific security. The United States, and indeed the rest of the Asia-Pacific region, has a substantial interest in China's emergence as a stable, secure, open, prosperous and peaceful country. Prospects for peace and prosperity in Asia depend heavily upon China's role as a responsible member of the international community. Dialogue between the United States and China will remain critical to ensure that both countries have a clear appreciation of one another's regional security interests. Dialogue and exchanges can reduce misperceptions between our two countries, increase our understanding of Chinese security concerns, and build confidence between our two defense establishments to avoid military accidents and miscalculations.

United States Security Strategy for the East Asia-Pacific Region²

¹ Beijing Xinhua Domestic Service in Chinese 1228 GMT, 31 December 1998, Foreign Business Information Service (afterwards FBIS), (*FBIS-CHI-98-365*, 31 December 1998).

² US Department of Defense, Office of International Security Affairs. *The United States Security Strategy for the East Asia-Pacific Region: 1998*, November 1998, 30.

After “a century of humiliation,” China has re-emerged as an economic and military power in Asia. Traditionally, China’s role in Asia as “the Middle Kingdom” did not necessitate the need for confidence-building measures (CBMs). However, China’s unprecedented economic opening to the world in the early 1980s has drawn Beijing toward the selective use of CBMs.³ China’s

As the United States, China, and others in the region work to build that security architecture, the greatest challenges will be to manage the gap that still exists in strategic visions and to develop mutually acceptable approaches to security.

primary reason for employing CBMs is to satisfy its foreign policy objectives of “safeguarding China’s security and regional peace in order to enhance economic growth.”⁴ This is a vast change from the 1950s to the late 1970s, when China was a closed society, actively supported communist revolutions among its Asian neighbors, and mired in Cold War postures toward

the United States and the Soviet Union.

In July 1998, China issued its first white paper: *China’s National Defense*. The thirty-page document had been in development for over three years and follows China’s first-ever publication in November 1995 of a fifteen-page *White Paper on Arms Control and Disarmament*. The *National Defense* white paper’s release coincided with Foreign Minister Tang Jiaxuan’s attendance at the ASEAN Regional Forum (ARF) in Manila.

Three pages of the 1998 document are devoted to China’s participation in CBMs regionally and internationally. This document states that China places great stress on and actively promotes

³ Major sources for this article are the *White Paper on China’s Arms Control and Disarmament* (Beijing: Information Office of the State Council of the People’s Republic of China, November 1995) and *China’s National Defense*, (Beijing: Information Office of the State Council of the People’s Republic of China, July 1998). In addition, information was drawn from papers written by Liu Huaqiu, a senior fellow and director of the Program on Arms Control and Disarmament at the China Defense Science and Technology Information Center (CDSTIC), Feng Haixia, a People’s Liberation Army first lieutenant and assistant professor and researcher with the Academy of Military Science, and Xia Liping, a retired PLA colonel and deputy director of the Department of American Studies at the Shanghai Institute for International Studies (SIIS). These papers are part of Michael Krepon, ed. *Chinese Perspectives on Confidence-Building Measures*, (Washington, D.C.: The Henry L. Stimson Center, May 1997).

⁴ Liu Huaqiu (Vice Foreign Minister), “Ideologies That Shaped Foreign Policy,” *Qiushi*, no. 23 (1 December 1997), 2–9.

cooperation in CBMs, including regional security dialogue and cooperation at different levels, through various channels and in different forms. China's recent agreements with neighboring countries on CBMs and reduction of military forces in border areas reflect a new kind of security concept that embodies the following principles of significance for Asian–Pacific security dialogues and cooperation:⁵

- Participation on an equal footing;
- Reaching unanimity through consultation;
- Seeking common ground while reserving differences;
- Proceeding in an orderly, step by step way.

The United States welcomed the publication of *China's National Defense* white paper as a positive step towards greater openness. However, China's white paper and the US Department of Defense's *The United States Security Strategy for the East Asia–Pacific Region: 1998* (known as the EASR), which was published four months later in November 1998, reflect starkly different views about the sources of stability and instability in Asia. Whereas Beijing asserts the view that the enlargement of military blocs and the strengthening of military alliances have added “factors of instability” to international security, Washington states that this view runs counter to the prevailing recognition that US alliances in Asia have promoted stability. Furthermore, the Department of Defense states that China's economic modernization has benefitted from the constructive regional environment that US alliances in Asia have promoted. China has an important role in the evolving security architecture of the Asia–Pacific region and the development of multilateral institutions that complement the existing network of bilateral alliances. As the United States, China, and others in the region work to build that security architecture, the greatest challenges will be to manage the gap that still exists in strategic visions and to develop mutually acceptable approaches to security.⁶

The EASR further states that China's rise as a major power presents an array of potential challenges. Many of China's neighbors are closely monitoring China's growing defense expenditures and the modernization of the People's Liberation Army (PLA), including development and acquisition of advanced fighter aircraft; programs to develop mobile ballistic missile systems,

⁵ *China's National Defense*, 1998.

⁶ U.S. Department of Defense, Office of International Security Affairs. *The United States Security Strategy for the East Asia–Pacific Region: 1998*, November 1998. This is also known as the EASR.

land-attack and anti-ship cruise missiles, and advanced surface-to-air missiles; and a range of power projection platforms. Given international and regional focus on its growing military power, China's adherence to multilateral nonproliferation and arms control regimes, and increased military transparency are of growing importance. Dialogue and exchanges can reduce misperceptions between countries, increase our understanding of Chinese security concerns, and build confidence between defense establishments to avoid military accidents and miscalculations.

Before China released its 1998 white paper, there were few references to the term "Confidence-Building Measures" in official Chinese writings and high-level speeches.⁷ However, by analyzing China's actions toward its neighbors, it is possible to discern several general categories of CBMs that have been employed to achieve foreign policy objectives. These categories and various examples are listed below:

- Declaratory measures, including nuclear-related statements such as: no first use, nuclear detargeting, and calls for nuclear free zones;
- Arms control and disarmament measures, including agreements to accept on-site inspections;
- Transparency measures, including the publication of white papers on defense and arms control and disarmament;
- Diplomatic measures, including high-level visits by political leaders;
- Measures to improve military-to-military relations, including military exchanges and conferences;
- Measures to insure maritime safety, including maritime safety agreements and discussions about joint search and rescue exercises;
- Measures to improve border security and settle territorial disputes, including border demarcation agreements and troop reductions;
- Communication measures, including the establishment of hotlines between capitals and between military forces along borders;
- Peacekeeping measures, including involvement in United Nations peacekeeping missions.

China's clear preference is to employ bilateral CBMs, but Beijing has begun to adopt multilateral CBMs, as well. There has been marked progress in China's acceptance of CBMs during the 1990s compared to the 1980s. The most successful measures implemented to date include border security agreements and troop withdrawals along China's border with Russia, neighboring

⁷ Of note, whereas Foreign Minister Qian Qichen's speech at the 1995 ARF meeting referred to CBMs several times, Foreign Minister Tang Jiaxuan's speech to the July 1998 ARF ministerial meeting did not mention CBMs at all.

Central Asian states, and India; hotlines have also been established between capitals and along sectors of disputed borders for use by sector commanders. China has also embarked on a very ambitious use of protocol visits as CBMs to further its foreign policy objectives, including high-level diplomatic visits and military exchanges at all levels. Although Beijing has stressed its positive efforts, other countries in the region believe that China has made only limited progress in arms control and transparency measures.

Contemporary CBMs grew out of the NATO–Warsaw Pact Cold War confrontation, but the European CBM experience is not easily or directly transferable to China due to cultural and historical differences. During the 1990s, however, Beijing has been able to selectively employ various CBMs to help reduce tensions, to facilitate remarkable economic progress, and, in turn, to provide a stable domestic political environment. In cases where Beijing sees clear advantages for China, such as agreements with Russia and Central Asia on border demarcations and subsequent troop reductions, Beijing has placed great importance on the use of CBMs. In other cases where Beijing does not see clear advantages for China, such as outstanding issues with Japan, China has been reluctant to pursue CBMs.

While China has made headway in utilizing CBMs, Beijing still has several long-standing territorial disputes with India, Japan, and some ASEAN countries, as well as unresolved issues of sovereignty and reunification with Taiwan. China's neighbors are concerned that China is becoming more nationalistic and that its growing economic and military power could be used for coercive purposes. They are also concerned that miscalculations on either side of the Taiwan Strait could lead to war, adversely affecting the entire region. By embracing or resisting CBMs in the future, Beijing can help alleviate or affirm lingering suspicions of its future course in the region.

THE EVOLUTION OF CHINA'S CBMs

China utilized public declarations to ease security concerns after its initial nuclear detonation in 1964. Beijing unilaterally declared that “at no time and in no circumstances will China be the first to use nuclear weapons.”⁸ China has also been a proponent of nuclear weapon free zones, has advocated that nuclear weapon states commit themselves not to use nuclear

⁸ Ralph N. Clough, A. Doak Barnett, Morton H. Halperin, and Jerome H. Kahan. *The United States, China, and Arms Control*, (Washington, D.C.: Brookings Institution, 1975), 64, 71, 91.

weapons against non-nuclear weapons states and within nuclear weapon free zones, and has proposed that the five nuclear states agree to a policy of no-first-use of nuclear weapons. During the decade following the signing of the 1975 Helsinki Final Act, China did not embrace the concept of CBMs and continued to attach little importance to international arms control negotiations and theories. During this period, China had a negative attitude towards the Conference on Security and Cooperation in Europe, asserting that it reflected a policy of appeasement taken by Western countries towards the hegemony of the Soviet Union.

It was not until China's economic opening to the West in the early 1980s and China's 1985 reassessment of its strategic defense policy that Beijing began to take notice of existing CBM concepts. In 1985, the Chinese Communist Party's Central Military Commission (CMC) radically revised China's strategic defense policy by directing the armed forces to change from preparation for an "early, major, and nuclear war" to preparing for "local limited wars around China's borders, including its maritime territories and claims." Following the Gulf War, this was amended to "fight local wars under modern, high technology conditions."⁹ As a result of the economic opening and the strategic reassessment, Chinese leaders began to view the use of CBMs primarily as tools to maintain a peaceful regional environment beneficial to economic development. Therefore, over the next few years, Beijing began to look more favorably at using CBMs to reduce tensions along its borders. Even though the Chinese government has gradually accepted CBMs as a means of safeguarding China's security and regional peace, many question whether Beijing's approach is substantive or merely symbolic.

Chinese writings and high-level speeches for domestic audiences appear to use the concepts of confidence-building, but do not use the actual term; however, writings such as the 1998 defense white paper, and speeches for foreign audiences, have increasingly used the term "confidence-building measures." For example, at the Second Ministerial Meeting of the ASEAN Regional Forum (ARF) in August 1995, Chinese Foreign Minister Qian Qichen outlined several principles of the Chinese government's policy regarding CBMs. He stated:

⁹ For a detailed analysis of this revised national military strategy, see Nan Li, "The PLA's Evolving War Fighting Doctrine, Strategy, and Tactics, 1985-95: A Chinese View;" and Paul H.B. Godwin, "From Continent to Periphery: PLA Doctrine, Strategy, and Capabilities Toward 2000," in *China's Military in Transition* David S. Shambaugh and Richard H. Yang, eds. (Oxford: Clarendon Press, 1997), 284-312. See also James Harris, et. al., "Chinese Defense Policy and Military Strategy in the 1990s," *China's Economic Dilemmas in the 1990s: The Problems of Reforms, Modernization, and Interdependence* (Washington, D.C.: Joint Economic Committee, Congress of the United States, April 1991), 648-649.

Some pragmatic and feasible CBMs should be established step-by-step. Regional security cooperation should be developed according to the spirit of doing easier things first, then taking on more difficult issues, while seeking common ground and setting differences aside for the time-being. In the future, Asian–Pacific countries can discuss the principles, contents, extent, and ways of security cooperation and consult among themselves, and carry out some concrete cooperative projects.¹⁰

Chinese government officials have placed great emphasis on high-level diplomatic visits around the globe, a robust military exchange program, and the establishment of hotlines, border demarcation negotiations, prior notification and restriction of military maneuvers and troop movements along borders. In 1994, China even accepted on-site inspections when it signed the Chemical Weapons Convention (CWC).

Chinese leaders clearly have perceived benefits from these measures—or penalties for not carrying them out. For example, China was clearly uneasy with the CWC’s transparency measures, but these concerns were outweighed by the diplomatic costs of not joining the Convention. One of the primary goals of China’s military exchange program is to gain access to foreign defense equipment and technology, particularly with the United States, Russia, France, and Italy. While China sees access to foreign technology as a positive outcome of CBMs, other countries in Asia are uneasy about China’s growing economic and military power and the use of CBMs to enhance China’s position.¹¹

OBSTACLES TO IMPLEMENTING ARMS CONTROL AND DISARMAMENT CBMs

There are several reasons why research on arms control in China has lagged far behind that of the West. Other than a small arms control policy office in the Ministry of Foreign Affairs, China does not have a professional institution devoted to research on arms control. Less than 100 people dispersed among many institutions conduct research on arms control, and most of them do it only on a part time basis. According to Ambassador Sha Zukang, Director-General of China’s Department of Arms Control and Disarmament in the Ministry of Foreign Affairs, his office has

¹⁰ Xia Liping, “The Evolution of Chinese Views Toward CBMs,” *Chinese Perspectives on Confidence-Building Measures*, 17–18.

¹¹ David B.H. Denoon and Wendy Frieman, “China’s Security Strategy: The View from Beijing, ASEAN, and Washington,” *Asian Survey* (April 1996).

less than thirty staff members, most of whom are very young and have little practical experience in arms control.¹²

Due to the paucity of research and small staffs, China has in the past been unable to respond quickly to international proposals for arms control and sometimes finds it difficult to work out practical and concrete steps for its own proposals.¹³ While Chinese researchers, both inside and outside official government channels, have access to foreign literature on arms control, the bureaucratic and secrecy barriers and competing interests that exist within and among institutions in China make it difficult to do research on Chinese nuclear weapons development, deployment, and strategy. In addition, researchers must have enough seniority and clout to have their views heard at higher levels. These constraints appear to be easing, however, as China is placing greater emphasis on developing expertise on arms control.

NUCLEAR EXPORTS AND ARMS CONTROL CBMs

Soon after China successfully tested its first atomic bomb in October 1964, the PRC declared that it would not be the first to use its nuclear weapons, at any time, or under any circumstances. With the end of the Cold War, China has renewed its diplomatic offensive of securing no-first-use pledges by nuclear weapon states. China's affinity for "declaratory" CBMs is most evident in the nuclear field, where Beijing supports:

- An international convention on unconditional no-first-use of nuclear weapons and on the non-use and non-threat-of-use of nuclear weapons against non-nuclear states and in nuclear-free zones;
- The establishment of nuclear-free zones;
- Negotiations at an early date on a treaty to prohibit the production of nuclear fissile materials used for weapons;
- The thorough destruction of all nuclear weapons and negotiations to sign a treaty on the comprehensive prohibition of nuclear weapons, to be implemented under effective international supervision.

¹² Ambassador Sha Zukang. Interview with author. Henry L. Stimson Center, Washington, D.C. January 1999.

¹³ Liu Huaqiu and Zheng Hua, "Confidence-Building Measures in Asia," *Chinese Perspectives on Confidence-Building Measures*, 4.

According to Ambassador Sha Zukang, China's view is that:

During the Cold War period, there was absolutely no arms control or disarmament to speak of, and the two superpowers and two big military blocs engaged in confrontation and an arms race. China did not become engaged in arms control until 1985, when arms control 'started in earnest.'¹⁴

China's declaratory and historical approach to nuclear CBMs was apparent in the Sino-Russian "Joint Declaration on the Basis of Mutual Relations" signed in December 1992, and the Sino-Kazakhstan "Joint Declaration on the Basis of the Friendly Relations," signed in October 1993. In September 1994, China and Russia pledged not to use nuclear weapons against one another and not to target each other with nuclear weapons. A similar agreement not to target each other with nuclear weapons was signed between China and the United States in June 1998.

TRANSPARENCY MEASURES

China lags far behind other Asia-Pacific countries in accepting military transparency. Japan has published its *Defense of Japan* white paper annually for over two decades, South Korea began publishing their annual *Defense White Paper* in 1988, Taiwan has published its *National Defense Report* every two years since 1992, and Mongolia issued its first *Defense White Paper* in 1997.¹⁵ As tensions mounted in the Taiwan Strait, Beijing issued its first *White Paper on Arms Control and Disarmament* in November 1995. The twenty-page paper, released while negotiating the end game of the Comprehensive Test Ban Treaty at a time when China was conducting nuclear tests, attempted to defuse concerns about a "China threat" and accusations that Beijing was supplying weapons of mass destruction to friendly neighbors.

As discussed previously, Beijing published its first defense white paper in July 1998, proposing a two-part strategy based on international security cooperation via the United Nations

¹⁴ "Sha Zukang: Global Arms Control and China's Mission—Exclusive Interview with Director of Foreign Ministry's Arms Control Department," *Wen Wei Po* (Hong Kong), 17 November 1998.

¹⁵ According to PLA officers involved in writing portions of the 1998 *Defense White Paper*, they first obtained copies of every white paper published in Asia. The papers ranged from very detailed (Japan) to very general (Thailand). After reviewing them, they decided that China would not use the "weak country" model and not include as much material as countries like Japan.

Security Council and on promoting mutual understanding through military exchanges. This report

Chinese military, political, and non-government officials view the US willingness to be transparent as part of Washington's military deterrence policy and as a means of advertising military strength.

emphasized that the buildup of China's national defense capabilities was secondary to the country's economic advancement. It also maintained that China opposed the use of force to settle conflicts and disputes and adhered to the pursuit of peaceful solutions between disputing countries through dialogue and consultation. However,

the report stated that China "will not commit itself not to resort to force" to reunify Taiwan with the mainland. Both white papers received favorable comment within the region for attempting transparency, but were criticized for grossly underestimating China's defense budget and for lack of detail on arms purchases.¹⁶

In a November 1997 speech at the 52nd UN General Assembly, Ambassador Sha Zukang said that no country can achieve absolute military transparency and the demand for "transparency" should be determined by specific situations. Under current international conditions, it is impossible for any country to agree to and achieve absolute armament transparency or transparency in matters relating to armament. Further, "achieving transparency for the sake of transparency" is out of the question. As countries have different political, military, and security environments, a similar degree of transparency will bring about different effects in different countries. To some military powers and member nations of military groups, some degree of transparency will help to enhance mutual trust, even to the extent of displaying their military strength and promoting interests in their military trade. However, to other countries, it may jeopardize their national security. Therefore, it is unrealistic and doomed to failure to ask for an abstract, universal formulation of measures on military transparency which is suitable for all countries. It is possible to formulate feasible measures only within the framework of specific,

¹⁶ "China Issues First White Paper on Defense," *Kyodo News Service*, 27 July 1998; Charles Hutzler, "China Issues Threat Against Taiwan," *Associated Press*, 27 July 1998; "Armed Forces Spending Rises but PLA cutbacks 'On Track,'" *South China Morning Post*, 28 July 1998; *China's National Defense*, 1998, cites China's 1997 defense budget as 81.25 billion yuan (USD10 billion), but outside estimates vary from four to ten times this figure.

negotiated treaties on arms control and disarmament, in accordance with the unique natures, characteristics, and needs of the different treaties and their parties.¹⁷

Overall, Chinese military, political, and non-government officials view the US willingness to be transparent as part of Washington's military deterrence policy and as a means of advertising military strength. Chinese authorities believe that military transparency will only reveal China's weakness, not its strength. Thus, the

Dialogue and exchanges can reduce misperceptions between countries, increase our understanding of Chinese security concerns, and build confidence between defense establishments to avoid military accidents and miscalculations.

lack of transparency, in China's view, serves as a deterrent in itself. However, over the past two decades, China has rapidly expanded its military exchange programs with countries around the world as a means of providing some transparency and as a means of gaining a first-hand understanding of foreign military doctrine and strategy.

MILITARY EXCHANGE PROGRAMS AS CBMs

From the 1950s through the 1970s, China limited its military cooperation almost entirely to communist nations and insurgent movements in Asia and African nations. Chinese military assistance to Third World countries arose from attempts to extend Chinese influence and counteract Soviet and US influence. During the 1970s, China became increasingly anti-Soviet, developing close military ties and providing considerable military assistance to Pakistan, Bangladesh, and Sri Lanka in South Asia; Egypt in the Middle East; and Tanzania, Sudan, Somalia, Zaire, and Zambia in Africa.

A major change in foreign military cooperation occurred when China began developing military contacts with West European nations and the United States in the late 1970s. This change reflected China's desire to counter Soviet influence, as well as to develop relations with modern armed forces. Equally important, China needed advanced equipment and technology, along with organizational, training, personnel, logistics, and doctrinal concepts for modernizing the PLA.

¹⁷ Beijing Xinhua Domestic Service in Chinese, 0228 GMT, 15 November 1997 (*FBIS-CHI-97-327*, 23 November 1997).

Chinese military assistance to communist insurgents, especially in Asia, tapered off. Nevertheless, China continued to provide weapons to the Khmer Rouge and to noncommunist Cambodian resistance groups, while developing close relations with Thailand. Traditional friends continued to have close military ties with China and to purchase Chinese military equipment under generous terms.

Military ties, including high level delegations, ship visits, arms sales, and functional exchanges, expanded rapidly as a result of China's opening to the outside world in the early 1980s. As part of Beijing's foreign military relations program, the PLA has established relations with over 100 countries, opened 100 military attaché offices abroad, and sixty-five countries have military attaché offices in China—a thirty-five percent increase since 1989. During the 1990s, the PLA has more than doubled the number of two-way visits compared to the 1980s. The PLA has sent over 1,200 delegations to more than eighty countries, and has received more than 1,900 delegations, at least 1,100 of which were led by defense ministers, commanders-in-chief or chiefs of the general staff. In the professional and technical field, the PLA has sent over 800 study and research delegations abroad involving more than 20,000 people. They invited nearly 1,000 foreign specialists and scholars to China in 1996 alone. One of the most visible increases has been visits of Chinese naval ships abroad. Whereas China sent only one sea-borne delegation abroad in the 1980s (to Pakistan, Bangladesh, and Sri Lanka in 1985), the PLA Navy has sent ships to visit more than twenty countries, including the United States and Latin America, during the 1990s. In addition, China hosted port calls from over thirty-five foreign warships during the 1980s and hosted port calls from seventeen countries in the 1990s.¹⁸

HIGH-LEVEL VISITS AND BORDER TALKS PROMOTE CBMs

Breakthroughs in establishing CBMs have come most often as a result of high-level visits to or from China by heads-of-state or ministers responsible for foreign affairs and defense. The best examples of high-level diplomacy resulting in CBMs have been with the United States, Russia, Japan, India, and the ASEAN states. These discussions have resulted in programs for military exchanges and various border agreements.

¹⁸ Beijing Xinhua in English, 0144 GMT, 12 December 1998 (*FBIS-CHI-98-346*, 13 December 1998).

China–US Relations

President Richard Nixon’s unprecedented visit to China in 1972 helped pave the way for President Jimmy Carter’s eventual diplomatic recognition of the PRC in January 1979. Since Nixon’s visit, there have only been four other presidential visits to China—Gerald Ford (1975), Ronald Reagan (1984), George Bush (overnight stay in 1989 en route to Japanese Emperor Hirohito’s funeral), and Bill Clinton (1998). On the Chinese side, several senior leaders have visited the United States—Vice Premier Deng Xiaoping (1979), Premier Zhao Ziyang (1984), President Li Xiannian (1985), President Jiang Zemin (1997), and Premier Zhu Rongji (1999). In addition, Presidents Clinton and Jiang Zemin have had discussions at three Asia–Pacific Economic Cooperation (APEC) meetings—Seattle (1993), Manila (1996), and Vancouver (1997).

The foundation for the formal US–China military-to-military relationship began in January 1979, when the United States established diplomatic relations with the PRC and opened its Defense Attaché Office in the new American Embassy in Beijing.¹⁹ This was quickly followed by a visit to China by Secretary of Defense Harold Brown in January 1980 and a reciprocal visit to the United States later that year by China’s Minister of Defense Geng Biao.

After four years of work to develop CBMs for the new relationship, Secretary of Defense Caspar Weinberger visited China in 1983, where he announced establishment of the “three pillars” of the relationship. These pillars included high-level visits, bilateral functional exchanges, and technology cooperation (four US foreign military sales (FMS) contracts were implemented with China at that time). Although the relationship was not always smooth, several significant visits and events took place prior to the June 1989 Tiananmen incident.

Immediately following the tragic events in Tiananmen Square, President George Bush ordered the Department of Defense to suspend all military cooperation with China. In addition, several events, including disagreements over China’s policies on human rights, intellectual property rights, and proliferation of nuclear and missile technology, plus the fight on Capitol Hill over China’s Most Favored Nation trading status, created friction between the United States and China. Although some exceptions were made on a case-by-case basis for interaction between US Department of Defense and PLA officials to discuss the Gulf War, disposition of the four FMS cases, and satellite launches, there was virtually no formal contact until May 1991, when the US National Defense University resumed its annual field trip to China. Even then, there was concern

¹⁹ The US established a Liaison Office in Beijing following President Nixon’s 1971 visit to China.

on both sides about re-establishing military ties following the sudden collapse of the Soviet Union and the subsequent rapprochement between China and Russia, which opened the door for China to purchase Russian military equipment and technology.

The pace of US–China interaction accelerated rapidly in 1993 with several exchange visits. In October 1995 Assistant Secretary of Defense Joseph Nye laid out the revised “pillars” of the relationship during testimony before Congress. These included high-level visits, functional exchanges (working level professional exchanges), routine military activities and confidence-building measures (ship visits and defense transparency talks), and participation in multinational security fora.²⁰

According to the US Department of Defense’s EASR, the United States and China have continued to make progress in establishing institutional frameworks for communication and mutual understanding. The United States has undertaken this approach on a step-by-step basis to avoid false expectations and to build on actual achievements. The establishment of a direct Presidential communications link (hotline) in May 1998 provides an important conduit for consultation on global, regional, and bilateral issues. The Military Maritime Consultation Agreement of January 1998 is designed to establish a process for dialogue between the two militaries that will enhance understanding and trust as the maritime and air forces operate in close proximity to one another. The Department of Defense has also begun to conduct regular high-level strategic dialogue through annual Defense Consultative Talks, which were initiated in December 1997. The two militaries have exchanged port visits and begun exchanges on humanitarian assistance and disaster relief. The United States has conducted reciprocal senior defense and military visits and continued defense academic exchanges through the respective National Defense Universities.²¹ In addition, President Bill Clinton’s visit to China in June 1998 led to a missile non-targeting agreement and in July–August 1998, two PLA Navy officers became the first Chinese participants to observe the multinational Rim of the Pacific (RIMPAC) ‘98 naval exercises near Hawaii.²²

²⁰ Joseph Nye, Assistant Secretary of Defense for International Security Affairs. Testimony before the Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs, 11 October 1995.

²¹ US Department of Defense, Office of International Security Affairs. *The United States Security Strategy for the East Asia–Pacific Region: 1998*, November 1998.

²² RIMPAC is a multinational, biennial naval exercise that has been held since 1971 during the summer months in the vicinity of Hawaii. Participants in RIMPAC ‘98 involved forty-one ships, seven submarines, 250 aircraft, and over 30,000 personnel from the United States, Australia, Republic of Korea, Canada, and Chile. There were also eight observers, including China, Ecuador, Indonesia, Mexico, Peru, Russia, Singapore, and Thailand.

China–Russia Relations

China's relationship with the Soviet Union was forged in historical distrust and disagreements between the two communist giants. In July 1986, Soviet President Mikhail Gorbachev opened the door to better relations with a speech at Vladivostok, saying the Soviet Union was prepared to enter into discussion with China "at any time and at any level" on the border dispute and on troop reductions along the border. During Gorbachev's visit to China in May 1989, he unilaterally announced a series of cutbacks in Soviet troop deployments near the Chinese border, which led to a series of talks on the mutual reduction of forces and negotiations on boundary disputes. Following a 1990 visit by China's Vice Chairman of the Central Military Commission, General Liu Huaqing, exchange visits of military officials began in earnest and the two sides began to discuss billions of dollars worth of Russian arms sales to China. In 1994, President Jiang Zemin visited Russia and signed a joint declaration with President Boris Yeltsin, including an agreement on detargeting missiles.

In April 1996, the Presidents of China, Russia, Kazakhstan, Kyrgyzstan, and Tajikistan signed the "Agreement on Confidence-Building in the Military Field in the Border Area," which called for mutual non-use of force and renunciation of military superiority. It encouraged information-exchange on agreed components of military forces and border guard troops, restriction in the scale, geographic limits and the number of troop exercises, and notification of large-scale military activities. The parties were encouraged to invite observers to troop exercises on a mutual basis and to strengthen friendly contact between servicemen. In addition, the presidents signed a series of separate agreements to increase economic, trade, scientific, technological, and cultural exchanges.

China–India Relations

China's relations with India continue to be shadowed by their border war of 1962. During February 1979, India's Foreign Minister (and later Prime Minister) Atal Bihari Vajpayee visited Beijing, but the visit was marred by China's incursion into Vietnam. However, in June 1981, China's Foreign Minister Huang Hua visited India, which led to eight rounds of border talks that took place between 1981–1988. In December 1988, Prime Minister Rajiv Gandhi visited China,

which led to the creation in 1989 of a Joint Working Group to discuss border issues. In July 1992,

As 1999 began, tense relations between China and India appeared to be easing. The messages of congratulations China sent on the occasion of India's Republic Day are notable for their positive tone, and for the desire to work for the promotion of "healthy and smooth development" of relations.

the first visit by an Indian Defense Minister, Sharad Pawar, took place and led to a 1993 agreement in principle to settle the border dispute, to reduce forces and armaments, to improve mutual relations over the long term, and not to use their armed forces against each other.

In November 1996, during the first visit by China's head-of-state to India, President Jiang Zemin and Indian

President Shankar Dayal Sharma signed four agreements: The agreement on CBMs in the Military Field Along the Line of Actual Control (LAC) in India–China border areas; an agreement concerning the maintenance of the Consulate General of India in the Hong Kong Special Administrative Region of the PRC as of July 1997; an agreement on cooperation for combating illicit trafficking in narcotic drugs and psychotropic substances and other crimes; and an agreement on maritime transport.²³

In the November 1996 CBM agreement, each side pledged not to attack each other or cross the LAC, and to reduce troops and armaments along the common border. The twelve-article, ten-page agreement stipulated that “neither side shall use its military capability against the other side.” It also said that “no armed forces deployed by either side in the border areas along the LAC as part of their respective military strength shall be used to attack the other side or engage in military activities that threaten the other side or undermine peace, tranquility and stability in the India–China border areas.” Pending an ultimate solution of the boundary question, the two sides reaffirmed their commitment to strictly respect and observe the LAC. They also agreed to avoid holding large-scale military exercises involving more than one division (15,000 troops) in close proximity of the LAC and to refrain from flying combat aircraft within ten kilometers of the LAC.

²³ Bangalore *Deccan Herald* in English, Daily Report, 30 November 1996 (FBIS-NES-96-232, 30 November 1996). Madras *The Hindu* in English, Daily Report, 30 November 1996 (FBIS-NES-96-232, 30 November 1996).

India and China agreed to speed up the process of clarification and confirmation of the LAC and to clarify the alignment in the segments where perceptions differ. They also agreed to exchange maps indicating their respective perceptions of the entire alignment of the LAC. Scheduled meetings between border commanders at designated points, telecommunication links between border meeting points, and medium and high-level contacts between border authorities were to be expanded beyond those agreed upon in 1993.

Another major decision reflected in the 1996 CBM agreement was the reduction of field army, border defense forces, and paramilitary forces to ceilings to be mutually agreed upon. It was also decided that no military aircraft of either side should fly across the LAC without prior permission. However, unarmed transport aircraft, survey aircraft, and helicopters are permitted to fly up to the LAC. The agreement also envisaged that India and China would exchange data on the military forces and armaments to be reduced or limited, and on their ceilings.

The two countries also outlined steps to prevent dangerous military activities along the LAC. They would not open fire, use hazardous chemicals, conduct blast operations or hunt with guns or explosives within two kilometers of the line. This prohibition would not apply to routine firing activities in small-arms firing ranges. If the border personnel of the two sides were to find themselves in a face-to-face situation because of differences in the alignment of the LAC or for any other reason, they were to exercise self-restraint and take all necessary steps to avoid an escalation of the situation. The Sino-Indian agreement remains valid until either side decides to terminate it after giving six months notice in writing.

In May 1998, China's Chief of the General Staff, General Fu Quanyou, became the highest military officer to visit India. The Government of India detonated nuclear devices immediately following his departure. By initially justifying its detonations because of a "China threat," New Delhi's relations with Beijing were again set back.

As 1999 began, tense relations between China and India appeared to be easing. According to *The Hindu*, the messages of congratulations China sent on the occasion of India's Republic Day are notable for their positive tone, and for the desire to work for the promotion of "healthy and smooth development" of relations. In his message to India's President K. R. Narayanan, Chinese President Jiang Zemin said, "As the two most populous developing countries in the world with long histories and ancient civilizations, China and India should treat each other with sincerity, strengthen the understanding and cooperation between the two countries, and seek common

development. These are the wishes shared by our two peoples and are in conformity with the fundamental interests of our two countries. I'm ready to work with you to promote the healthy and smooth development of the Sino-Indian relations so as to benefit our two peoples."²⁴

China-Japan Relations

China's strained relations with Japan are based on ancient ethnic antagonisms and territorial disagreements, but are especially grounded in Japan's occupation of China from 1931-1945.²⁵ China is not pleased with the description in Japanese textbooks of the Nanjing incident of 1937, the actions of Japanese nationalists in the Senkaku/Diaoyutai islands, or the official visits of some Japanese Prime Ministers and cabinet ministers to the Yasukuni Shrine which honors, among others, World War II war criminals.²⁶

The Senkaku/Diaoyutai Islands, located just north of Taiwan, are claimed by Japan, China, and Taiwan. Japan resumed control of the uninhabited islands in 1972 when the United States, which administered them after World War II, returned them to Japan, along with other islands adjacent to Okinawa. Nationalist groups periodically attempt to visit the islands, fueling tensions in the region. The area surrounding the islands is rich in fish and perhaps other natural resources such as oil and gas. The Japanese and Chinese governments have briefly discussed the territorial dispute, but CBMs to help resolve this issue remain elusive.

Most of the major diplomatic initiatives between the two countries have been trade-related. Immediately following President Nixon's visit to China in 1972, Japan established diplomatic relations with the PRC. Chinese high-level visits to Japan began in 1978, when Vice Premier Deng Xiaoping visited Tokyo for the signing of the Sino-Japanese Treaty of Peace and

²⁴ K.K. Katyal, "China calls for promoting ties," *The Hindu*, 26 January 1999.

²⁵ Japan, having emerged from its seclusion and having gone through its own modernization movement, defeated China in the war of 1894-95. The Treaty of Shimonoseki forced China to cede Taiwan to Japan, pay a huge indemnity, permit the establishment of Japanese industries in four treaty ports, and recognize Japanese hegemony over Korea.

²⁶ The Yasukuni Shrine, which symbolized militarism and state-sponsored Shintoism before and during World War II, enshrines some 2.4 million Japanese military personnel and officials, including seven hanged World War II war criminals, who have died since 1853 in Japan's various wars. Two serving Prime Ministers—Yasuhiro Nakasone in 1985 and Ryutaro Hashimoto in 1996—and numerous cabinet ministers have paid official visits to the shrine. See "Hashimoto makes controversial visit to war dead shrine," *Kyodo*, FBIS Daily Report, 29 July 1996. "Cabinet Ministers Visit Yasukuni Shrine," *Kyodo*, FBIS Daily Report, 15 August 1998.

Friendship. Later visitors included Premier Hua Guofeng (1980), Communist Party Secretary-General Hu Yaobang (1983), and Premier Li Peng (1989 and 1997). Jiang Zemin himself visited as Party Secretary-General in 1992 and attended the APEC summit in Osaka in 1995. On the Japanese side, in 1972 Tanaka Kakuei became the first of seven Prime Ministers to visit China—Nakasone Yasuhiro (1984 and 1986), Takeshita Noboru (1988), Kaifu Toshiki (1991), Hosokawa Morihiro (1994), Murayama Tomiichi (1995), and Hashimoto Ryutaro (1997). In 1992, Emperor Akihito became the first Japanese head-of-state to visit China. In November 1998, President Jiang Zemin became China's first head-of-state to pay an official state visit Japan when he arrived in Tokyo from Moscow for a five-day summit with Japanese Prime Minister Obuchi Keizo. The summit focused on several security issues of principal concern to the Chinese, including Japan's treatment of history, relations between Japan and Taiwan, and the possibility of Japanese military support for US actions in defense of Taiwan.

During this time frame, there were also several exchange visits of high-ranking military officers from China and Japan, visits by non-official groups of high-ranking retired Japanese Defense Agency (JDA) officers (some acting as consultants for defense industries), and exchanges of students and instructors between various Japanese and Chinese military academies. In 1984, China's Defense Minister Zhang Aiping paid an unofficial visit to Japan. Although China's Chief of the General Staff Yang Dezhi visited Japan in 1986 and the Director of the JDA first visited China in 1987, the military-to-military relationship did not receive a boost until Prime Minister Ryutaro Hashimoto visited China in September 1997. During his visit, Chinese officials expressed their strong displeasure with the 1997 Review of the 1978 US–Japan Defense Cooperation Guidelines, especially as they might pertain to military contingencies surrounding Taiwan. However, Hashimoto's visit led to an agreement to expand the dialogue on security issues and the first official visit by a Chinese defense minister (General Chi Haotian) in February 1998. In May 1998, Japanese Defense Agency Director General Fumio Kyuma went to China and agreed to discuss military ship exchange visits, but progress has been stalled on this issue.

CHINA–ASEAN

China uses its participation in the ASEAN Regional Forum (ARF) as a CBM.²⁷ China made efforts to enhance understanding and confidence with other members of the ARF on security matters by inviting diplomatic and defense officials of the twenty-one ARF members to visit a PLA division when it hosted the Inter-Sessional Support Group on CBMs in March 1997. Over 100 representatives visited the barracks of the PLA division at Yangcun, located seventy kilometers southeast of Beijing near Tianjin. After a briefing on the division's history, the ARF guests watched live-ammunition drills and visited barracks. Although Yangcun is one of the PLA's few "show bases" that all foreign attachés and delegations visit, China attached great importance to this three-day meeting because it was the first meeting on multilateral dialogue and cooperation hosted by China.

One of the biggest challenges to the ARF will be how to deal with disputes over ownership of the Spratly Islands in the South China Sea. Among the six parties to the Spratly dispute—Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam—all are members of the ARF, except Taiwan. The essay by Christopher Joyner in this publication explores the challenges this issue presents to the region.

According to a December 24, 1998, article in the *Far Eastern Economic Review*, Beijing has followed a consistent pattern over the past quarter-century of quickly grabbing islands claimed by other countries as China gradually moves further south in the South China Sea. Furthermore, China has consistently moved to reinforce its claims in the South China Sea at times when other claimants were weak and has backed off when they were not. For example, in 1974 China seized the Paracel Islands from the embattled South Vietnamese regime, knowing that neither it nor North Vietnam, which was receiving Chinese military aid, was in any position to argue. In 1988, as Vietnam started trying to project a less warlike image and open itself to the world, China seized a handful of Spratly islets in a naval clash. When China has encountered concerted resistance, as it did from ASEAN in 1992, Beijing has eased off. However, in February 1995, the Philippines discovered that China had occupied and was building facilities on the Philippine-claimed Mischief Reef, located 300 kilometers from the Philippines and 1,000 kilometers from China. Since then, China has rebuffed the Philippines' démarches and has greatly expanded construction. Although Manila wanted to discuss the issue at the ASEAN leaders meeting in December 1998, it was ignored

²⁷ ARF is a governmental forum focusing on politics and security whose first session was held in Bangkok in July 1994. The ARF participants include the nine ASEAN member countries—Brunei, Indonesia, Laos, Malaysia, Burma, the Philippines, Singapore, Thailand, and Vietnam; the two observer countries—Cambodia and Papua New Guinea; and the 11 dialogue partners—Australia, Canada, China, India, Japan, Mongolia, New Zealand, Russia, South Korea, the United States, and the European Union.

because ASEAN had bigger problems to deal with, such as the financial crisis and political crises in Malaysia and Indonesia.²⁸

China–Taiwan Relations

Economic relations between the PRC and the Republic of China (ROC) have improved considerably over the past decade. Taiwan has invested over \$30 billion in the mainland. In 1987, the ROC renounced its goal of retaking the mainland and formed the state-funded, though technically private, Straits Exchange Foundation (SEF) under the Legislative Yuan's Mainland Affairs Council. Beijing established a similar non-governmental Association for Relations Across the Taiwan Straits (ARATS) in 1991. Bilateral talks began in Singapore in 1993, which established mechanisms for regular contact between the two sides to be based on the "one China" principle. The semi-official talks were suspended in mid-1995 following Taiwan President Lee Teng-hui's private, but high-profile, visit to the United States. Following the visit and in the run-up to the island's March 1996 presidential election, China held extensive military exercises opposite Taiwan, including missile launches into the ocean just off Taiwan's northern and southern coasts. Washington responded by deploying two carrier battle groups off Taiwan. A gradual warming in relations between Beijing and Taipei took place when the Chairman of SEF, Koo Chen-fu, visited Beijing and Shanghai in October 1998. Preparations have begun for a reciprocal visit to Taiwan in late 1999 by the Chairman of ARATS, Wang Daohan.

China held extensive military exercises opposite Taiwan, including missile launches into the ocean just off Taiwan's northern and southern coasts. Washington responded by deploying two carrier battle groups off Taiwan.

Multilateral CBMs: United Nations Peacekeeping and Arms Registry

Citing issues of sovereignty and conflict with the Five Principles of Peaceful Coexistence, China had routinely abstained from voting on matters of peacekeeping since becoming a permanent

²⁸ Rigoberto Tiglao et al., "Tis the Season," *Far Eastern Economic Review*, 24 December 1998, 18-20.

member of the United Nations Security Council in 1971. Beginning in 1990, China began assigning military observers to UN peacekeeping operations. Since then, it has sent 437 military observers in thirty-two groups to join six UN peacekeeping operations, including to the Middle East, Africa, and Cambodia. During 1998, China contributed a total of thirty-two observers to UN missions in the Western Sahara, Liberia, and the Middle East. In May 1997, Beijing decided that, in principle, China would take part in the UN's stand-by arrangements and would provide military observers, civilian policemen, and engineering, medical, transportation, and other logistic service teams in due time for UN peacekeeping operations.²⁹

Data exchanges detailing existing military holdings, planned purchases, military personnel, and budgets can clarify a state's current and projected military capabilities and provide advance notice of destabilizing arms build-ups. Data exchanges can take place bilaterally or multilaterally. An example is the United Nations Register of Conventional Arms established in December 1991, in which states are asked to report all imports and exports of weapons in seven categories.³⁰ China is one of ninety-two countries that has reported in at least some areas. However, Beijing withdrew in November 1998 in protest because the United States submits information about arms sales to Taiwan on the arms buyers list submitted each year to the UN.³¹

CONCLUSIONS

China has utilized CBMs in border agreements with India, Russia, and the Central Asian states, including troop reductions, withdrawals, and notification of exercises. While China and the ROC also started unofficial talks and greatly expanded their economic and cultural ties in the early 1990s, the relationship became extremely tense in 1995–1996 when China fired several missiles just off Taiwan's coast. Although Beijing and Taipei have begun using economic CBMs,

²⁹ *China's National Defense*, July 1998.

³⁰ These seven categories include: battle tanks, armored combat vehicles, large caliber delivery systems, combat aircraft, attack helicopters, warships, and missiles or missile systems.

³¹ Thalif Deen, "China Pulls out of U.N. Arms Register over Taiwan," *Inter Press Service*, 11 November 1998. <http://www.oneworld.org/ips2/nov98/chi.tai.html>; accessed on 17 November 1998.

they have not broadened their CBM agenda to include political issues. As one Taiwan representative noted, “Taipei and Beijing have been having discussions for six years, but are not close to beginning negotiations.”³²

The primary reason Beijing began using CBMs in the 1980s was to provide a stable regional environment that was conducive to economic growth, and, in turn, domestic political stability. The use of CBMs to establish better relations with neighboring countries, particularly Russia, also opened up doors to acquiring much-needed weapons systems and technology. Border-related CBMs with India, Russia, and the Central Asian states have allowed China to withdraw some of its forces and facilitated a reduction in its overall military force structure by over one million men since 1985. In addition, China has improved its relations with the Central Asian states and its trade relations with Iran partly to diminish problems with its Muslim population in the northwest region of Xinjiang.

China prefers to use bilateral CBMs, but has begun to explore multilateral CBMs as well. China’s use of transparency measures has been minimal. China issued its first *White Paper on Arms Control and Disarmament* in November 1995 and its first defense white paper in July 1998. Although the latter maintained that China opposes the use of force to settle conflicts and adheres to the pursuit of peaceful solutions through dialogue, Beijing has not renounced the use of force to reunify Taiwan with the mainland. China has received credit for its initial attempts at transparency, but has been criticized for grossly underestimating its publicized defense budget, for lack of detail on arms purchases and orders-of-battle information, and for limiting foreign military delegations to visiting “show bases.” In addition, Chinese military leaders are reluctant to move beyond protocol visits into matters of substance. China’s military forces have been reduced in size, and Beijing is acquiring modern aircraft, missiles, and ships, which are being developed into rapid reaction forces capable of use around China’s periphery. China’s neighbors view these developments with concern, which CBMs have not alleviated.

Although Beijing and Taipei have begun using economic CBMs, they have not broadened their CBM agenda to include political issues.

³² Discussion with Wei Yung, Chairman, Committee on Foreign Relations, Legislative Yuaw. September 1998.

The People's Republic of China has come a long way from supporting revolutionary movements in its neighboring countries to negotiating border agreements and CBMs. Although progress remains modest, the trend has been in a positive direction. Perceptions of China in the future will be shaped, in part, on whether Beijing continues to move forward on CBMs or resists further progress in this area.

Confidence-Building Measures and Japanese Security Policy

Benjamin L. Self

Reconsidering its security policies and needs in the aftermath of the Cold War, Japan has begun to take important steps towards a more active military role in regional and global security affairs, based on the recognition that it can no longer fulfill its responsibilities to the international community through civilian contributions alone. However, Japan must cope with complex internal constraints and divisions concerning appropriate and legitimate military activities, as well as the fluid and intricate regional security environment. Japan's challenge is to find the right mix of initiatives to help foster peace and prosperity while enhancing rather than undermining regional stability. One key element of this mix could be increased emphasis on confidence-building measures (CBMs) to reassure its neighbors and promote cooperative approaches to security.¹

This essay explores the evolving context of Japanese security policy making and investigates the past, current, and potential future use of CBMs by Japan. The first section discusses how the Cold War structure of international politics and the Japanese domestic political order constrained defense policy, preventing the effective employment of CBMs directly involving security, particularly at the bilateral level. Following is an investigation of the changes in Japan's security situation since the end of the Cold War, and a review of the recent developments in Japan's use of CBMs. The conclusion presents the case for more strenuous Japanese efforts to negotiate and implement CBMs, and calls for a shift away from the overemphasis on unilateralism and multilateralism toward a more balanced CBM approach. The complicated and historically fraught relationship with China, in particular, demands management using not only economic and cultural tools, but with military CBMs as well.

¹ For a global survey of confidence-building measures, please see *A Handbook of Confidence-Building Measures for Regional Security, 3rd Edition*. Michael Krepon, Michael Newbill, and Jenny Drezin, eds. (Washington, D.C.: The Henry L. Stimson Center, 1998).

CONSTRAINTS ON JAPANESE SECURITY POLICY DURING THE COLD WAR

Critics have labeled Japan's postwar security policy and diplomacy "passive" and "reactive." In fact, Japan faced external and internal constraints that hindered any assertiveness and limited its flexibility in making strategic decisions. These included the rigid framework of bipolar superpower confrontation, the institutional weakness of the national security components of the Japanese government, and the intense domestic conflict over the appropriate military posture of the Japanese state. In this section we examine these factors to reveal why Japan undertook only a narrow range of CBM initiatives during the Cold War.

Bordering on the Soviet Union, Japan was under direct threat of invasion. This formed the principal problem in Japanese national defense. The major pillars of the defense policy designed to cope with this threat were the Self Defense Force (SDF) and the Alliance with the United States. In fact, Japan depended on the United States not only to provide for its security against nuclear attack, but against any large-scale aggression directed against Japan. Since 1976, the Japan Defense Agency (JDA) has accepted defense against limited attack as one responsibility of the SDF, but defeating large-scale attack was considered beyond its capacity, and was to have been dealt with by US forces.

A main implication of this limited defense capacity is a degradation of sovereignty. Japan had officially regained its sovereignty in 1952, when the San Francisco Peace Treaty brought the Occupation to an end. However, the quid pro quo for that Peace Treaty was a security treaty that not only allowed for the continued stationing of US troops in Japan but their use to quell domestic disturbances associated with an attempted communist takeover. This language was removed from the treaty at its revision and extension in 1960, but the semi-sovereign nature of Japan in security affairs perpetuated. If the ability of a nation to take responsibility for its security is a prerequisite for initiatives like CBMs to be credible and meaningful, then the Alliance was a major constraint on Japan's use of CBMs throughout the Cold War.

Pacifism

The domestic environment of Japanese security policy making deserves careful attention as well. The most significant constraint in this environment was surely pacifism, a value fundamental to postwar Japanese society. The institutionalized manifestation of Japanese pacifism

is the Constitution, Article 9, in which Japan renounces war. Some observers have suggested that Article 9 is the major impediment to the remilitarization of Japan, but this paper presumes that it is the cultural and social underpinnings of the legal structure that matter as constraints on defense policy. Therefore it is necessary to “unbundle” the norm of pacifism into three distinct elements with implications for CBMs: anti-militarism, democracy, and isolationism.

Japanese people with personal experience of the deprivation and devastation brought by war had no desire to see it ever again. Even the early postwar generations grew amid the rubble and during the reconstruction of Japan’s cities, and learned to hate war as intensely as their parents. The burning question of the era—in Europe as well as Japan—was how to prevent war from recurring, which drew attention to causation and responsibility. Understanding why Japan engaged in a war of aggression against its neighbors would provide the keys to assuring those neighbors it would never do so in the future. But the causes were complex and the issue of responsibility was highly political. Debate raged over whether the Emperor himself was guilty, whether the concentration of wealth into huge industrial combines called *zaibatsu* produced a Leninist imperative for war, or whether the entire culture and language of Japan were inherently warlike. The broadest consensus formed around the notion that the military was to blame. The interpretation dispensed at the Tokyo War Crimes Trials was that military leaders had engaged in conspiracy to engage in a war of aggression, and therefore the Japanese people (including common soldiers and sailors) were innocent victims as well. This convenient and popular explanation led to a potent and widely shared conviction that the military must be restrained at least and abolished at best.

Anti-militarism was more than a cover for war guilt. The Imperial Army and Navy had indeed commandeered the Japanese government and enacted the policies that led Japan to its disastrous defeat. The Constitution of 1889 had vested total authority in the Emperor and given the military direct access to the Emperor as well, thereby short-circuiting any possibility of civilian control. On the other hand, the Army and Navy had to approve their respective cabinet ministers, and thereby gained veto power over the formation of a government. In retrospect, the failure of democratic party governments in the 1930s seemed to have led inexorably to war, and the connection between peace, anti-militarism, and democracy began to take shape. Without peace, democracy was impossible, because war brought the necessity of authoritarianism. More importantly, without democracy, peace was impossible, because the voice of the people was the only bulwark against war.

This desire to hide from the realities of the Cold War is understandable, but not only was it impossible given Japan's location and potential industrial power, it presumed that non-participation was the greatest contribution Japan could make to peace.

Democracy became inherent to Japanese pacifism as Japanese intellectuals sought to reconstruct their world-view in the wake of the shattering war and defeat. The respect for American values and system of government that flowed from the Occupation can explain part of the profound attachment to democracy that grew in postwar Japan. This

democracy was not simply majority rule, however. A strong norm of consensus that had been traditional in Japan was reinforced by the fear that any exercise of authority, even by the majority, was a threat to peace. When the government forced the revised Security Treaty through the Diet in 1960, over Socialist objections, people took to the streets in protest, claiming the action was undemocratic. The deep schism on security issues meant that the uneasy balance achieved in the wake of the treaty riots could collapse if the government tried to move beyond the status quo. Under the 1955 system, the left maintained its pro forma challenge against the SDF and the Alliance with the United States, but avoided major confrontation over security policy as long as the ruling LDP kept the military restrained. Even when the LDP was strong it could not simply implement policies expanding the military without risking voter backlash, and even now, violating consensus is considered undemocratic in Japan. The weakened legitimacy of the Japanese state left no room at all for strong security policies.

Finally, postwar Japanese pacifism must frankly be recognized as idealistic to the exclusion of pragmatism. The policy platform of the Socialist left was “unarmed neutrality,” in which Japan would effectively disappear from the map of geopolitical struggle. This desire to hide from the realities of the Cold War is understandable, but not only was it impossible given Japan’s location and potential industrial power, it presumed that non-participation was the greatest contribution Japan could make to peace.

A deeply rooted isolationism served to enhance the popular passion for peace. This isolationism can be traced back to the more than two centuries of isolation policy (*sakoku*) implemented by the Tokugawa shogunate until 1853, when the United States forced Japan to open itself. The disaster of Japan’s dealings with the world after this opening, especially the racism of the Western countries, reinforced the desire to turn away from international society. Furthermore,

in the early postwar period Japan was still a pariah state, and the Japanese were vilified and humiliated. The resultant “peace in one country” attitude fostered a willful ignorance of regional security affairs on the part of the public, with dire implications for leaders’ ability to propose realistic security policies. Pacifism struck such deep roots because it filled the void left by the recently uprooted ideology of ultranationalism. Emperor-worship had been extended by the military in the 1930s and 1940s to reach a total ideology, allowing no opposition. For both doubters and true believers, its discrediting at the hands of the United States removed the cornerstone of their belief system. The enthusiasm with which new ideas sweeping through postwar Japan were accepted should serve to alert us to the awful consequence of the ultranationalist brainwashing—a credulity or openness to absolute philosophies. The tenacity of Marxism in Japan—home of one of the few remaining Communist Parties in the world—and the endurance of pacifism even two generations after World War II are both evidence of how the Japanese were ready to accept beliefs completely.

Structural Factors of Japan’s Government

Structural factors of Japan’s government have also limited Japan’s embrace of CBMs. First, the government overall is relatively small, and has a tradition of overworking its staff. Civil servants with too much work to do are less likely to learn about, let alone adopt, CBMs. Second, the JDA was intended from its inception to be under strict control, to forestall any possibility of another military takeover. It is not a ministry, and is subject to placement of officials from other ministries (especially Finance, Foreign Affairs, and International Trade and Industry) to many of the most important positions within it, a common process in Japan by which the top few ministries exercise control over most of the government. These officials will likely have little background in security, little interest in learning about security affairs, and little commitment to the interests of their host agency. Third, JDA career officials themselves are generalists rather than specialists, rotating through a wide range of positions every two or three years. They are unlikely to be able to develop expertise in CBMs, let alone develop and apply them, in a short stint. Finally, the political leadership needed for effective CBM implementation is lacking in a system where cabinet ministers hold their tenure for an average of less than a year, where politicians rely on bureaucrats for policy initiatives, and where there is no electoral reward for taking an interest in security matters.

COLD WAR CBMs

As might be expected from the description of the environment for security policy described above, Tokyo's employment of CBMs during the Cold War was severely limited and haphazard. The following section sketches the CBMs that Japan did use, including those not understood as CBMs at the time of their implementation.

Declaratory Measures

The bulk of Japan's CBMs during the Cold War were unilateral in nature, principally declaratory measures. Japan attempted to reassure its neighbors and international society in general that it would never again pose a threat by making promises never to do so. Article 9 of the Constitution itself is a CBM, in the sense that it is the basis of repeated diplomatic statements by the Japanese to the effect that the Constitution prevents Japan from becoming a threat. Other policies and policy guidelines can also be seen in this light: the enunciation of the Three Non-nuclear Principles by Prime Minister Sato Eisaku in 1967, the establishment of the Three Principles on Arms Exports by Sato in 1968, and the declaration of a one percent of GNP ceiling on defense expenditures by Prime Minister Miki Takeo in 1976.² The Three Non-nuclear Principles, coming ten years before Japan signed the Nuclear Non-Proliferation Treaty (NPT), lent momentum to the disarmament movement, in recognition of which Sato received the Nobel Peace Prize. Japan often used declarations to counter apparent shifts toward a more assertive security policy, as when Miki produced the one percent ceiling in conjunction with the establishment of the 1976 National Defense Program Outline (NDPO), which laid out the JDA's focus on the Soviet threat in newly explicit terms. Another example comes from Prime Minister Ohira Masayoshi's principles on economic aid to China after it began in 1979, one of which asserts that Japan will not cooperate with China in the military sphere.

A major drawback of declaratory measures is that they presume trust to build trust. If Japan's neighbors worry that Tokyo will rearm and once again become a dominating neighbor, they are unlikely to take such declarations at face value. Furthermore, declarations require concrete reinforcing actions to be reassuring. Given the extreme positions Japan has taken on defense policy, there needed to be substantial follow-up not to make those declarations ring hollow. Japan's Constitution renounces war and the means to wage war, and yet Japan retains the most

² The Three Non-nuclear Principles are, not to develop, possess, or introduce nuclear arms. The Three Principles on Arms Exports are: a restriction on exports to communist countries, countries engaged in conflict, and countries likely to engage in conflict; since this includes effectively all countries in the world, it has been enforced as a total ban on arms exports.

powerful navy and most sophisticated air force in the region. The Three Non-nuclear Principles renounce the development, possession, or introduction of nuclear weapons, but Japan both remains under the US nuclear umbrella and also possesses the infrastructure to produce nuclear arms quickly. It already has the aircraft and rocket technology to produce delivery vehicles. Japan's willingness to accept the US policy of neither confirming nor denying the presence of nuclear weapons on US Navy vessels calling at bases in Japan further erodes its credibility. The Principles on Arms Exports were waived in the case of the United States, and do not apply to dual-use technology. The one-percent ceiling was actually broken in 1987 by Prime Minister Nakasone Yasuhiro, who had declared that the postwar (and its political constraint on defense) was over. Without greater efforts at reassurance, these declarations have failed to build confidence.

At a subtler level, the declarations failed to reassure Japan's neighbors because they served domestic purposes first and foremost. The primary audience was the Japanese public, and the most important goal was to prevent political mobilization against the government because of its defense policy. They further served to enhance the structural constraints on the military establishment by reinforcing the sense of vigilance against any resurgence of militarism, thus keeping the JDA and SDF "in their place." The presumption among the Japanese that their own military was dangerous could only hinder the development of confidence among other countries' citizens.

Transparency, International Organizations, and Economic Diplomacy

Another major unilateral CBM Japan implemented during the Cold War was the publication of a defense white paper, a transparency measure. The JDA first published a white paper in 1971, under JDA Director Nakasone Yasuhiro. Although Nakasone's purpose was more to generate publicity and to work at breaking down the taboo on defense issues within Japan, he initiated a policy that did enhance transparency over the long run. The second white paper was published in 1976, and it has been published annually ever since. While the declarations made for good reasons failed to help build confidence, the white paper published for the wrong reasons ended up being one of the best measures.

Aside from the various principles and guidelines constraining defense and the provision of information, most of Japan's efforts to build better security relations with its neighbors took place within international organizations. The Japanese have a strong affection for international organizations, notably for the most inclusive, the United Nations, and the most exclusive, the G-7.

Being accepted as a member of the UN was the readmission of Japan into international society and the end of its shame over World War II, and so the UN retains a deep significance for the Japanese. The UN Charter enshrines a vision of international cooperation and peace that resonates for the Japanese, and to the extent that Japanese rhetoric cleaves to UN principles, it is an attempt to foster confidence. In terms of similarly inclusive bodies, Japan signed the NPT and cooperated with the Missile Technology Control Regime during the Cold War. Japan's membership in the G-7 and the Organization for Economic Cooperation and Development (OECD) reflect its higher profile in international economic organizations than in those related to security. Japan has been able to play a leadership role in regional and global economic affairs through bodies like the International Monetary Fund, General Agreement on Tariff and Trade, International Bank for Reconstruction and Development, and Asian Development Bank. While this paper focuses on CBMs in the military realm, it must be recognized that Japan has seen economic interaction as an important tool for building peace and confidence.

Japan's preference for economic diplomacy reflects both aversion to the military and belief in the beneficial influence of trade. The proponents of this approach argue that because trade is mutually beneficial, it creates some sense of common good and positive feelings. Moreover, the social interaction aspects of trade relations should foster mutual understanding and help puncture myths and stereotypes. Most fundamentally of all, trade promotes growth, and increased wealth is expected to generate satisfaction. Japan's own experience of modernization provides a useful backdrop for these views, since many Japanese feel the economic hardships of the second half of the 1920s weakened Japan's party system and opened the path for the military takeover in the 1930s.

Japanese Official Development Assistance (ODA) was first implemented as part of reparations packages toward Southeast Asia, and was seen as opening the door for further economic contacts, which would build better ties. The failure of trade alone to resolve issues of suspicion and distrust became apparent when Prime Minister Tanaka toured Southeast Asia in 1974 and encountered anti-Japanese demonstrations in Jakarta and Bangkok. Japan subsequently mixed cultural and educational exchange with its economic relations, with a focus on establishing "heart-to-heart" relations with Southeast Asian countries under the Fukuda Doctrine.

Bilateral Relationships

Soviet Union, Republic of Korea, Southeast Asia

As noted above, Japan adopted a range of different postures in its bilateral relations with the Soviet Union, China, North and South Korea, and the Southeast Asian countries. Nonetheless, there were basic commonalities; genuine security dialogue was absent, and the residue of distrust left over from the second world war frequently tarnished bilateral ties.

Despite achieving normal diplomatic ties with the Soviet Union in 1956, Prime Minister Hatoyama Ichiro was unable to resolve the dispute over four small islands off Northeastern Hokkaido that the Red Army captured during the last days of World War II, and the two countries did not conclude a peace treaty. The Soviet Union had violated a non-aggression pact when it declared war on Japan in August 1945, and Japan insisted on a resolution of the territorial issue prior to moving forward with any other aspects of the relationship. These islands, known in Japan as the Northern Territories, became the major obstacle to improved bilateral relations since the 1950s. Tension with the USSR may have in fact been in Japan's interest, as it tended to enhance US–Japan ties, but it nonetheless prevented any significant bilateral CBMs from taking place after Normalization. Although the resource supply problems of the 1970s were a major concern for Japan and the lack of development capital in Siberia and the Far East was a handicap for the Soviet Union, Japan's policy of inseparability of economics and politics forestalled cooperative exploitation of oil supplies in this region. Discussions on the Japan–Soviet Incidents-at-Sea Agreement were delayed by Japan based on political considerations and the Northern Territories issue. Soviet initiatives to use CBMs as a prelude to political understanding ran afoul of Japan's rigid posture.

As for Japan's ties with the Republic of Korea (ROK), the legacy of thirty-five years of colonization embittered the relationship between these two US allies in the postwar years, so much so that they did not even establish normal diplomatic relations until 1965. While Korean economic development followed a Japanese model, even through the late 1980s, there were no significant military CBMs. One factor to consider was that the Japanese Left tended to sympathize with the Democratic People's Republic of Korea (DPRK) and opposed the regime in the Republic of Korea, making any issue of Korean Peninsula security a hotly contested one within Japan. Given the need for consensus on, or at least lack of vociferous opposition to changes to security policy, any CBM with South Korea would certainly have been too controversial to carry out. Under intense pressure from President Nixon, Prime Minister Sato accepted a joint communiqué stating that the security of the Korean Peninsula was fundamental to Japan's own security. But rather than build on the admission of this fundamental geopolitical fact to work out the means by which Japan might contribute to the defense of the ROK, the government subsequently tried its best to bury this

statement. Despite the sharp relative decline of US power in the 1970s, Japan would not directly involve itself in Korean Peninsular security. Prime Minister Nakasone made aggressive efforts to resolve tensions in the relationship in the mid-1980s so as to open up room for a more active Japanese leadership role, but he met with mixed success. The Japanese public was very happy to have improved relations with South Korea, but was not at all eager to see Japan embroiled ever more closely in Cold War tensions in Northeast Asia.

It should be noted that Japan carried out defense exchanges with various Southeast Asian militaries on a bilateral basis beginning in the 1970s, especially with Thailand and Singapore. These included educational exchanges, exchanges of defense officials, and training. These exchanges helped build the basis for the prevalence of generally positive views in these countries of a Japanese role in regional security. The Philippines stood out as more dubious of Japan's intentions than many other countries in the region, voicing old suspicions about Japan, but attitudes about security affairs there were unusual for the region. The security perspective from Manila was highly conditioned by the complex relationship with the United States, which was both colonial power and liberator. Another element, which the Philippines shared to some extent with South Korea, was the effort at political legitimization of the regime. The fundamental assertion in domestic political contest was a record of resistance against the Japanese occupation, and in cases where this was unsupported by fact (as with Ferdinand Marcos) the rhetoric became even more anti-Japanese. Even in the Philippines, attitudes toward Japan improved over time. In general, the low key defense exchange fostered in this period successfully complemented the economic and cultural components of Japan's CBM strategy for the region.

China

The effort to reassure and win over China assumed immense importance to postwar Japan. The difficulty of this task was redoubled by the Taiwan issue. Japan was forced by the United States to recognize the Nationalist government of Taiwan, and was prevented from establishing relations with the People's Republic of China (PRC). Nonetheless, the conservative Japanese government under Prime Minister Yoshida Shigeru had an interest in preserving some ties with the continent, both to benefit the Japanese economy and to use economic tools to lead China down the path of democratization. Yoshida's strategy of unofficial economic ties with China developed in the 1950s and 1960s into a set of CBMs, enabling the Normalization process to unfold very quickly once the American constraint was lifted in 1972. The Normalization agreement itself both cleared away the fear of conflict between the two and set out an agenda for cooperation. The Japanese public reacted with great enthusiasm to the opening of ties, recognizing that the

Communist threat of the 1950s and 1960s had been greatly reduced and that the specter of war with China had eased. The promise of working toward a peace treaty and the waiving of war reparations contained in the agreement both contributed greatly to the easing of tensions between the countries and the development of a much more cooperative approach to security relations. The background for this meeting of minds was of course the Soviet threat, which was viewed with particular concern by Mao Zedong after the Lin Biao incident of 1971, when the head of the Chinese military attempted to execute a coup d'état and tried to flee to Russia when it failed. China had pressed Japan to agree to a joint statement opposing hegemony in the Asia-Pacific region, and promising mutual efforts to resist any country attempting to assert hegemony. This reflected a long-standing Maoist approach of United Front tactics, and the effort to enlist Japan in the struggle against Soviet hegemony continued throughout the protracted negotiations on the Peace and Friendship Treaty. The inclusion of an anti-hegemony clause in the treaty when it was eventually concluded in 1978 reflects China's success in building this de facto anti-Soviet United Front, and is most impressive as it represents Japan's first active participation in the Cold War.

The long-standing reluctance of the Japanese public to be involved in the Cold War prevented the formation of a close Japan–China security relationship in the 1970s and 1980s. Although China was eager to develop military exchanges to reinforce the United Front, Japan took a negative stance on explicit anti-Soviet military cooperation. Chinese initiatives to send an elite rifle team to Japan for joint exercises were rebuffed by the Foreign Ministry, which feared the public reaction to such openly military cooperation. The domestic ideological constraint of pacifism inhibited military CBMs with China in this period. Of course the Japanese preference for a focus on the non-military aspects of security-building, codified in the Comprehensive Security approach launched by Prime Minister Ohira Masayoshi in 1979, revealed itself in the range of non-military CBMs that were employed vis-à-vis China between the Peace and Friendship Treaty and the Tiananmen massacre of 1989. The use of economic tools to ensure security was the central element of this approach, and in particular the use of ODA for strategic purposes became part of Japan's non-military security policy. The extension of ODA to China in 1979 in support of Deng Xiaoping's famous "Opening and Reform" policy began to set in place a regular process of bilateral economic consultations, the routine operation of which not only constitutes an important CBM, but showed great effectiveness in establishing areas of bilateral cooperation, even in a potentially competitive relationship. As mentioned above, although the alignment against the Soviet Union was quite clear to all concerned, Ohira declared that ODA toward China would not include any form of military cooperation.

The 1980s are often viewed as a period of substantial diplomatic tension between Japan and China, revolving around issues of historical recognition and Taiwan. The 1982 and 1986 disputes over the officially approved discussion of the “China Incident” (Japan’s term for the 1937–1945 war with China) in middle school textbooks, the furor over Prime Minister Nakasone’s paying an official visit to Yasukuni Shrine in 1985 to honor Japanese people who gave their lives for the nation, and the ferocious Chinese reaction to the increase in Japan’s defense budget beyond the one-percent ceiling were certainly important phenomena in the bilateral relationship. It should be noted, however, that the fundamentals of this relationship were very sound throughout the period, that trade ties grew by leaps and bounds, and that the Japanese government under Nakasone even attempted to restructure the relationship toward greater security cooperation. The main constraint was not found within the bilateral relationship itself, but in the intensity and endurance of Japanese pacifism, especially its anti-military component. The real culprit behind the Sino–Japanese disputes over historical interpretation was the Japanese left, which was engaged in a domestic struggle against Nakasone’s rightist militarism, in reaction to his violation of the consensus on a low-profile security posture. His assertion that the postwar era was over in Japanese politics was mistaken—the postwar order outlasted his term as Prime Minister and the Cold War itself.

THE TRANSFORMATION OF JAPANESE SECURITY AFTER THE COLD WAR

It is often noted that the Cold War in Asia, in contrast to Europe, did not have a distinct ending point. The sharp fluctuations in the security situation on the Korean Peninsula—from denuclearization in 1992 to the crisis over suspected North Korean development of nuclear weapons in 1994, tension ebbing with the Framework Agreement and the Korean Peninsula Energy Development Organization (KEDO) in 1995 and resurging in 1998 with the *Taepodong* missile launch—have revealed the post–Cold War regional security order is less predictable and stable, and thus in many ways less secure. This has prompted a continuing search within Japan for a proper response, a search that is exploring new ideas and rediscovering old ones. Japanese diplomats, defense bureaucrats, military officers, and other influential elites have come into contact with military CBMs and have begun to adopt these practices.

At first, many Japanese people believed that the resolution of the primary security problem with the end of the Cold War meant the end of security problems across the board. The defense establishment was reluctant to admit that the Soviet Union no longer posed a threat, because it had

used that threat alone to justify its existence for so long that many feared it had no other purpose. The rapid growth of the Japanese economy throughout the 1970s and 1980s contrasted starkly with both superpowers' difficulties, proving the benefits of Japan's low defense budgets. With pacifism largely intact, Japanese international relations specialists declared that military power was going to be superseded by economic power, and zero-sum security competition replaced by positive-sum economic cooperation.

At the same time, trade friction with the United States erupted continually in the early 1990s, and suspicion grew in the bilateral relationship. Many Americans felt threatened by Japan, and the Japanese resented being blamed for America's internal problems. Moves toward the development of the North American Free-Trade Agreement (NAFTA) raised concern in Japanese business circles, foreshadowing an economic bloc encompassing the entire Western Hemisphere but excluding Japan. The United States also began to withdraw some of its forward-deployed forces and slashed defense spending, leading to doubts about its ability and willingness to continue to guarantee regional stability in the absence of a global competitor. With the Soviet threat gone, a booming Asian regional economy, and escalating bilateral tension, the future of the Alliance was very much in doubt.

Whether Japan was preparing to downgrade its ties to the United States and move independently to assert regional leadership or was simply hedging against abandonment by the newly introspective United States, there was a pronounced intensification of regional multilateralism on the Japanese diplomatic agenda. Encompassing both economic and security affairs, regional multilateralism would replace (or supplant) the US-centered framework of the Cold War. The Japanese effort to create a security forum at the ASEAN Post-Ministerial Conference, which eventually led to the ASEAN Regional Forum (ARF), grew out of this context.

Multilateralism owes its immense popularity in Japan to the legacy of isolationism discussed above. In a Japan that recognizes its own prosperity as inseparable from international trade, multilateralism is the ideal means of making an international contribution without actually getting involved in the treacherous complexities of power politics. For the Japanese, inclusive multilateralism is the sole legitimizing principle for the construction of a new order. As an ideal, it is simply an internationalized version of isolationism. This transformation of one of the underpinning elements of postwar pacifism provided the initial crack in the traditional approach to security. The old concept of peace in one country was no longer tenable.

Post–Cold War triumphalism began to fade quickly, as the Gulf War proved that military power still had a big role to play, and the Japanese economy soured. Japan’s famously slow response to the 1990 Gulf crisis and 1991 Gulf War came partly from its weak government, but mostly from the shock at having to confront a security problem in the new era of economics. It did set into motion important debates about the need to contribute to international security that blossomed with the controversy over participation in the peacekeeping operations (PKO) aspect of the UN Transitional Authority in Cambodia (UNTAC). The fierce opposition of traditional socialists notwithstanding, the government enacted the UN Peacekeeping Activities Cooperation Law in the summer of 1992 and dispatched the SDF overseas for the first time. Public opinion shifted with stunning quickness from skepticism to support as the key phrase “international contribution” and the multilateral framework provided legitimacy to this action. The postwar was finally over.

The following summer of 1993, the election for the more powerful lower house of the Diet brought no defection to the Socialists in reaction to the violation of the “democratic” norm of consensus in defense policy. The ruling LDP split apart and the anti-LDP coalition took power, headed by the centrist Hosokawa Morihiro, but including a weakened, chastened Socialist party. Hosokawa initiated the most serious reconsideration of Japan’s security needs in decades, appointing a special commission to plan out appropriate policy responses for the new security environment. The resultant Higuchi Report became the basis for the 1995 National Defense Program Outline (NDPO), the central component of Japan’s present security policy framework.

The drafting of the Higuchi Report began with even higher levels of tension between Japan and the United States over trade, as the Clinton Administration took a tough, revisionist-inspired line and the Japanese learned to say “no.” There were early calls for replacing the “hub and spokes” system of US alliances with Japan, South Korea, the Philippines, Thailand, and Australia with a regional multilateral framework, perhaps built around ASEAN. This brought a sharp response from Washington, and the Pentagon moved both to reassert the importance of security ties with Japan in the domestic context and to reassure the Japanese of the US commitment to regional stability, an effort known as the Nye Initiative. The United States and Japan coordinated closely, so that the long term security policy plans moved into harmony. The NDPO put the Alliance at the core of Japan’s defense policy, and the US both removed the trade issue from summit agendas and promised to maintain approximately 100,000 forward-deployed troops in the region. In April 1996, President Clinton and Prime Minister Hashimoto Ryutaro issued a joint declaration on security, reaffirming the Alliance and promising to restructure it to meet the needs

of the post–Cold War era, specifically by streamlining US bases in Japan and by reviewing the Guidelines on US–Japan Defense Cooperation issued in 1978.

This saga of drift toward multilateral Asianism and return to closer defense cooperation with the United States has some intriguing implications for Japan’s understanding and future use of CBMs. The Soviet Union introduced the term “CBM” to Japan, which also observed its employment in NATO/Warsaw Pact negotiations, but Japan responded coolly, recalling numerous false starts in the relationship and hoping a tough line would compel unilateral Russian concessions. Australia provided the impetus to include CBMs in regional multilateral security dialogue, seeking to apply techniques developed from the European experience to the Asia–Pacific region. The Asian reaction was skeptical, with doubts about the structures, style, and cultural baggage of CBMs. The Japanese response when CBMs were raised as part of the agenda of the ARF was to offer as a substitute the term “Mutual Reassurance Measures” (MRMs). ARF members and various track two groups made a prolonged effort to reconceptualize CBMs for the Asia–Pacific region, modifying them to reflect a strong Asian preference for consensual multilateral approaches. While this has succeeded in putting CBMs high on the ARF agenda, the Japanese understanding of CBMs has unfortunately become linked to the idea of multilateral security, and there is growing concern in Japan that meaningful CBMs cannot be effectively implemented while the regional order remains in flux. With the return to focus on the US–Japan Alliance as the central pillar of Japanese security policy, enthusiasm for CBMs in Japan has lessened recently.

THE EVOLUTION AND EXPANSION OF JAPAN’S USE OF CBMs SINCE THE COLD WAR

Military and security CBMs remain underdeveloped in Japan in comparison to economic and cultural tools. Moreover, there is a decided imbalance in emphasis among the three levels—unilateral, bilateral, and multilateral—at which Japan conducts security CBMs. The challenge for Japan is to supplement the unilateral and multilateral approaches with meaningful bilateral security CBMs. Bilateral CBMs can be steps to make Japan’s unilateral declarations more credible by placing them in the context of neighboring countries’ concerns and providing necessary reassurance. Bilateral CBMs can also enhance multilateralism, by making faster progress on fundamental security problems than can be achieved in all-inclusive dialogues.

The unilateral CBMs of the Cold War era, with Japan's heavy reliance on declarations, are still in place, as Japanese leaders repeat the familiar renunciation of war and repudiation of nuclear weapons. The endurance of constraints on the defense establishment in Japan have reinforced their credibility, but tinkering with the limits of Japan's security role can potentially undermine them. The widespread view in Japan that defense constraints are largely a matter of constitutional *interpretation* weakens the argument that the constitution is a bulwark against remilitarization. While Japan points to its security declarations in attempts to reassure foreigners, these pronouncements primarily serve domestic purposes in striking political deals on security. Outside reassurance requires following through in the form of CBM commitments at the bilateral level.

Multilateralism is important to the Japanese, with multilateral forums continuing to serve as the primary locus of Japan's CBM efforts. The UN retains a core position in Japan's security philosophy, and it is through UN peacekeeping that Japan currently both contributes directly to global security and indirectly to confidence building. Japan's fulfilling a responsible security role under UN auspices is itself reassuring. At another level, JDA officials have viewed contact with other militaries during training for and carrying out peacekeeping operations as a key benefit. Japanese plans for a regional PKO training center in Japan, seen as both a direct contribution and a CBM, have gained support from Canada and Malaysia. Japan has been a regular (non-permanent) member of the UN Security Council, and has repeatedly expressed its interest in becoming a permanent member. The message is that Japan's defense policy is entrenched in the standards of the UN Charter. In other areas since the end of the Cold War, Japan has supported the indefinite extension of the NPT and the conclusion of the Comprehensive Test Ban Treaty (CTBT).

Japan has also participated actively in the ARF process, the only official multilateral security dialogue in the Asia-Pacific region. Japan led by example in providing documents clarifying its defense policy, calling for all ARF members to issue white papers to enhance transparency. The JDA has cosponsored the ARF Intersessional Support Group (ISG) on CBMs, promoting the UN register of conventional arms, and has cooperated with other ARF meetings on CBMs, search and rescue, peacekeeping operations, and disaster relief.

Another area where Japan has been active since the Cold War is sponsoring or participating in unofficial (Track Two) security dialogues in an effort to promote mutual understanding. The Council on Security Cooperation in the Asia Pacific (ISG) has not only

brought together Japanese and regional specialists on security affairs to exchange views, it has also specifically addressed the role of CBMs and explored possible CBMs to be applied in the region. ISG has made significant progress on the development of a model for a cooperative atomic energy agency for the Asia–Pacific region, proposing a PACATOM concept, parallel to the successful EURATOM structure. JDA officials participate in several Track Two processes less general in membership, notably the Northeast Asia Cooperative Dialogue (NEACD), the Tri-Polar Forum on North Pacific Security, and a number of technical exchanges for military officers. The JDA hosts several multilateral meetings as well, the most important of which are the Forum for Defense Authorities in the Asia–Pacific Region (for defense officials) and the Asia–Pacific Security Seminar (for military officers). These have served as forums for frank exchange between those responsible for security policy throughout the region.

As noted above, the shift of focus back to the US–Japan Alliance since 1996 has diluted Japanese enthusiasm for regional security multilateralism. Furthermore, the core element of the emerging multilateral security regime in Asia, ASEAN, has been plagued with political and economic crisis, so that its potential as a cohesive force has dwindled. The expansion of ASEAN to include Myanmar (Burma) and the controversy over Cambodia’s accession began to threaten ASEAN’s unity in the summer of 1997. The financial crisis in the region beginning in the fall of that year drastically slowed the regional security regime-building effort of the ARF. The collapse of the Suharto government in Indonesia in early 1998 brought these efforts to a halt.

Multilateral security activities that are not comprehensive can also serve to build confidence, at least among participants. Japanese involvement in bilateral military exercises with the United States in parallel with RIMPAC effectively mimics Japanese participation in collective defense activities, reassuring US allies like South Korea.³ Involvement in trilateral security dialogue with the United States and Russia and with the United States and South Korea have set the stage for bilateral dialogue and CBMs without the United States. The drawback of these exclusive groupings is that the excluded countries tend to become more suspicious, and the patterns of cooperation could seem to China like the formative stages of a hostile coalition.

Japan–Russia relations improved rapidly under the political leadership of Prime Minister Hashimoto, whose enthusiasm for military CBMs with Russia helped pave the way for substantial progress. As mentioned, the honest broker role played by the United States in trilateral

³ RIMPAC (Rim of the Pacific) are regional biennial naval exercises held near Hawaii since 1971.

US–Japan–Russia security dialogues has helped to open up a new era of cooperation in Japan–Russia relations. While there are still political problems to be overcome—the two countries continue to negotiate a peace treaty and territorial settlement—the implementation of CBMs is no longer being held hostage to their resolution. The two sides established annual working-level Japan–Russia Policy Planning Talks in 1992, concluded an agreement on incidents-at-sea in 1993, and inaugurated an annual defense ministerial exchange in 1996. Exchange between top-ranking military officers also began in 1996 with the visit to Japan by the Russian chief of staff. Japanese Maritime Self-Defense Forces (MSDF) have carried out port visits to Vladivostok since 1996, and Russian Navy vessels have called at Tokyo since 1997. They also practiced conducting joint search and rescue operations in the Sea of Japan in June 1998. The JDA has announced plans to place a defense official in the embassy in Moscow to enhance routine communication, supplementing the existing military attaché.

Japan's improving ties with Russia demonstrate how CBMs can help not only security relations, but can improve the overall diplomatic climate between cautious neighbors. The successful implementation of defense exchange, security dialogue, ship visits,

Japan's improving ties with Russia demonstrate how CBMs can help not only security relations, but can improve the overall diplomatic climate between cautious neighbors.

and joint search and rescue training greatly enhance the prospects for cooperation in other areas. The challenge is making certain that military CBMs can positively influence the diplomatic environment without being vulnerable to diplomatic twists and turns. The rapid warming of ties encouraged Prime Minister Hashimoto and President Yeltsin to boldly promise a peace treaty by the year 2000, but the momentum toward this goal has dissipated. Negotiations can easily stall over the territorial issue, as neither side can currently muster the political will to compromise. This must not be read as a sign that CBMs have failed, nor must the subsequent disillusionment hinder continued and expanded bilateral military CBMs.

Tensions between Japan and South Korea over history and territorial disputes have never been far from the surface, and flared frequently under President Kim Young-sam. His diplomatic and economic overtures toward China had occasionally fueled friction with Japan, as when he and Chinese president Jiang Zemin jointly warned of the danger of Japanese remilitarization at a Seoul summit. Even so, Japan and South Korea carried out high-level defense dialogue under Kim Young-sam, with ministerial exchanges in 1994 and 1997, and working-level and staff-level

exchanges annually since 1994. South Korean navy vessels called at Tokyo in 1994 and the MSDF visited Pusan in 1995. The advent of Kim Dae-jung in 1998 brought an improvement in the overall relationship, encapsulated in the greatly successful summit in November, as well as more narrowly in the security relationship, which witnessed agreements on joint search and rescue operations and the establishment of hotlines for military communication. The continuing threat from North Korea is not the only factor bringing about the sense of common interest between the two; South Korea's democratization and economic globalization have brought its political-economic interests closely in line with Japan's. Furthermore, the domestic pressures in South Korea to take a hardline stance against Japan have somewhat abated with the collapse of Socialism and the death of Kim Il Sung. The early postwar period witnessed a ferocious contest for legitimacy between the two Koreas, with the regime in the North having impeccable Nationalist credentials due to its anti-Japanese resistance. The competition with the North and internal political struggle made friendliness toward Japan a liability, but especially since the Asian Financial Crisis of 1997 the possibility of Japanese help to South Korea's strained economy has meant the closer ties are an electoral asset.

With a warmer political mood and active bilateral military CBMs, the Japan–South Korea relationship can move ahead rapidly. Now is the time for the two sides to cooperate to ensure regional stability for the long term. In a sense, the immediate problem presented by North Korea provides the opportunity to establish a strong, enduring security relationship. Seoul would be

With a warmer political mood and active bilateral military CBMs, the Japan–South Korea relationship can move ahead rapidly.

interested in intelligence cooperation with Tokyo, especially if the latter follows through on plans to acquire reconnaissance satellite capability. While coping with current crises, Japan and the ROK should also consider how to jointly support US forward

deployment in Asia after Korean Unification. Another long-term goal might be joint efforts to defend sea lanes vital to both nations.

Bilateral security relationships with countries of Southeast Asia, which witnessed some CBM efforts during the Cold War, have continued to develop in the decade since, but have not kept pace with Japan–Russia or Japan–ROK ties. This is due in part to the primarily multilateral focus of Japan's CBMs with Southeast Asia and to the lower apparent need for CBMs to improve already good relationships. Even so, Japan has held high-level defense exchanges with Thailand,

Singapore, Cambodia, Vietnam, Indonesia, and Malaysia over the past three years. There is a clear effort to continue to employ cultural diplomacy in the region, expanded recently with the establishment of the Asia Center under the Japan Foundation. Economic relations still form the core element of Japan's ties to the region, but the Japanese have been careful to always include military CBMs, resulting in solid and broad-based relationships.

Japan's CBMs with China

Of all Japan's foreign ties—indeed of all bilateral relationships in Asia—Japan–China relations are the most fraught with implications for regional stability, security, and prosperity. Failure to implement effective CBMs with China will be more significant than any successes elsewhere. China is of such great concern to Japan's future that many policies must be considered in light of their implications for Japan–China relations. This section will therefore address not only the strictly bilateral CBMs along the lines of those discussed above, but the overall framework of Japanese security policy vis-à-vis China.

As a huge neighboring country, both in population and territory, China is impossible for Japan to ignore. Due

Failure to implement effective CBMs with China will be more significant than any successes elsewhere.

to its size, it can exert tremendous influence on Japan whether it succeeds in modernization or fails. It was the latter possibility that dominated Japanese policy toward China until the mid-1990s. Especially following the Tiananmen massacre of June 1989, the Japanese were fearful of chaos engulfing China, driving out refugees by the millions and creating a regional political power vacuum similar to the weak China of the early 20th century. Japan saw it as fundamental to support China's development and transition to a market economy.

At the same time, China remains a communist country, possessing nuclear weapons and ballistic missiles, with a history of hostility with Japan. Not much support existed in Japan for a military relationship with such a country, given the schism within Japan in which those who accepted the need for the JDA to play a diplomatic defense role tended to strongly oppose the PRC regime, while those who viewed that regime more favorably rejected the military establishment. There was a brief period when the strategic interests of Japan and China coincided, from the late 1970s until the mid-1980s, and the Chinese defense minister visited Japan in 1984. JDA administrative vice-minister Nishihiro Seiki— the highest non-politician in the agency— went to

China in 1986, a visit all the more striking because Nishihiro was the first career JDA official to become administrative vice-minister. By the time the Minister of State for Defense visited in 1987 the outlook in Beijing had changed—the Soviet threat had receded and neither side needed the other to help deter it. The 1989 Tiananmen massacre served as the proximate cause of the cutoff of military dialogue, but the fading of the Soviet threat had already undermined that relationship.

It cannot be known whether defense cooperation after the Peace and Friendship Treaty would have built a basis for better military ties. It is known that neither side saw the relationship

One reason Japan wanted to improve its security relationship with China was the expectation that the two would need to work together to develop a stable regional order after the superpowers withdrew.

as an end in itself—each was focused solely on Russia. It was not until after the Cold War that the Japanese began to think seriously about a defense relationship with China, when, by this time, it had become an urgent task. One reason Japan wanted to improve its security relationship with China was the expectation that the two would need

to work together to develop a stable regional order after the superpowers withdrew. Another reason was the growing perception in Japan that China's modernization had fostered a new defense doctrine of border defense, especially to protect the vital economic centers on the coast, instead of a defense-in-depth people's war strategy. The new doctrine demanded new capabilities, both air and naval power, that some Japanese began to see as a threat, especially given the territorial disputes over the East China Sea and Senkaku/Diaoyutai Islands. Still another reason to develop ties with the Chinese military was its central position in Chinese politics—the PLA was a force to be reckoned with on both domestic and international levels. And we must recognize that Japan reacted to developments in US–China defense relations as well, moving to advance its ties with China as America did.

The promotion of defense exchanges, although they are not explicitly viewed as CBMs, has certainly come to be ranked as a top priority of the JDA. Administrative vice-minister Akiyama Masahiro had been the driving force behind this effort for several years even before being promoted to the top bureaucratic job, and it was an undertaking demanding several years of work. One problem confronting JDA officials is the mismatch between their agency's junior status and the PLA's position high in the Chinese hierarchy. Japan's Ministry of Foreign Affairs (MOFA) held the JDA in check, partly out of traditional suspicion of the military and partly out of concern over

turf, but China's Foreign Ministry could not handle security dialogue with MOFA because of the former's junior status to the PLA. Track Two dialogues involving retired officers on each side commenced in 1991, but it was only in 1994 that the two countries established an official security dialogue using a two-plus-two format.

Japan used defense exchanges primarily as a vehicle to urge greater transparency in Chinese defense policy, paralleling the transparency offensive underway on a multilateral basis. Japanese diplomats, conscious of their weakness in bilateral talks because of the history issue, express a preference for pressuring China in multilateral meetings. Both sides have complained that the agenda for bilateral meetings has not expanded much; after trying for over a year to arrange the visit of Chinese defense minister Chi Haotian, the JDA had little to discuss with him when he came in February 1998. That trip did provide a revealing tour of Japanese military facilities and a display of Japan's exclusively defensive defense capability, but aside from these transparency measures, no other CBMs made progress. Subsequent defense and summit meetings have brought important agreement in principle on CBMs such as establishing a hotline and mutual port visits, but these have not been implemented or even planned yet. Some Japanese suggest that the PLA is unwilling to be transparent not because it is hiding a threat but because it is masking its own weakness. Some Chinese counter that while current Japanese defense capabilities are transparent, the security policy process in Japan is opaque and, they fear, unpredictable. Bilateral CBMs in the military/security arena would help to stabilize and ameliorate this relationship.

To overcome Chinese public sensitivities and allow Maritime SDF vessels to make port visits—bringing hundreds of Japanese uniformed officers and men into China for the first time in fifty years—will demand some risk-taking from the Chinese side as well.

The successful negotiation and implementation of CBMs demand sustained leadership. Vice-minister Akiyama invested in the bilateral defense relationship for six years, and Prime Minister Hashimoto worked to help realize the defense minister exchange, raising the issue with Li Peng during his 1997 visit to Tokyo. Both Japan and China recognized that the relationship needed some help after the awful lows of 1996, and the symbolism of the 25th anniversary of normalization in 1997 and the 20th anniversary of the Peace and Friendship Treaty in 1998 provided a crucially positive background. Also, China was coping with the death of Deng

Xiaoping, the return of Hong Kong, and the 15th Party Congress in 1997, making it a year when the Chinese especially needed a positive diplomatic environment. The circumstances have now shifted, however, and with the current bilateral political and diplomatic relationship in decline the momentum of defense exchange and security dialogue built up by Akiyama is already fading.

Prime Minister Obuchi Keizo has shown less enthusiasm for security affairs than did Hashimoto. With Japanese politics still unstable and the economy precarious, Obuchi has not been taking bold steps to build on the initial hard-won successes. Within the JDA, Akiyama's ouster following a procurement scandal was a painful loss, and attention has been distracted by North Korea. The slight disillusionment felt by many in Japan with the defense exchange and security dialogue process—that it is not working yet—is sapping enthusiasm for even maintaining these activities at the current level. Japanese suspicions about Chinese military acquisitions and long term aims, and Chinese suspicions about the Guidelines and Theater Missile Defense (TMD), are unresolved. To overcome Chinese public sensitivities and allow Maritime SDF vessels to make port visits—bringing hundreds of Japanese uniformed officers and men into China for the first time in fifty years—will demand some risk-taking leadership from the Chinese side as well.

THE FUTURE OF JAPANESE SECURITY AND THE NEED FOR CBMs

Far-sighted Japanese leaders can utilize CBMs to help navigate the turbulent waters of Asian security. CBMs were created during the Cold War to reduce the danger of military conflict

Establishing patterns of routine interaction reduces uncertainty and fosters stability, regardless of the cultural or political climate.

in a Europe divided into two opposing camps, primarily by enhancing transparency. This led some skeptics to argue that CBMs are not appropriate in other circumstances, where the culture is different or the threat of war is low.

But as CBMs developed both in theory and in practice, they have demonstrated far broader applicability. Mutual reassurance through exchange of information can improve even those relationships that are not characterized by open hostility. Communication measures can prevent misunderstandings that might lead to war, and also misunderstandings that simply hinder cooperation. Establishing patterns of routine interaction reduces uncertainty and fosters stability, regardless of the cultural or political climate.

Many of the elements of Japan's diplomatic approach over recent decades fit within the general concept of confidence-building, as it sought to reassure its neighbors—the victims of Imperial Japan's expansionism—that it was not a threat. These tools were limited to non-military spheres, in accordance with Japan's rejection of the use of force after World War II. Japan has used trade, aid, student exchange, and promotion of cultural understanding as CBMs toward China and Southeast Asia. These economic and cultural means of building stable ties were generally sufficient during the Cold War, when the bipolar structure of global superpower confrontation dominated, but the regionalization of Asian security is raising the potential for mutual doubts to spiral into deeper suspicion, arms races, and conflict. By not seeking to extend CBMs to the military/security realm, Japan has been missing opportunities to promote cooperative approaches to regional security issues.

Military CBMs can deal directly with areas of concern, not just paralleling existing efforts but complementing them to make them more effective. Many Japanese believed that by minimizing military activities they could prove the lessons of the past had been learned. Ironically, failure to implement military CBMs only allowed outdated images of Japan and its defense establishment to survive and flourish. Military CBMs can help generate normal relations by correcting this, showing the real JDA and SDF to Japan's neighbors. The symbolic value of conducting military CBMs would also be significant, in that it would signal to the peoples of each country that they have a normal relationship with each other.

Perhaps most importantly, CBMs offer good ground for domestic consensus on Japan's security role. The traditional conflict between supporters and opponents of the Alliance has ebbed, but the Japanese remain deeply divided over the extent to which Japan should be involved in regional security. Battle lines are already hardening over the issue of participation in collective defense. CBMs can be a practical tool for reducing tensions and stabilizing the security environment, while conforming to Japanese ideals of cooperation and conflict-avoidance.

Japan can use CBMs to establish greater control over its own security, by shifting from its famously reactive mode to positive leadership. Leadership of this type can enhance Japan's voice on security issues on the regional and global level, lending power to its calls for disarmament and abolition of weapons of mass destruction. By using CBMs to assume more responsibility for regional security, Japan will also begin to overcome its subordination to the United States in Japan's own security affairs. The fear that this might threaten the Alliance is misplaced, since the

United States has called on Japan to increase security dialogue with its neighbors. In fact, a stronger Alliance will emerge when Japan can take more responsibility for security in the region.

If Japan makes efforts to increase its contribution to regional security solely within the scope of the Alliance, it may encounter a security dilemma; the more Japan enhances its capabilities the more it undermines its security by increasing its neighbors' sense of threat. As Japan revises the legal framework of its defense to enable the guidelines for US–Japan defense cooperation, it risks antagonizing China and Russia. Clearly, CBMs have a role in improving relations with these neighbors and avoiding confrontation over Japan's expanding regional security role. Japan's posture on relations with China has evolved from the "separation of politics and economics" doctrine taken before the 1972 normalization to the huge financial contributions to Chinese development as part of ODA. CBMs offer a way to extend the basic thrust of this cooperative approach into the security realm. Japan has transcended its old "inseparability of politics and economics" approach with Russia, and is using both economic and military CBMs to help improve political ties. CBMs can similarly improve the climate of relations for settlement of unresolved territorial disputes with China and South Korea.

The biggest challenge for Japan is maintaining cooperation with China across the range of economic, diplomatic, and security issues the two confront. The danger of failing to take bold steps now is not just that this key relationship will not improve. Japan's security policy is moving in many new directions, propelled by the need to streamline cooperation with the United States, by the threat from North Korea, and by political maneuvering over the proper role for Japan in UN peacekeeping. With leadership and commitment, Japan can develop a repertoire of CBMs that binds together its military capability and its security philosophy, that connects its UN role and its role in the Alliance, and explain these to its neighbors. But without that leadership, Japan will continue to tolerate the contradictions that undermine its credibility, and the inevitable expansion of its security role will likely provoke greater suspicion and distrust.

One promising way forward for military CBMs between Japan and China is the development of genuine defense diplomacy, a military-to-military track that is insulated from politics in the way that bilateral business dealings generally have been. While these can never be entirely insulated from each other, the greater the independence between them the greater the overall stability of the bilateral relationship. For Japan, defense diplomacy means coming to terms with the legitimate role of the military, a willingness to delegate some aspects of foreign relations to the JDA, and trust that it will serve to uphold the ideals of the Japanese people.

One new unilateral military CBM Japan might undertake is a major effort at improved public relations for the SDF and JDA. Entrenched anti-militarism is not an insurmountable obstacle; already the public approves of the disaster relief and anti-terrorism roles of the military. By increasing efforts at disarmament and the elimination of weapons of mass destruction, the Japanese government could focus anti-militarist sentiment on these horrors and make clear the distinction between the ideology of militarism and a pragmatic defense posture under a philosophy of cooperative security. Multilateral CBM initiatives are making steady progress, under structures such as the UN and ARF. Japan should continue to advance CBMs in these bodies, but cannot afford to wait for consensus to form before making other efforts, since major security issues like North Korea and Taiwan do not even reach the agenda in these organizations. Japanese efforts to construct a multilateral security forum for Northeast Asia were vetoed by China, and bilateral military CBMs with China have stalled after some early progress in the winter and spring of 1998. Japan must persuade China that diplomatic tension and rivalry, currently hindering implementation of military CBMs, in fact redouble the need for these tools.

Japan has put a low priority on military security for decades, due to the global power distribution and its own domestic political environment. The problem of building normal relations with its neighbors often received insufficient attention in the “greenhouse” of the US-led security environment, and the efforts Japan made were mainly confined to non-military spheres. Now that Japan is openly facing its responsibility to play a more active security role, there is an opportunity and a need to supplement the traditional approach with military CBMs. Japan can use military CBMs as a means of normalizing and stabilizing its foreign relations, reassuring its neighbors, enhancing its autonomy and leadership role, and transcending its past. Japan needs to implement military CBMs at all levels—unilateral, bilateral, and multilateral. The bilateral element has been weakest in the past, but shows great promise for improving key relationships with Russia, South Korea, and China, and thus for improving Japanese security.

The Spratly Islands Dispute in the South China Sea: Problems, Policies, and Prospects for Diplomatic Accommodation

Christopher C. Joyner

INTRODUCTION

The end of the Cold War created a strategic vacuum in the South China Sea. The collapse of the Soviet Union and its departure from Cam Ranh Bay; the closure of United States' naval bases in the Philippines; and Vietnam's withdrawal from Cambodia diminished superpower influence in the region. These events also prompted several East Asian littoral governments to re-calculate the strategic and national security implications of sovereignty claims made to islands in the South China Sea. In this regard, the financial turmoil that has whipsawed national economies throughout East Asia since 1998 has undercut the political stability of these same states and, in so doing, contributed to exacerbating tensions over conflicting maritime claims in the area.

In 1999 the Spratly Islands dispute reemerged as a security flashpoint in the South China Sea. This most recent flare-up over the Spratlys occurred between China and the Philippines over structures built on the aptly-named Mischief Reef, a tiny land feature known locally as Panganiban and situated within the Philippines' 200-mile exclusive economic zone as defined by contemporary ocean law.¹

Sino-Filipino conflict over Mischief Reef dates back to February 1995, when China built and manned three octagonal structures perched on stilts atop the atoll. Following a three-year hiatus, China resumed construction at Mischief Reef in late October 1998. At least four military supply ships and some 100 workers were involved in the construction operation to lay concrete foundations there.² These events reignited tensions between China and the Philippines over their

¹ "Philippines Warns of Increased Chinese Military Acts on Disputed Islands," Associated Foreign Press (AFP) ASIA, 19 January 1999. See the discussion on the Law of the Sea in the text *infra* at notes 14–18.

² Rigoberto Tiglao and Andrew Sherry, "Politics & Policy," *Far Eastern Economic Review* (24 December 1998): 18–20.

respective claims to the Spratly Islands.

In early 1999, the Chinese completed the construction on Mischief Reef. The five-story, fortified, cement building alongside the three octagonal structures is permanent and is viewed by

. . . the Spratly Islands dispute . . . remains the most contentious, complex, and volatile of the South China Sea rivalries.

the Philippines as evidence of China's intentions to establish military facilities in the region. The structure could be used for communications, anti-aircraft guns, and radar systems for monitoring aircraft and ships in the area. Further, this basing occupation of Mischief Reef

is seen as part of China's forward defense and offense strategy to house equipment for guiding cruise missile systems throughout the China Sea.³

Although China insists that the structures on Mischief Reef are intended only to provide shelter for Chinese fishermen in the area, serious suspicions exist among Asian and Western states that the completion of military structures on Mischief Reef foreshadows further Chinese military activity in the South China Sea. Recent reports in fact suggest that China might be taking secret steps to occupy the Fiery Cross atoll, another tiny islet claimed by the Philippines.⁴ Consequently, the Philippine government filed a diplomatic protest against China for the 1999 intrusion onto Mischief Reef, and has welcomed the participation of the United States and the United Nations in efforts to find a solution to the Spratlys dispute.⁵ China's presence on Mischief Reef is also viewed by Manila as threatening the Philippines' oil exploration activities in the Reed Bank, another part of the Spratlys. Likewise, Mischief Reef occupies a strategic location for listening and observing vessels transiting South China Sea lanes, giving China greater control over them. This confrontation between China and the Philippines in 1999 underscores the diplomatic and military sensitivities earmarking the Spratlys dispute in the South China Sea. The situation highlights the need for sensible solutions to ease tensions between several countries that claim all

³ Annie Ruth and Raffy Jimenez, "China Fortifies Hold on Spratlys," *Manila Times*, 21 January 1999.

⁴ Johnna R. Villaviay, "China Eyes Another Island in Spratlys," *Manila Times*, 22 January 1999.

⁵ While politically appealing, this protest is problematic since the presence of warships is legally permissible under contemporary international law in areas of the high seas, including exclusive economic zones of coastal states. Martin P. Marfil, "Spratlys 'Intrusion':" PR to Protest China Warships," *NEWS*, 20 January 1999.

or portions of the Spratlys group. This study aims to contribute to these ends, as it assesses geopolitical and legal nuances of disputes in the South China Sea, with a view to proposing confidence-building measures (CBMs) that might contribute to the resolution or setting aside of competing claims in the region. The analysis focuses on the Spratly Islands dispute, principally because it remains the most contentious, complex, and volatile of the South China Sea rivalries, and also involves the largest number of regional claimants. Presumably, though, confidence-building measures used to ameliorate the Spratly Islands dispute might be suitably applied by those same states holding competing sovereignty claims over other island groups in the region.

GEOPOLITICS IN THE SOUTH CHINA SEA

The South China Sea, covering an area of 800,000 square kilometers (310,000 square miles), is semi-enclosed, with ninety percent of its circumference rimmed by land. Many of Asia's most influential states are among its littoral countries: the Philippines, Malaysia, Brunei, Indonesia, Singapore, and Thailand; the Indochinese countries of Cambodia and Vietnam; and the People's Republic of China (PRC, or China) and Taiwan (the Republic of China).⁶

Freedom of navigation through the South China Sea, particularly through the choke points of the Taiwan Strait in the north and the Straits of Malacca in the south, remains essential to the region's geostrategic role in linking northeast Asia's seaborne trade with the rest of the world. Even so, the South China Sea's significance has been recently highlighted, not just for its strategically important commercial and military sea lanes, but also for furnishing living and mineral resources to the littoral states. As a consequence, over the past two decades competing claims to island territories, maritime and seabed jurisdictions, and access to fisheries have cast governments into a tangled nexus of regional jurisdictional conflicts and rivalries.

The matter of maritime boundary delimitation in the South China Sea is especially problematic, primarily because the present situation is defined in terms of a configuration of overlapping unilateral claims to sovereignty over an assortment of various semi-submerged natural formations scattered throughout the region. These hundreds of islands, islets, cays, reefs, rocks, shoals, and banks comprise four main archipelagoes in the South China Sea: the Pratas, Macclesfield Bank, Paracels, and Spratlys.

⁶ See generally *Heinemann World Atlas* (1995), 78–81; J. R. Morgan and M. J. Valencia eds., *Atlas for Marine Policy in South-East Asian Seas* (Berkeley: University of California Press, 1983), 3–4.

Eight states claim title to these South China Sea islands. Singapore and Malaysia dispute claims over Pisang Island and Pulau Batu Puteh, strategically situated in the congested waters of Malacca and Singapore Straits.⁷ China, Taiwan, and Vietnam contest each other's claims to sovereignty over the Paracel Islands, a group of fifteen islets and several reefs and shoals scattered over a 200-kilometer area in the middle of the Gulf of Tonkin.⁸ Taiwan also contests China's claims to Pratas Island and the Macclesfield Bank. As for the Spratlys, six states assert claims: China, Taiwan and Vietnam claim the entire archipelago, while the Philippines, Malaysia and Brunei claim sovereignty over portions of the Spratlys. Except for Brunei, all the others have established a military presence in the Spratlys.⁹

The Spratly Island group, geographically located between 4° and 11°3' North Latitude and 109°30' and 117°50' East Longitude, contains some 100-230 scattered islands, isles, shoals, banks, atolls, cays, and reefs.¹⁰ With elevations ranging from two to six meters, the mapped islands of

⁷ See D.M. Johnston and M.J. Valencia *Pacific Ocean Boundary Problems: Status and Solutions* (Boston: Martinus Nijhoff, 1991), 128–34.

⁸ In January 1974, military hostilities broke out between China and the Republic of Vietnam over the Paracels, ending in a Chinese victory and that government's forceful consolidation of the entire atoll. See Marwyn S. Samuels, *Contest for the South China Sea* (New York: Methuen, 1982), 98–118; Chi-kin Lo, *China's Policy Toward Territorial Disputes: The Case of the South China Sea Islands* (London: Routledge, 1989), 5383; Steven Kuan-Tsyh Yu, "Who Owns the Paracels and Spratlys? An Evaluation of the Nature and Legal Basis of the Conflicting Territorial Claims," in R.D. Hill, Norman G. Owen, and E.V. Roberts (eds.), *Fishing in Troubled Waters: Proceedings of an Academic Conference on Territorial Claims in the South China Sea* (Centre of Asian Studies, Hong Kong, 1991), 48–74; and The-Khang Chang, "China's Claim of Sovereignty Over the Spratly and Paracel Islands: A Historical and Legal Perspective," *Case Western Reserve Journal of International Law* 23 (1991): 399.

⁹ See Cheng-yi Lin, "Taiwan's South China Sea Policy," *Asian Survey* 37 (1997): 324 (Table 1); Mark J. Valencia, "China and the South China Sea Disputes," *Adelphi Paper* 298 (Oxford: International Institute for Strategic Studies, 1995), 8–25; Mark J. Valencia, *South-East Asian Seas, Oil under Troubled Waters: Hydrocarbon Potential, Jurisdictional Issues and International Relations* (Singapore: Oxford University Press, 1985), 87–89. For historical assessments of claims to the Spratlys, see Steven Kuan-tysh Yu, "Who Owns the Paracels and Spratlys? An Analysis of the Nature and Conflicting Territorial Claims," *Chinese Yearbook of International Law and Affairs* 9 (1989-1990): 1–27 (substantiating the Chinese claims) and Chang, "China's Claim of Sovereignty," 399–420.

¹⁰ "ICE Cases: Spratly Islands Dispute," Case No. 21 (May 1997): <http://gurukul.ucc.american.edu/ted/ice/Spratly.htm>; Dieter Heinzig, *Disputed Islands in the South China Sea* (Hamburg: Institute of Asian Affairs, 1976).

the Spratly archipelago, including shallow territorial waters, cover an area of approximately 180,000 square kilometers (69,500 square miles).¹¹

The Spratlys are too small and barren to support permanent human settlement independently, and few have fresh water or any significant land-based resources.¹² Yet, these islands are still considered strategic, economic, and political assets for littoral states in the South China Sea, principally because they can serve as legal base points for states to project claims of exclusive jurisdiction over waters and resources in the South China Sea. It must be realized, though, that the Spratlys area holds strategic importance for all states in the region, simply because these islands straddle the sea lanes through which commercial vessels must sail en route to and from South Asian ports.

These various national efforts to stake out South China Sea claims stem largely from jurisdictional rights for coastal states over offshore seabed resources as set out in the 1982 UN Convention on the Law of the Sea (LOS Convention).¹³ This instrument codifies new rights that accrue to a state having territorial sovereignty over an island or group of islands.¹⁴ Paramount among these is the exclusive right to exploit living and nonliving resources of the water column and seabed surrounding an island or archipelago. Under the LOS Convention, the state holding valid legal title to sovereignty over an island is permitted to establish a twelve-mile territorial sea and a 200-mile exclusive economic zone (EEZ) around that island.¹⁵ If an entire island group

¹¹ J.K.T. Chao, "South China Sea: Boundary Problems Relating to the Nansha and Hsisha Islands," in Hill et al, *Fishing in Troubled Waters*, 77. The total number of the Spratly Islands, reefs, shoals, and cays is variously reported. See J.R.V. Prescott, *The Maritime Political Boundaries of the World* (London: Methuen, 1985), 218–19; Mark J. Valencia, Jon M. Van Dyke, and Noel A. Ludwig, *Sharing the Resources of the South China Sea* (The Hague: Martinus Nijhoff Publishers, 1997), 225–35 (Appendix 1).

¹² See generally David Hancox and Victor Prescott, "A Geographical Description of the Spratly Islands and an Account of Hydrographic Surveys Amongst Those Islands," in *Maritime Briefing* 1 (1995) (International Boundaries Research Unit, special issue); and Tao Cheng, "The Dispute Over the South China Sea Islands," *Texas International Law Journal* 10 (1975): 267.

¹³ United Nations Convention on the Law of the Sea, opened for signature December 10, 1982, entered into force November 16, 1994. UN Doc. A/CONF.62/122 (1982), reprinted in United Nations, *The Law of the Sea: Official Text of the United Nations Convention on the Law of the Sea with Annexes and Index*, UN Sales No. E.83.V.5 (1983) (hereafter 1982 LOS Convention).

¹⁴ *Ibid.*, Articles 121 and 46–54.

¹⁵ Article 121 provides in relevant part that ". . . the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory." *Ibid.*, Article 121 (2).

obtains recognized sovereign independence as an archipelagic state, it has the right to draw a straight baseline between the outermost islands and will acquire exclusive rights to explore and exploit living and non-living resources within the area enclosed by that baseline.¹⁶ Otherwise, the legal rights to exploit resources offshore non-state archipelagoes (such as the Spratlys) will flow from the rights to exploit continental shelves offshore groups of islands.¹⁷

Were all claimants to declare EEZs or continental shelf delimitations seaward from points fixed by islands over which they now assert sovereignty, nearly the entire ocean and seabed in the South China Sea would be subjected to various degrees of national jurisdiction. An ocean region legally comprised of high seas and international seabed would be rendered into a semi-enclosed sea.¹⁸ In fact, this situation has already occurred in large part throughout the region. Motivated by security concerns and economic interests, littoral states began in the late 1960s to make overlapping sovereignty claims to South China Sea islands, a process that effectively has led to the *de facto* military partition of the Spratly Islands archipelago.

NATURE AND STATUS OF SOUTH CHINA SEA CLAIMS

Though long ignored internationally, claims to sovereignty over territory in the South China Sea are based on acts of discovery, occupation, and, more recently, on certain inferred rights over continental shelf delimitation. Legal facets of the claims became more salient for governments when the prospects for petroleum exploration became real during the 1970s and the 1982 LOS Convention emerged as the standard for demarcating offshore jurisdictional limits for resource exploitation.

¹⁶ Ibid., Articles 46–54.

¹⁷ Ibid., Articles 77 and 81.

¹⁸ See Valencia, Van Dyke and Ludwig, *Sharing Resources of the South China Sea*, 254 (Plate 1). For background assessments, see Choon-Ho Park, “The South China Sea Disputes: Who Owns the Islands and the Natural Resources?” *Ocean Development and International Law* 37 (1973): 1; and Geraldo M.C. Valero, “Spratly archipelago dispute: Is the question of sovereignty still relevant?” *Marine Policy* 18 (1994): 316.

China's assertions of sovereignty in the South China Sea rest on historical claims of discovery and occupation. The Chinese case is well documented, going back to references made in Chou Ch'u-fei's *Ling-Wai- tai-ta* (Information on What Lies Beyond the Passes) during the Sung dynasty (12th century)¹⁹ and in the records of Chinese navigators during the Qing dynasty (18th century).²⁰ Notable problems of authenticity and accuracy exist, however, in describing coastal points as implied references for the Spratly Islands. These problems are compounded by the fundamental question of whether proof of historical title today carries sufficient legal weight to validate acquisition of territory. Modern international law clearly recognizes that mere discovery of some territory is not sufficient to vest in the discoverer valid title of ownership to territory. Rather, discovery only creates inchoate title, which must be perfected by subsequent continuous and effective acts of occupation, generally construed to mean permanent settlement.²¹ Evidence of such permanent settlement is not compelling in the case of China's claim to the Spratlys.²²

In 1992 China passed a special territorial sea and contiguous zone act to legalize its claims to the Spratlys. Article 2 of this legislation specifically identifies both the Paracels and Spratly archipelagoes as Chinese territory.²³ To uphold this claim to title, since 1988 China has

¹⁹ Chou Ch'u-fei, *Ling-Wai- tai-ta* (Information on What Lies Beyond the Passes, 1178), cited in Samuels, *Contest for the South China Sea*, 15–16; and Shao Hsun-Cheng, "Chinese Islands in the South China Sea," *People's China* 13 (1956): 26.

²⁰ See Samuels, *Contest for the South China Sea*, Appendix C; Chi-Kin Lo, *China's Policy Toward Territorial Disputes*, 30. Also see generally Z. Han, J. Lin, and F. Wu, eds., *Collection of Historical Materials on China's Islands in the South China Sea* (Beijing: Oriental Press, 1988) and Jianming Shen, "International Law Rules and Historical Evidences Supporting China's Title to the South China Sea Islands," unpublished paper prepared for 21st Annual Seminar of the Center for Oceans Law and Policy, New York, N.Y., February 7–8, 1997.

²¹ *Legal Status of Eastern Greenland Case (Denmark v Norway)*, *Permanent Court of International Justice*, Series A/B, No. 53 (1933), 3 Hudson, *World Court Reports*, 148. For discussion, see Gerhard von Glahn, *Law Among Nations*, 7th ed. (Boston: Allyn and Bacon, 1996), 296–98.

²² See generally H Harry L Roque, Jr., "China's Claim to the Spratly Islands Under International Law," *Journal of Energy & Natural Resources Law* 15 (1997): 189–211; Michael Bennett, "The People's Republic of China and the Use of International Law in the Spratly Islands Dispute," *Stanford Journal of International Law* 28 (1992): 425–450.

²³ The Law of the People's Republic of China on the Territorial Sea and Contiguous Zone became effective on 25 February 1992. See *People's Daily Beijing*, 26 February 1992, 4, reprinted in United Nations, *Law of the Sea Bulletin* No. 21 (August 1992), 24–27. For discussion of this law's legal ramifications, see Liyu Wang and Peter H. Pearce, "The New Legal Regime for China's Territorial Sea," *Ocean Development and International Law* 25 (1994): 431–42; and Nien-Tsu Alfred Hu, "The Two Chinese Territorial Sea Laws: Their

deployed some 260 marines in garrisons on seven of the Spratly islets.²⁴

Claims by Taiwan today mirror those of the PRC and evidence suggests that both governments have made efforts to coordinate positions on Chinese claims in international discussions of the Spratly issue. The legal bases for Taiwan's claims are its longstanding historic ties to the islands.²⁵ Consequently, Taiwan's claims suffer from deficiencies like those of the PRC, namely, that discovery of, and intermittent contact with, scattered island formations are insufficient cause to establish legal title to sovereignty.

Taiwan was the first government to establish a physical presence on one of the Spratlys following the Japanese departure after World War II. Taiwan announced its claim to the atoll in 1947 and has occupied the largest island of the Spratlys, Itu Aba, constantly since 1956. Interestingly enough, this unchallenged exercise of control over Itu Aba for more than four decades may qualify as a display of continuous and peaceful sovereignty, a condition necessary for supporting a legal claim to the island. From the mid-1950s through the late 1980s, Taiwan maintained a force of some 500 soldiers on Itu Aba, although by 1999 the number of troops had been reduced to about 110.²⁶

The legal grounds for Vietnam's claims to South China Sea islands flow from historic activities during the Nguyen dynasty (17th–19th centuries). Maps and other supporting historical evidence for Vietnam's claims were compiled and set out by the government in two white papers, *Vietnam's Sovereignty Over the Hoang Sa and Trung Sa Archipelagoes*, issued in 1979 and 1982, respectively. Vietnam's evidence for asserting claims to title is diluted by the failure to

Implications and Comparisons," *Ocean and Coastal Management* 20 (1995): 89–96.

²⁴ John C. Baker, et al., "Cooperative Monitoring Using Commercial Observation Satellites: Case Study of a Transparency Regime for the South China Sea Disputes" (George Washington University Space Policy Institute: Washington, D.C., February 1999 (hereafter cited as Baker et al., "Cooperative Monitoring for South China Sea Disputes)." See also Cheng-yi Lin, "Taiwan's South China Sea Policy," *Asian Survey* 37 (1997): 324 (Table 1); and compare the reports in *Central Daily News* Taiwan, 2 December 1992, 4. While Lin suggests that there are nine occupied features, this discrepancy may be attributed to confusion from press reports about the discovery in 1992 of Chinese markers on two reefs on which no structures had been erected. Electronic mail communication from Bradford L. Thomas to John C. Baker, 5 January 1999 (on file with the author).

²⁵ See Peter Kien-hong Yu, "Reasons for Not Negotiating on the Spratlys: A Chinese View from Taiwan," in Hill et al., *Fishing in Troubled Waters*, 139–149.

²⁶ Baker et al., "Cooperative Monitoring for South China Sea Disputes;" and Lin, "Taiwan's South China Sea Policy," 324. Cf. *Central Daily News* Taiwan, 2 December 1992, 4.

specifically identify and distinguish between the Spratly and Paracel archipelagoes. Both island groups are treated generically, without one being geographically distinguished from the other, which has compounded the difficulty of assessing the lawfulness and propriety of claims. Considerable doubts also arise over the authenticity and accuracy of the historical record itself.²⁷ Such doubts explain why international law usually regards mere historical claims, without evident occupation and permanent settlement, as only arguably binding and susceptible to legal challenge for assuring valid claim to title over territory in the oceans.²⁸

Vietnam also bases its claims to sovereignty over the Spratlys by right of cession from a French claim to the islands first made in the 1933. The French, however, made no subsequent efforts to perfect title to the Spratlys by occupation. Nor did the French act by returning after Japan's departure following World War II, or by acting after Japan formally relinquished all title and future claims to the islands at the San Francisco Conference of 1951.²⁹ Consequently, France possessed no lawful title to the Spratly group to which Vietnam could succeed.

In any event, Vietnam moved in 1975 to secure its claim to possession of the Spratlys when it occupied thirteen islands of the group. In September 1989 Vietnam occupied three more islets, and has since taken at least nine additional atolls. By 1999, Vietnam had stationed 600 troops on at least twenty-seven Spratly land formations.³⁰

The Philippines justifies its claims to the Spratlys principally on "discovery" of certain

²⁷ Valero, "Spratly archipelago dispute," 320–22.

²⁸ Douglas M. Johnston, *The History of Ocean-Boundary Making* (Kingston and Montreal: McGill-Queen's University Press, 1988), 5. See also Mark J. Valencia and Jon M. Van Dyke, "Vietnam's National Interests and the Law of the Sea," *Ocean Development and International Law* 25 (1994): 217–250.

²⁹ See Hungdah Chiu and Choon-Ho Park, "Legal Status of the Paracel and Spratly Islands," *Ocean Development and International Law* 3 (1975): 18; and Lee G. Cordner, "The Spratly Islands Dispute and the Law of the Sea," *Ocean Development and International Law* 25 (1994): 65.

³⁰ Baker et al, "Cooperative Monitoring for South China Sea Disputes". See also Lin, "Taiwan's South China Sea Policy," *Christian Science Monitor* (July 15, 1991), 324, cited in Valero, "Spratly archipelago dispute," 316, n. 5; and *Central Daily News* Taiwan, 2 December 1992, 4. According to estimates made by Daniel Dzurek and Bradford Thomas, both highly respected experts on the Spratlys, the 27 total includes two atolls Vietnam is believed to have occupied in 1998. Electronic mail communication from Bradford L. Thomas to John C. Baker, 5 January 1999 (on file with the author).

islands by Thomas Cloma in 1947.³¹ In 1956 Cloma proclaimed the creation of a new island state, “Kalayaan” (Freedomland), with himself as chairman of its Supreme Council. While no government ever recognized the lawfulness of this “state,” Cloma persisted with his claim until 1974, when “ownership” was officially transferred under a “Deed of Assignment and Waiver of Rights” to the Philippine government. The first official claim by the Philippine government came in 1971, mainly in response to a Philippine fishing vessel being fired upon by Taiwanese forces stationed on Itu Aba Island. The Philippine government reacted by protesting the incident and then asserted legal title by annexing islands in the Spratly group based on Cloma's claim.³² In 1978 the Marcos government formally annexed the archipelago to the Philippines and placed it under the administration of Palawan province.³³ Interestingly enough, the official Philippine position contends that the Kalayaan Islands group are separate and distinct from the Spratlys and Paracels. This Philippine claim is predicated on a geological assertion that the continental shelf of the so-called Kalayaan Island group is juxtaposed to the Palawan Province and extends some 300 miles westward, into the heart of the Philippines' EEZ.³⁴ To defend its claims, the Philippines currently has 595 marines stationed on eight islands. These bases are fortified with heavy artillery and are equipped with radar facilities, a weather station, and ammunition depots.³⁵

More recently, Malaysia and Brunei have asserted claims to certain islands and reefs in the Spratlys, based principally on certain continental shelf provisions in the 1982 LOS Convention. These provisions describe in detail what legally constitutes a “continental shelf” for a state, and

³¹ Thomas Cloma, an enterprising Filipino businessman and owner of a fishing fleet and private maritime training institute, aspired to open a cannery and develop guano deposits in the Spratlys. It was principally for economic reasons, therefore, that he “discovered” and claimed the Kalayaan Islands and established several colonies on them by 1950. See Samuels, *Contest for the South China Sea*, 81–86.

³² See Gil S. Fernandez, “The Philippines’ South China Sea Island Claims,” in Aileen San Pablo-Baviera, ed., *The South China Sea Disputes: Philippine Perspectives* (New Manila: Philippine–China Development Resource Center and Philippine Association for Chinese Studies, 1992), 19–24; and Wilfrido V. Villacorta, “The Philippine Territorial Claim in the South China Sea,” in Hill et al., *Fishing in Troubled Waters*, 207–215.

³³ See Presidential Decree No. 1596, “Declaring Certain Areas Part of the Philippine Territory and Providing for Their Government and Administration, June 11, 1978,” reprinted in San Pablo-Baviera, *South China Sea Disputes*, 55.

³⁴ See Fernandez, “The Philippines’ South China Sea Island Claims,” 20.

³⁵ Baker et al., “Cooperative Monitoring for South China Sea Disputes,” Cf. Lin, “Taiwan’s South China Sea Policy,” 324; *Central Daily News Taiwan*, 2 December 1992, 4.

the sovereign rights a state may exercise for purposes of exploring and exploiting the resources of its continental shelf.³⁶

Malaysia has claimed sovereignty over twelve islands in the Spratly group, but those claims appear ill-founded. Serious doubt remains about the legal propriety of Malaysia's assertions, which arises from Malaysia's basing its claims to certain islands on ocean law principles associated with prolongation of a continental shelf seaward, rather than the accepted legal means of validating claim to title over territory through permanent occupation.

The clear inference from Malaysia's claims is that a state possessing a continental shelf also possesses sovereign rights over land formations arising seaward from that shelf. That inference is misguided and flawed under contemporary international law. The 1982 LOS Convention neither stipulates nor invites such an interpretation. The Convention does set out a regime for an island, which is defined as a "naturally formed area of land, surrounded by water, which is above water at high tide."³⁷ The Convention also gives to a state with established sovereignty over an island the right to exploit living and non-living resources in the water column and on the seabed within that island's territorial sea, contiguous zone, and exclusive economic zone. The critical legal consideration for acquisition of sovereign title over an island formation, however, is not the geological affinity of a coastal state to island formations arising from continental shelves offshore. Rather, ownership derives from occupation, demonstrated by a continuous and effective display of sovereignty through permanent settlement. As generally construed, establishing a few military outposts may be considered vestiges of occupation. Even so, for that military presence to meet the test of "effective occupation" through permanent settlement will depend on the longevity of the presence, and whether settlers can be "permanently" attracted to inhabit the region. Such occupation has yet to be effected by Malaysia. Moreover, while Malaysia may use the continental shelf provisions in the 1982 Convention to support its claims to seabed resources, those provisions do not legally uphold assertions to sovereignty over land formations that are permanently above sea level.³⁸

³⁶ 1982 LOS Convention, Articles 76 and 77.

³⁷ *Ibid.*, Article 121 (1).

³⁸ See generally R. Haller-Trout, "Limitations of International Law: The Case of Malaysia's Territorial Claims in the South China Sea," in Hill et al., *Fishing in Troubled Waters*, 216–236.

Malaysia is the most recent claimant to occupy part of the Spratlys militarily. In late 1977, Malay troops were landed on Swallow Reef. Since then, about seventy soldiers have been stationed on three of the twelve islets claimed by Malaysia.³⁹

Brunei has only one claim to the Spratly group, that being to a naturally submerged formation known as Louisa Reef. Similar to Malaysia, the legal premise for substantiating Brunei's claim flows from continental shelf provisions in the 1982 LOS Convention. Unlike Malaysia's claims to island formations, however, Louisa Reef is a submarine feature and part of the seabed. Hence, it may be regarded legally as an extension of a continental shelf. The critical point here, of course, is Brunei's ability to demonstrate that Louisa Reef is indeed part of the extension of its continental shelf. Settlement here is neither necessary nor possible; the key criterion to be satisfied for ownership is whether the continental shelf can be substantiated as a natural prolongation seaward from the coastal territory of Brunei. Granting that, Brunei would enjoy the exclusive right to exploit resources of the reef. Brunei remains the only claimant without a military presence in the Spratly Islands. Even so, Louisa Reef is also claimed by Malaysia, which took possession of it in 1984.⁴⁰

In sum, the Spratlys situation remains complicated by competing claims and the possibility of military clashes. Taiwan remains in control of Itu Aba Island; the PRC has occupied seven reefs and rocks since January 1988; Vietnam now occupies at least twenty-seven islands, reefs and cays. The Philippines controls at least eight principal islands and claims some fifty other islets, reefs, and shoals. Malaysia has troops on three atolls and asserts claims to nine other geological formations in the area. In addition, Brunei claims Louisa Reef. Consequently, the South China Sea has become a patchwork of conflicting national claims, most recently driven by geopolitical considerations over-development of potential hydrocarbon resources.⁴¹

³⁹ Baker et al., "Cooperative Monitoring for South China Sea Disputes" Cf. Lin, "Taiwan's South China Sea Policy," 324; *Central Daily News* Taiwan, 2 December 1992, 4.

⁴⁰ See generally Khadijah Muhamed and Tunku Shamsul Bahrin, "Scramble for the South China Sea: The Malaysian Perspective," in Hill et al., *Fishing in Troubled Waters*, 237–250.

⁴¹ See Bob Catley and Makmur Keliat, *Spratlys: The Disputes in the South China Sea* (Aldershot: Ashgate, 1997), 44–65. For the evolution of these claims, see Tao Cheng, "The Dispute Over the South China Sea Islands," *Texas International Law Journal* 10 (1975): 265; Hungdah Chiu and Choon-ho Park, "Legal Status of the Parcel and Spratly Islands," *Ocean Development and International Law* 3 (1975): 1.

A military presence in the Spratlys, such as an island-based airstrip, could effectively be used to stop all shipping in the South China Sea if armed conflict were to break out in mainland Asia.

Once competing states unilaterally assert territorial and maritime competence in the South China Sea, articulate enforceable limits of national jurisdiction, and then proceed to grant to multinational companies concessions or licensing projects within the areas claimed, conditions become ripe for conflict over

boundaries for allocating development opportunities in resource zones. National anxieties also become aggravated, and regional tensions can escalate to the point that military options become acceptable to some governments. This pattern emerged during the past decade for states with competing claims over the Spratly archipelago.

The intractable and contentious nature of jurisdictional disputes over the Spratlys has prompted claimant states to take efforts to enforce their claims by stationing a permanent military presence in the archipelago. By 1999, nearly 1650 troops of five claimant governments had occupied at least forty-six of fifty-one land formations in the Spratly archipelago.⁴² In the process, the two principal antagonists, China and Vietnam, have each increased naval patrols and established new military outposts on previously unoccupied islets in the region (See Table 1).⁴³

⁴² Many of these are not military bases as such, but rather raised man-made platforms constructed on and secured to barren projections of natural coral outcroppings. Such structures are highly vulnerable to sea and weather conditions, and must be continually resupplied since there is a dearth of fresh water available. See Valencia, Van Dyke, and Ludwig, *Sharing Resources of the South China Sea*, 258 (Plate 5) and *Asian Defence Journal* 15 (1992): 22, for photographs of Chinese Navy outpost structures in the Spratlys.

⁴³ Figures for the troops levels deployed by Spratly claimants are taken from Lin, "Taiwan's South China Sea Policy," 324. Compare these with Zhiguo Gao, "The South China Sea: From Conflict to Cooperation?," *Ocean Development and International Law* 25 (1994): 346–48.

TABLE 1

National Occupation of the Spratly Islands, 1999				
Claimant	Features		Facilities	Number of Troops
	Claimed	Occupied		
China	all	7	helicopter pads	260
Philippines	60	8	1300 m runway	595
Vietnam	all	27	600 m runway	600
Malaysia	12	3	600 m runway	70
Taiwan	all	1	helicopter pad	112
Brunei	0	0	none	0
TOTAL	46 islands garrisoned			1637

Sources: Baker, et al., "Cooperative Monitoring for South China Sea Disputes;" Lin, "Taiwan's South China Sea Policy," *Asian Survey* 37:4 (1997): 324; 1996 National Defense Report, Republic of China (Taipei: Li Ming Cultural Enterprise Company, 1996), 26.

SPECIAL GEOSTRATEGIC INTERESTS IN THE SPRATLYS

Natural Resources

All of the claimant states assert special geostrategic interests in the South China Sea. Fishing remains an important economic activity for all littoral states, and these waters hold abundant supplies of numerous fish species. A recent study indicated that the Spratlys area in the South China Sea, covering some 390,000 square kilometers, is one of the world's richest fishing grounds, yielding up 7.5 tons of fish per square kilometer.⁴⁴ Moreover, all governments want to maintain open commercial sea lanes throughout this region to sustain their international trade. The

⁴⁴ A recent briefing paper by the Philippine Office of Strategic and Special Studies of the Armed Forces of the Philippines posits that there are 314 fish species in the Spratlys region, of which sixty-six are commercially significant stocks. At least eight percent of the world's fish catch comes from the region, since it straddles the path of yellowfin tuna migration. See "Disputed Spratlys' Rich Oil, Gas, Mineral Fish Potential," *Asia Pulse*, 13 November 1998.

Spratlys straddle the South China Sea, through which twenty-five percent of the world's cargo shipping passes enroute to Japan, Korea, China, Taiwan, Australia, New Zealand, and the Middle East. More than 200 ships traverse the South China Sea daily, and during the 1980s, some 2,700 vessels passed through the Spratlys region. To highlight the point, Japan receives seventy-five percent of its energy requirements from the Middle East through this seaway.⁴⁵ Similarly, all the claimants aspire to share in the exploitation of hydrocarbon resources if and when it occurs in the South China Sea. A 1998 report estimated that ten billion tons of oil and one trillion cubic meters (thirty-five trillion cubic feet) of natural gas are in the Spratlys, and that China has estimated hydrocarbon resources in the area of 17.1 billion barrels of oil, higher than that of Kuwait.⁴⁶

It is China, however, that has become the key player in maritime geopolitics affecting the Spratly Islands dispute.⁴⁷ China is the largest military actor in the region, as it possesses the largest navy, air force, and land army in South Asia. Traditionally, China's national interests in the South China Sea have been geostrategic and security-related, *viz.*, to prevent becoming encircled by the expanding influence of the Soviet Union (now Russia) and to protect national security from a sea-based attack. The Spratlys archipelago is seen as a strategic asset. Lying between Vietnam to the west and the Philippines to the east, the Spratlys offer a potential staging location for blocking ships traversing the South China Sea. Aircraft and helicopters based in the Spratlys could bring within range the Malacca and Sunda Straits, both vital choke-points through which shipping in the South China Sea must pass to enter the Indian Ocean. A military presence in the Spratlys, such as an island-based airstrip, could effectively be used to stop all shipping in the South China Sea if armed conflict were to break out in mainland Asia.

The geopolitical stakes for all claimant states in the Spratly Islands have been magnified by the belief that potentially significant deposits of oil, gas, and minerals exist on and under the surrounding ocean floor.⁴⁸ The possibility of extensive hydrocarbon finds in the South China Sea

⁴⁵ *Ibid.*, 2.

⁴⁶ *Ibid.*, 3. While China has estimated that the South China Sea's hydrocarbon resources are so vast that the region ranks as the world's fourth largest concentrated deposit, these estimates are mostly likely exaggerated. See the discussion *infra* in the text, at notes 55–57.

⁴⁷ See Edmond D. Smith, Jr., "China's Aspirations in the Spratly Islands," *Contemporary Southeast Asia* 16 (1994): 274–294; Catley & Keliat, *Spratlys: Dispute in the South China Sea*, 65–81.

⁴⁸ At least twenty-nine oil fields and four gas fields have been developed in the South China Sea over the past four decades. See "Territorial Dispute Simmers in Areas of South China Sea," *Oil & Gas Journal* (13 July 1992): 20–21. See also Bruce Blanche and Jean Blanche, "Oil and Regional Stability in the South China Sea," *Jane's Intelligence Review* (November 1995), 511–14.

has been geologically presumed since internationally coordinated undersea seismic surveys were conducted in the late 1960s.⁴⁹ In the past two decades, China has increasingly turned toward domestic economic reform and development of trade and commerce with the outside world. Promoting an offshore petroleum industry obviously has become a major factor in China's national economic reform policy.⁵⁰ Offshore output peaked in 1997 at 12 million tons of oil and four billion cubic meters of natural gas,⁵¹ though none of this came from exploratory efforts in the South China Sea.

China's strategy of moving offshore to develop potential oil fields has strained its relations with other littoral states in South East Asia.⁵² The PRC's desire to acquire vast areas of oil-rich seabed undoubtedly has been a prominent catalyst in motivating other claimant states to carve out and assert national claims throughout the Spratlys. This rivalry has compounded regional tensions over the past decade.⁵³

Expectations of developing large offshore oil deposits in the region have encouraged aggressive oil exploration efforts by China and Vietnam, sometimes in overlapping areas, but usually supported by naval patrols. For example, in 1992 the Crestone Energy Company of the United States signed an offshore contract with the China National Offshore Company that covered an area of 25,155 square kilometers in the Vanguard Bank area of the South China Sea, an area also claimed by Vietnam as its continental shelf.⁵⁴ In June 1994, when Vietnam moved an oil rig

⁴⁹ Corazon Siddayao, *The Off-Shore Petroleum Resources of South-East Asia* (New York: Oxford University Press, 1978), 22–31.

⁵⁰ Since promulgation of a law in 1982 permitting foreign participation in offshore petroleum exploration, the China National Offshore Oil Corporation has held at least four rounds contract bidding, signed 100 contract with fifty-nine companies from sixteen countries, covering 350,000 square kilometers. "China's upstream programs advance onshore and offshore," *Oil & Gas Journal* (25 September 1995): 31.

⁵¹ *Ibid.*

⁵² See Adam Swartz and Matt Forney, "Oil on Troubled Waters: Vietnam's Conoco Deal Draws Fire from China," *Far Eastern Economic Review* 159 (25 April 1996): 65; "Prospect of Oil Makes Spratlys Hot Property: Storm Brews Around the Islands," *South China Morning Post* (26 July 1994), 7; "Sino/Viet Nam territorial dispute flares up again," *Oil & Gas Journal* (14 June 1993), 17; Barry Wain, "Tension Mounts as Vietnam Vies With Beijing Over Oil Exploration," *Wall Street Journal* (25 July 1994), A10.

⁵³ See generally Valencia, *Atlas for Marine Policy in South-East Asian States*, 83–85; Kathy Shirley, "Oil Potential Overshadows Risks," *AAPG Explorer* (December 1992), 8–9.

⁵⁴ N.D. Kristof, "China Signs U.S. Deal for Disputed Waters," *New York Times* (18 June 1992), A8; M. Vatikiotis, "China Stirs the Pot," *Far Eastern Economic Review* 155 (9 July 1992), 14–15.

into that area, China threatened to use naval force to protect Crestone's concession.⁵⁵ A serious confrontation was avoided when both governments, under pressure from ASEAN governments, pledged mutual restraint and not to escalate tensions. Even so, such threatening rhetoric has prompted concerns about contracted oil exploration activities triggering open hostilities between China and Vietnam.

More recent data have suggested, however, that the extent of hydrocarbon deposits in the South China Sea may be exaggerated. Surveys since 1995 indicate that potential oil fields around the Spratly archipelago are not as large as initially believed, and that the geological structure of these deposits will require extensive drilling operations. When linked with the great distances from China and other littoral states, the lack of sufficient geological data, deep-sea drilling difficulties, and considerable economic risks make exploitation operations in the Spratlys region appear more expensive, and thus less commercially attractive.⁵⁶ Consequently, prospecting for hydrocarbons around the Spratlys is not attracting much serious interest from major oil companies in 1999.⁵⁷

Maritime Strategy

The maritime strategy of the PRC navy in the South China Sea has traditionally been guided by three principal missions: (1) to guard against Russian invasion; (2) to counter nuclear attacks from sea-based sources; and (3) to protect sea lines of communication and Chinese claims to natural resources contiguous to archipelagoes in the Asia-Pacific region. As the Cold War has passed into history during the 1990s, the priority of these missions has shifted, with increasing importance now being placed on ensuring access to sea lanes and natural resources in the region.

To maintain control over the Spratlys in the South China Sea, China's navy must optimize its available assets to retain air and sea superiority out to 1,300 kilometers. In the long term, if China is to have military influence over Malaysia, Singapore, and the Philippines, the operating combat radius and sea lines of communication will have to be extended out to 2,000 kilometers.

⁵⁵ Philip Shenon, "China Sends Warships to Vietnam Oil Site," *New York Times* (21 July 1994), A10.

⁵⁶ Andrew J. Nathan and Robert S. Ross, *The Great Wall and the Empty Fortress: China's Search for Security* (New York: W.W. Norton, 1997), 116. See also "Spratlys: Only Modest Oil and Gas Potential," *Asian Oil and Gas* (Hong Kong, September 1992): 12.

⁵⁷ Valencia, Van Dyke and Ludwig, *Sharing Resources of the South China Sea*, 9–10.

China has no aircraft carriers and only limited in-flight refueling capabilities.⁵⁸ Acquisition of an aircraft carrier (estimated to occur by the year 2010) and improvement of in-flight refueling capacity, however, could make securing this combat radius possible.⁵⁹ The PRC's plans for force projection will probably continue to concentrate on Vietnam as the most likely aggressor, while its perception of other ASEAN members will be viewed as friendly and unprovocative.⁶⁰

The main rival to China in the region is Vietnam, although its armed forces are in "a parlous state" and its military position in the Spratlys is described as "a strategy inspired by desperation."⁶¹ Consequently, its claims in the South China Sea provide China with the opportunity to extend its influence as a maritime power in Asia. The Chinese are developing a blue-water navy and aspire to other ocean projection capabilities, especially longer-range aircraft and submarine strength.⁶² The Chinese desire to preserve economic and political interests through a strategic doctrine of active defense offshore makes it necessary for the Chinese navy to be prepared for maritime disputes. Sovereign rights, fishing rights, and the perceived potential of offshore hydrocarbon resources have driven the PRC's claims to islands in the South China Sea.

There is little doubt that Chinese claims to the Spratlys, which at their nearest point lie some 1,110 kilometers (600 nautical miles) south of the Chinese mainland, reflect strategic island grabbing. Such claims ostensibly support diplomacy that will reinforce China's naval presence

⁵⁸ The recent purchase of seventy-two Russian-made Su-27 fighters bolsters China's aerial strength, although most of the PRC's air force is still of 1950s/1960s vintage and cannot reach the South China Sea. See William J. Dobson and M. Taylor Travel, "Red Herring Hegemon: China in the South China Sea," *Current History* 96 (September 1997): 261–62.

⁵⁹ See John Caldwell, *China's Conventional Naval Capabilities* (Washington, D.C.: Center for Strategic and International Studies, 1994); and Christopher D. Young, *People's War at Sea: Chinese Naval Power in the Twenty-first Century* (Alexandria, Va: Center for Naval Analyses, 1996).

⁶⁰ Ngok Lee "Chinese Maritime Power and Strategy in the South China Sea," in Hill et al., *Fishing in Troubled Waters*, 157.

⁶¹ Vietnam possesses only seven frigates and forty patrol boats, many of which are non-operational because of the lack of spare parts. Its air force, "the major deterrent against the Chinese navy," is comprised of 175 MiG-21 Fishbeds, 36 MiG-23 Floggers and 65 Su-20/-22 ground attack fighter aircraft. This paucity of air and naval support renders Vietnamese outposts in the Spratlys "highly vulnerable to blockade, assault and piecemeal capture." Clive Schofield, "An Arms Race in the South China Sea?," International Boundaries Research Unit, *Boundary and Security Bulletin* 2 (July 1994): 43–44.

⁶² The People's Liberation Army (Navy) reportedly contains thirty-seven frigates, 450 fast attack craft, sixty-seven minesweepers, 160 landing ships, and eighty-one patrol craft, with at least 800 other vessels in reserve. Joseph R. Morgan, "Chinese Navies," in Elisabeth Mann Borgese, Norton Ginsburg and Joseph R. Morgan eds., *Ocean Yearbook* 12 (Chicago: Chicago University Press, 1996), 279 (Table 1).

in Southeast Asian waters. Chinese warships thus have become a projection of Beijing's politics into the South China Sea.⁶³ Moreover, China's intentions clearly are to acquire both aircraft carrier and long-range, in-flight refueling capabilities to facilitate projection of those politics throughout the region.

Prospects for Military Conflict

Developments affecting the Spratlys over the past decade have suggested that a regional arms buildup might exacerbate tensions in the South China Sea.⁶⁴ Not surprisingly, interstate regional relations became strained in the process. Several incidents involving bilateral intimidation contributed to an uneasy, belligerent mood among various claimants during the late 1980s and 1990s. Indeed, the Spratlys surfaced as a primary flash point for conflict, particularly where China confronted Vietnam.

The first such clash came on 8 February 1987, when Chinese and Vietnamese warships opened fire on each other in the area. On 14 March, a more serious confrontation occurred off Union Reef, as each navy lost a vessel and 120 Vietnamese sailors drowned.⁶⁵

Even more serious was the violent clash between China and Vietnam in March 1988.⁶⁶ After a small contingent of Vietnamese opened fire on Chinese military and construction personnel

⁶³ See the discussion in notes 69–78 *infra*. Also see generally Jun Zhan, "China Goes to the Blue Waters: The Navy, Seapower Mentality and the South China Sea," *Journal of Strategic Studies* 17 (1994): 180–208; T.M. Cheung, *Growth of Naval Power*, Pacific Papers No. 1 (Singapore: Institute of Southeast Asian Studies, 1990), 270–87; and Morgan, "Chinese Navies," 270–87. As the dominant naval power in the South China Sea, the PRC still views "local war" as the combat level most likely in the region. That is, hostilities would remain regional, and would not spill over into multilateral, global warfare. Should the need arise to enforce claims militarily in the Spratlys, that operation would be assigned to naval task forces comprised of surface combatants and patrol submarines, closely supported by land-based aircraft. The PRC today appears to have the capability of launching maritime strikes in sea-air joint operations against Vietnamese held islands and atolls, although the logistics of long-term re-supply would be formidable.

⁶⁴ See Schofield, "Chinese Navies," 39–48; and Clive Schofield and William G. Stormont, "An Arms Race in the South China Sea?," in Elisabeth Mann Borgese, Norton Ginsburg and Joseph R. Morgan eds., *Ocean Yearbook* 12 (Chicago: Chicago University Press, 1996), 286–305.

⁶⁵ Peter Forrest and Eric Morris, "Maritime Constabulary and Exclusive Economic Zones in the South China Sea: Some Strategic Considerations," in Hill et al., *Fishing in Troubled Waters*, 302–319, 311.

⁶⁶ Chang Pao-Min, "A New Scramble for the South Sea Islands," *Contemporary Southeast Asia* 12 (June 1990): 20–39.

working on Fiery Cross Reef (Chigua atoll), the Chinese dispatched warships to the area, further hostilities erupted, and three Vietnamese vessels were sunk, with the loss of seventy-four lives.⁶⁷ China emerged as the clear victor from this episode. Not only did the Fiery Cross Reef confrontation reaffirm the PRC's determination to assert sovereignty over the Spratlys, it also demonstrated the superiority of Chinese naval power over that of Vietnam.⁶⁸ The incident touched off a naval buildup between China and Vietnam in the islands, as well as a series of competing occupations of more islets by troops from both states.⁶⁹

The growing naval presence and construction by China and Vietnam of military installations on newly occupied islets unsettled other claimants as well. In April 1988, forty-nine Filipino fishermen were arrested by Malaysian authorities in the Permatang area of the Spratlys on charges of poaching in Malaysian continental shelf waters.⁷⁰

Events during the 1980s made armed conflict in the South China Sea seem more likely. Difficulties of demarcating ocean boundaries, uncertain bilateral negotiations, and obstacles impeding multilateral discussions all suggested that a negotiated settlement for the Spratly dispute was at most a distant aspiration, not a near-term expectation. Occupying vast areas of the archipelago became critical for concerned governments to assert anything approaching legitimate claims of sovereignty. It is precisely for these reasons that China, Vietnam, Malaysia, and the Philippines were tempted during the 1980s to consolidate territorial gains in the Spratly archipelago, and they even sought to expand their respective areas of control throughout the South China Sea. Such attempts exacerbated tensions and generated armed clashes between China and Vietnam.

Events during the 1990s generated greater concern over Chinese intentions in the South China Sea. In 1992 China began installing sovereignty markers on various shoals and islets in Spratlys, but a strong "Declaration on the South China Sea" by ASEAN curbed Beijing's

⁶⁷ *Straits Times* (26 March 1988), 3.

⁶⁸ Justus M. van der Kroef, "Territorial Claims in the South China Sea: A Strategic Irrelevance?," in Hill et al., *Fishing in Troubled Waters*, 21–35; and Shee Poon Kim, "The March 1988 Skirmish over the Spratly Islands and Its Implications for Sino-Vietnamese Relations," in *Spratly Times*, 177–191.

⁶⁹ Schofield and Stormont, "An Arms Race in the South China Sea?," 303.

⁷⁰ Lee Yong Leng, "The Malaysian-Philippine Maritime Dispute," *Contemporary Southeast Asia* 11 (1989): 17.

assertiveness and prompted the PRC to temper its South China Sea activities in 1993 and 1994.

China resumed its expansionist policies in February 1995 when troops from the PRC occupied Mischief Reef, a shoal in the Spratlys located well inside the 200-mile EEZ claimed by the Philippines.⁷¹ They constructed three fisherman's structures on the half-submerged atoll. The Mischief Reef incident so alarmed the ASEAN states that they took a united stand critical of China's occupation of territory within the Philippines' EEZ. In reaction to this unified protest by ASEAN, China and Philippines agreed in 1995 to a code of conduct to avoid new provocations and potentially destabilizing actions. That code aimed to reduce chances of military conflict over Spratlys by fostering the reduction of forces in the region and lessening of chances of accidental military confrontation over the Spratlys.⁷² China also pledged to abide by the 1992 ASEAN statement, which had called for mutual restraint in South China Sea activities. It was the 1995 crisis over Mischief Reef, however, that provoked real regional concern and suspicion over China's long-term intentions and geostrategic objectives in the Spratly and revived fears that the South China Sea could become a tinderbox in the region.⁷³

In October 1998 construction was resumed on Mischief Reef, as the three octagonal structures were expanded and solidified. China's decision to go forward with this maritime construction project reveals how the balance of power has tipped in its favor since the onset of the East Asian financial crisis in 1998, which has sapped the strength, attention, and unity of ASEAN members.⁷⁴ The intrusive return to Mischief Reef during 1998–99 revived regional anxieties about the threat posed by China to the region. By sending warships unannounced to the region and undertaking construction operations on Mischief Reef, the PRC openly breached the code of conduct signed in 1995 with the Philippines. Building hardened structures, complete with military communication facilities and guarded by Chinese naval vessels and anti-aircraft artillery, is hardly

⁷¹ Daniel J. Dzurek, "China Occupies Mischief Reef in Latest Spratly Gambit," *Boundary and Security Bulletin* 3 (April 1995): 65–71; Cameron W. Barr, "Uneasy Silence Hangs Over China's Grab," *Christian Scientist Monitor* (17 March 1995).

⁷² "Manila, Beijing agree on Spratlys Code of Conduct," *Reuters*, 10 August 1995.

⁷³ The Philippines reacted by diplomatically protesting China's "invasion of their EEZ" and sending a symbolic force of ten aircraft and three patrol boats to the island of Palawan. Abby Tam, "Manila Tries Diplomacy In Confronting China," *Christian Science Monitor* (22 February 1995); Scott Snyder, "The South China Sea Dispute: Prospects for Preventive Diplomacy: A Special Report of the United States Institute of Peace," (Washington, D.C.: USIP, August 1996), 15.

⁷⁴ Rigoberto Tiglao and Andrew Sherry, "Politics & Policy," *Far Eastern Economic Review*, (24 December 1998): 18–20.

conducive to promoting peaceful relations between states who claim the same dot of land in the ocean. Such developments strain prospects for instituting CBMs and cloud prospects for maintaining stable regional security. Similarly, serious questions must be asked about the sincerity of Chinese diplomacy given Mischief Reef II, especially in light of these events and the commitment made by Jiang Zemin to employ peaceful means to resolve the countries' dispute over the Spratlys at the 6th Leaders Summit of the Asia-Pacific Economic Cooperation (APEC) forum in Kuala Lumpur in November 1998.

Disturbing, too, is that ASEAN now appears vulnerable to regional pressures. Tensions from the region's financial crisis have strained economic relations among members and left these states with few funds to spend on an arms race. Although four of six claimant states in the Spratlys are ASEAN members (viz., the Philippines, Malaysia, Vietnam, and Brunei), none is eager to jeopardize bilateral relations with China given the latter's economic growth and potential marketplace. The point here is plain: ASEAN's failure to take a stand against the recent Chinese intrusions into the South China Sea warrants serious concern. The message sent to China in the wake of non-action by ASEAN is that further expansion will not be seriously protested, much less challenged.⁷⁵ That the PRC has warmed its relationship with the United States may also contribute to making its policies more audacious in the South China Sea.

The Philippine government views China's strategy on Mischief Reef as one of "talk and take." As a result, the 1998-99 Chinese incursion into the Spratlys generated diplomatic repercussions for the Philippines. For one, in early 1999 Manila moved to strengthen ties and improve its security alliance with the United States while pursuing talks with the Chinese.⁷⁶ Secondly, to this end, the Estrada government now advocates ratification of the stalled Visiting Forces Agreement with the United States, which would permit resumption of joint military exercises between the two allies.⁷⁷ The ulterior motive here, of course, is to make the United States a backstop ally who would dissuade further Chinese encroachments into portions of the South China Sea claimed by the Philippines. A third repercussion is suggested by President

⁷⁵ Ralph Cossa, "Inside View: Mischief Reef Flashpoint," *Defense News* (11 January 1999), 13. For treatment of China's historical attitude toward ASEAN, see Catley & Keliat, *Spratlys: Dispute in the South China Sea*, 92-110.

⁷⁶ "Philippines Warns of Increased Chinese Military Acts on Disputed Islands," *AFP ASIA*, 19 January 1999.

⁷⁷ "Estrada: VFA Needed to Stop Sino Buildup in Spratlys," *Philippine Daily Inquirer Interactive NEWS*, 1 February 1999, http://www.inquirer.net/issues/feb99/feb01/news/news_10.htm.

Estrada's announcement in February 1999, that the new constitutional convention will undertake to redefine the borders of the country to ensure that claimed portions of the Spratly Islands will be included within the Philippines' official national territory on the new map.⁷⁸ Finally, suggestions have been made by Filipino diplomats to bring the Mischief Reef dispute between China and Philippines to the International Tribunal on the Law of the Sea for adjudication.⁷⁹

In February 1999, the Mischief Reef II confrontation between China and the Philippines eased. China agreed to conduct bilateral talks with Philippines over the structures built on Mischief Reef. Moreover, China and the Philippines reportedly reached agreement to shelve the dispute and focus on joint use of the area, ostensibly including common exploration and development opportunities.⁸⁰ The appointment of a panel of legal experts from China and the Philippines to discuss fisheries, search and rescue operations, navigation, environmental protection, and disaster relief points to an encouraging trend.

For the time being, then, there is good reason to believe that large-scale military conflict over the Spratlys is unlikely. For one, these islands are scattered over an immense area, nearly 200,000 square kilometers (about the size of Minnesota). For another, the Spratlys are more than 300 kilometers (185 miles) from the Philippine and Vietnamese coasts, and more than 1000 kilometers (600 miles) from mainland China. This distance presents serious difficulties for any claimant government to patrol more than a small area of the Spratly archipelago at any one time, especially given their relatively weak capabilities for projecting armed forces. Moreover, no claimant state, including China, possesses sufficient logistical support capabilities to ensure effective occupation and maintain extended control over these islands, which underscores the importance of relative naval size. Even so, these conditions presumably should permit greater opportunities for confidence-building measures to be considered as alternative strategies.

⁷⁸ Martin P. Marfil, "Charter Change: Next RP map to include Spratly islands—Estrada," *Philippine Daily Inquirer Interactive, NEWS*, 27 January 1999.

⁷⁹ Richard B. Langit, "Erap wants US Role in Spratlys Row," *Manila Times Internet Edition*, 15 January 1999. In contrast, Beijing rejects the proposal of international dispute settlement and does not want US involvement. Discussions or negotiations should only be conducted among claimants, and should not include outside states or international organizations. China opposes internationalizing the Spratlys issue, calling instead for bilateral solutions to bilateral problems.

⁸⁰ See Martin P. Marfil, "Charter Change: Next RP map."

Despite the PRC's rumblings in the South China Sea, the Cold War's passing has brought a general sense of rapprochement to East Asia. This new climate should render political costs of a large-scale military conflict in the Spratlys unacceptable to claimant governments. Once the current financial disturbances abate, the economic expansion of ASEAN countries will resume, and the need for maintaining open shipping lanes through the South China Sea will become all the more commercially vital. These prospects should dissuade blatant attempts by any state to dominate the region militarily. That the claimants' economies are becoming more interdependent with other states in Southeast Asia, including other Spratly claimants, might amplify that reluctance.⁸¹

SOVEREIGNTY AS AN OBSTACLE TO DISPUTE RESOLUTION

Regional efforts to resolve sovereignty disputes in the South China Sea have not been successful. China traditionally has opposed multilateral talks on the Spratlys, principally because its sovereignty over the islands is held as non-negotiable, although joint ventures for exploiting natural resources in the area can be negotiated on a bilateral basis. China's no-multilateral negotiation strategy is also driven by strategic bargaining preferences. That is, China sees its interests couched in bilateral terms in the South China Sea since that strategy makes it easier to isolate the disputants and deal with them one-on-one. This erodes the ability of ASEAN to organize around an issue and allows China the freedom to negotiate individually with governments in the region.⁸²

Anxiety surrounding the sovereignty issue and conflicting claims to the Spratlys is obviously aggravated by uncertainty over how many islands, cays, reefs, and atolls are actually present. Smaller formations are difficult to identify, since many remain submerged at high tide. For a government to allege claims is relatively easy; to substantiate the presence and exact location of varied land formations in the South China Sea is more difficult, and this, too, complicates the sovereignty situation.

⁸¹ This era of rapprochement throughout the South Asia region makes China's avowed maritime strategy and its 1995 confrontation with the Philippines over Mischief Reef appear all the more confusing.

⁸² For example, in the Mischief Reef episode, ASEAN did put pressure on China and advocate the adoption of "codes of conduct." In the end, though, China was able to negotiate bilaterally with the Philippines to secure its objectives, and paid only lip service affected to the "rules of conduct." I am indebted to Professor Victor Cha of Georgetown University for bringing this to my attention.

One can appreciate a no-negotiation strategy from the Chinese vantage point. In Beijing's view, a plethora of historic records and artifacts exist to support Chinese claims to the Spratlys. That the South China Sea bears the proper name of China is in itself indicative of the paramount historical influence of that state in the region, and fosters the image of the region being a "Chinese lake." In sum, no negotiations mean no compromise on Chinese sovereignty over the Spratly archipelago. The status quo serves Chinese national interests by allowing their historical claims to persist, without fear of having to give up part or all of what the government perceives as historically and thus, rightfully theirs. Moreover, in a future multilateral conference on the Spratlys, if each government were allocated one vote at the negotiating table, China could be outvoted on important issues by a coalition of other claimants.⁸³

Sovereignty connotes both legal and political dimensions. For China and Vietnam especially, notions of political sovereignty are very sensitive concerns. Any challenge to China's claim to the Spratlys is considered to be a challenge to China's domestic sovereignty. Any concession is seen as appeasement, with adverse implications both for domestic politics and foreign relations. This point is reinforced by the realization that nationalism and sovereignty remain the strongest political cement holding the "ideologically bankrupt" Chinese Communist Party together in the post-Cold War era. In the past, the Chinese political leadership could point to foreign intervention, the Soviet threat and irredentism to bolster its nationalist legitimacy. Today, such appeals to nationalism by the leadership hold less political sway for challenges to

Sovereignty connotes both legal and political dimensions. Any concession is seen as appeasement, with adverse implications both for domestic politics and foreign relations.

⁸³ See Peter Kien-Hong Yu, "Reasons for not Negotiating and for Negotiating on the Spratlys: A Chinese View from Taiwan," in Hill et al., *Fishing in Troubled Waters*, 139–49.

Chinese claims in the South China Sea.⁸⁴ The importance of the region is viewed more in terms of geopolitical attributes, particularly its fisheries resources, hydrocarbon potential, and commercial sea lanes. Thus, Sino–Vietnamese contention over the Spratlys turns less on ideology and more on access to resources, both for food and development. In China’s view, then, control over the Spratlys can not be handed over to any adversary, especially to its principal antagonist, Vietnam.

Consider the prospects for regional negotiations on the Spratlys situation. Given the multi-party character of the dispute, one might presume that only a multilateral conference could produce a meaningful and enforceable agreement. Yet, the objective needs for a diplomatic settlement and public expressions by parties to address the dispute diplomatically do not perforce render the dispute amenable to peaceful resolution. Obstacles persist and impede even convening a forum to launch formal negotiations among the disputants.

A critical first step must be realized. Holding multilateral discussions presumes acceptance of the status quo as the basis for negotiations. Clearly, this premise lacks appeal to all claimant governments. While the Philippines and Malaysia might entertain such multilateral discussions quite readily, neither China, nor Vietnam, nor Taiwan could do so without putting at risk their longstanding comprehensive claims to the archipelago. Taiwan, controlling only one island, could hardly expect to gain much from such a multilateral negotiation. For China, any decision to engage in multilateral talks would immediately undermine its longtime assertions over claims to the entire archipelago. China would prefer to engage in bilateral discussions with the Philippines or Malaysia, but would balk at jeopardizing any geostrategic advantage it holds over Vietnam by negotiating with Hanoi.

An especially delicate issue for the PRC is the place of Taiwan in any conference of multilateral discussions. Even if both governments were to agree in principle to participate, their respective positions must be reconciled on the format of such discussions. Both the PRC and the ROC claim all of the Spratlys as their sovereign territory. Both governments make the same claim to the Spratlys, in the name of “China,” based on similar historical evidence. Were they to enter into formal negotiations as two separate and contending parties, that would constitute *de facto* recognition of two Chinas, which neither government will accept. Moreover, two separate Chinas would tend to cancel out claims by both governments to the Spratlys, and could produce squabbles

⁸⁴ This point was suggested by Professor Cha to the author in his “Comments to the Author,” dated 7 February 1997, 2.

over the recognition of credentials. Yet, neither is the time ripe to put together a single, combined Chinese negotiating delegation and crystallize a common position on the Spratlys. Recent events highlighted by the PRC conducting combat naval maneuvers in the Taiwanese Strait in 1996 seriously aggravated political relations and dimmed trust between Beijing and Taipei. For its part, the PRC has endorsed diplomatic negotiation in principle, but has preferred limited bilateral approaches in fact.⁸⁵

Vietnam's push for negotiations over the disputed islands appears targeted mainly at China. Vietnam also prefers the bilateral approach to a multilateral, regional forum. Vietnam originally claimed sovereignty over all archipelagoes in the South China Sea, but lost the Paracels to China in 1974. Hanoi appears ready to hold on to the Spratlys, and may believe that the PRC must eventually concede part of its claim for the sake of maintaining regional stability. Vietnam controls the largest number of islets and has established the most pervasive military presence in the Spratlys. Even so, the hazardous condition of its military forces, equipment, and weapons suggest its military effectiveness in defending that control to be suspect at best.

Participation by both Vietnam and China in negotiations is essential for obtaining diplomatic solutions for the Spratlys. These governments have the longest historical claims to the islands, and they have exercised the strongest resolve to use military force to uphold these claims. It seems reasonable, then, that China and Vietnam must first undertake negotiations between themselves to temper matters of principle before proceeding to negotiations with other claimants.

Absent a compromise, such a precondition for PRC–Vietnamese negotiations poses a fundamental dilemma for each government. Both China and Vietnam must insist on the other leaving the archipelago completely in order to substantiate its own comprehensive claim to all the islands. Yet, such a strategy risks producing only diplomatic deadlock. It would be overly presumptuous and politically unrealistic for both to agree to partition the South China Sea into respective spheres of influence, since that strategy would obviously encroach on claims by three

⁸⁵ The recent financial crisis throughout Asia in 1998 has given Taiwan the opportunity to break out of its isolation by greatly expanding commercial links throughout Southeast Asia via an investment strategy known as the "Go South" policy. By purchasing corporate and banking assets at sale prices, Taiwanese businesses are integrating their investments Asia-wide, and in the process enhancing Taiwan's economic influence and political leverage against Beijing. See Keith B. Richburg, "Exploiting Asia's Crisis: Taiwan Buys Up Bargains And Widens Its Influence," *Washington Post* (2 January 1998), A23. For an assessment of how the Spratly Islands dispute might be used to further normalization of relations between the PRC and Taiwan, see Christopher C. Joyner, "The Spratly Islands Dispute: What Role for Normalizing Relations between China and Taiwan?," *New England Law Review* 32 (1998): 819–52.

other governments in the region. But, alternatively, were China and Vietnam unable to reach compromise, that development would undercut their respective negotiating positions vis-a-vis the Philippines and Malaysia, and could be interpreted as verifying the legitimacy of the latter's claims.

For Vietnam and China, the Spratlys dispute seems cast as a zero-sum game. Both claim sovereignty over all the Spratly archipelago, and if one claim is upheld, the other must be denied. Consequently, compromise or partial concession by either party would depreciate the legitimacy of their historical claims and thus enhance claims by Malaysia and the Philippines.

Even if all parties can agree to negotiate based on the status quo, the fundamental and intractable problem remains of how to apportion the contested islands and adjacent sea areas among the claimant states to the satisfaction of all. Serious difficulties no doubt complicate apportionment of the central area of the archipelago, where power configurations implicit in

China is being compelled to expand its industrial base to support greater demands for more goods and services from its burgeoning population growth. . . . and has demonstrated its willingness to use military force, if necessary, to protect and support such operations.

the present patterns of island occupation have established certain spheres of influence that must require significant trade-offs. It is this same area, moreover, where Vietnam, the Philippines, and Taiwan have also constructed military fortifications and airstrips, and they will have problems surrendering these islands to each other, much less to China.⁸⁶

For the foreseeable future, China will remain predominant in the Spratlys archipelago and throughout the South China Sea. Technology has given the Chinese government motives for its policies in the region (namely, potential oil exploitation and expanded maritime rights) and the means to execute those policies (namely, on-site naval installations and enhanced military capabilities). Whether through naval force or diplomacy, pressures for China to maintain claim to the Spratlys will come from increasing resource demands generated by its 1.4 billion plus people. China is being compelled to expand its industrial base to support greater demands for more goods and services from its burgeoning population growth. To fuel this industrial expansion,

⁸⁶ Chang Pao-Min, "A New Scramble for the South Sea Islands," 20–39, 34–35.

new energy sources are required, which in turn will require more extensive efforts to explore and exploit offshore petroleum reserves. The Spratlys emerge as a key consideration here, and China has demonstrated its willingness to use military force, if necessary, to protect and support such operations.

In sum, territorial conflicts in the Spratlys are complicated and intertwined with multiple considerations having both domestic and foreign policy implications. Nationalistic claims are not given up easily. Sovereignty is perceived by each claimant as exclusive and sacred. For lasting solutions to be found, these governments must be willing to temper nationalism and distrust, and accept trade-offs and compromises that lead to mutual benefits and cooperation.

APPROACHES TO DISPUTE RESOLUTION

Joint Resource Development

Creation of a joint authority dedicated to common development of resources within the Spratlys area may be the most appealing and logical solution for a territorial dispute as convoluted as this one. Establishing a “Spratly Resource Development Authority” would be consistent with statements by the Chinese government which aver that while sovereignty over the Spratly Islands is non-negotiable, joint ventures to exploit the natural resources of the South China Sea may be discussed.⁸⁷ The pivotal question remains, though, of how to put this principle into multilateral regional practice.

Essential for establishing a cooperative joint development regime in the South China Sea is agreement by the parties to set aside, without prejudice, their claims to the Spratlys and jointly form a “Spratly Resource Development Authority” for managing resource exploitation, including fisheries, the environment, and safety of navigation. In this respect, defusing the Spratly Islands dispute would not require resolution of the protracted sovereignty question. Rather, a kind of multilateral “Authority” analogous to that for mining the deep seabed in the 1982 LOS Convention might be established.⁸⁸

⁸⁷ As early as September 1992, Chinese foreign minister Qian Qichen indicated that China is prepared to negotiate joint development of South China Sea resources. “Chinese Drilling Ship Leaves Disputed Waters,” *Japan Economic Newswire* (4 November 1992).

⁸⁸ Mark J. Valencia, “A Spratly Solution,” *Far Eastern Economic Review* (31 March 1994): 1.

Joint resource development, while not a legal obligation under the 1982 LOS Convention, does furnish a reasonable solution to outstanding sovereignty disputes. Furthermore, multinational oil companies may be less likely to invest in hydrocarbon development in disputed areas,

particularly if the dispute is serious enough to threaten the security of their investments.

Security concerns can act as incentives or impediments to successful negotiations leading to a joint development arrangement among the Spratly claimants.

A Spratly Authority could well serve all the claimants' interests. Costs involved in unilateral exploration are enormous; military bases on the islands

impede extraction of resources in the area; and so long as the dispute persists, the region will remain threatened with instability. A cooperative regime such as a joint resource development authority would offer a relatively quick solution and palatable compromise. Such an authority could freeze all claims for the indefinite future, ensure demilitarization of the zone, facilitate resource exploitation, and provide acceptable mechanisms for dispute resolution.⁸⁹

Factors Affecting Joint Development

Fundamental to joint resource development are the character of basic relations and the genuine willingness of claimant governments to cooperate. Generally good relations open the door for cooperation. Malaysia, the Philippines, and Vietnam have tenuous, albeit not hostile relations with each other and are able to discuss the Spratly issue. China is interested in cultivating better relations with ASEAN governments, but its relations with Vietnam, a recent addition to ASEAN, remain less than good. This situation complicates their cooperation in disputes involving the Paracels and Spratly Islands, as well as China's overall relations with ASEAN. It is not inconceivable, though, that China's domestic needs for hydrocarbon energy resources could override antagonistic political considerations, and thereby open the door for a joint development arrangement. If substantial hydrocarbon discoveries were made in the South China Sea, joint development would permit greater opportunities for reducing tensions in the region. Still another significant ingredient is political pragmatism. Patience and genuine commitment are required for integrating legal, financial, economic, and customs arrangements between governments and successful implementation of any agreement.

⁸⁹ See Mark J. Valencia and Masahiro, "Southeast Asian States: Joint Development of Hydrocarbons in Overlapping Claim Areas?," *Ocean Development and International Law* 16 (1986): 211-54.

Security concerns can act as incentives or impediments to successful negotiations leading to a joint development arrangement among the Spratly claimants. Prior to 1990, these concerns would have been aggravated by Cold War considerations and East–West competition. Today, security concerns by disputant governments in the South China Sea focus mainly on the bilateral rivalry between China and Vietnam.

For the Spratlys, oil is but one security factor in the dispute. The Spratlys are considered by various disputants as strategic bases for sea-lane defense, interdiction, surveillance, and potential launching sites for land attacks. Russia has been a traditional ally and supporter of Vietnam on this issue, and a rival to China in the region. The state that controls the Spratlys could also control major sea lines of communication throughout the South China Sea. Here, too, Russia's retrenchment since 1990 from global naval ambitions (on account of internal economic disruptions) has correspondingly fostered Chinese incentives to assert a more expansionist strategy in the South China Sea. The Philippines, which no longer has a mutual defense pact with the United States that commits American military action to defend governments within the treaty area (including the South China Sea), feels threatened. The United States also has salient national security interests in maintaining unimpeded transit rights—on the surface, in the air and under the sea—throughout the South China Sea, especially to protect Japan in the event of hostilities.

Hydrocarbon resources around the Spratlys have emerged as a signal element in the Chinese effort to consolidate a position of regional primacy. Whereas prior to 1996 China might have sought to use oil development rights to win the support of the ASEAN states, especially in countering Hanoi's claims to the region, the admission of Vietnam into ASEAN has dimmed prospects for that strategy. Similarly, the Philippines views its efforts to consolidate and strengthen its military presence in the Spratlys as a means to preclude Vietnam (and implicitly Russia) from encroaching into the area.

Important, too, is the degree of knowledge about resource deposits in the disputed area. Since little is now known about the hydrocarbon potential, it may be easier to apportion the disputed area than if substantial proven deposits had already been discovered. In the latter case, each side would realize that it must give something away, and that could dissuade each from serious negotiations. Thus, governments are more likely to opt for a joint resource development agreement when each is unwilling to give up a larger share, the extent of the resource deposits are unknown, and neither side knows how much it could lose.

The strongest reasons motivating a government to undertake a joint management arrangement, however, are the perceived sense of urgency or obligation to protect its interests in potential oil or gas deposits, combined with a desire to maintain or solidify good relations with another state(s). The duration of the agreement is important, as well as the reasons and procedures for its termination.

Joint development is neither permanent nor optimal for resolving boundaries and international jurisdictional disputes over rights to resources. But in some cases it may be the only alternative to no action at all—and thus no resource development—or to confrontation and conflict. Joint development will look increasingly attractive as more oil is needed, or new deposits discovered, by disputant governments and successful precedents for cooperative arrangements occur.

APPROACHES TO NEGOTIATING AN AGREEMENT

During this century, a number of resource development arrangements have been successfully negotiated that serve as models for managing resource development in the South China Sea. Like the Spratlys, each arrangement deals with issues of disputed sovereignty, maritime jurisdiction, geostrategic considerations, and access to natural resources. In that regard, much can be learned from the ways and means that these agreements treat the sovereignty conundrum, as well as the scope and direction of rights, duties, and obligations assigned to the respective parties. Each agreement accordingly may be viewed as furnishing lessons for negotiating an arrangement that resolves—or at least mitigates—the disputed sovereignty situation in the South China Sea.

The Australia–Indonesia Timor Gap Agreement

The Timor Gap Treaty is notable for its “zone of cooperation” approach, which should appeal to Spratly Island claimants. Various zones could be set out according to various jurisdictional claims, but with the view that special sovereign prerogatives could not be attached to any zones. For further information on the Timor Gap Agreement, see Appendix A.

The two-tier management structure in the Timor Gap Treaty requires close cooperation between the parties, especially for reaching consensus on decisions at each level. It also demands a high level of integration and interdependent procedures; disagreements could jeopardize the entire

treaty relationship. Respective to the Spratlys' situation, consensus decision-making could prove problematic, since there could be as many as six parties participating in the arrangement. Yet, decisions reached through consensus would be taken as binding and unequivocal.

Finally, the clean slate approach adopted by the Timor Gap Treaty—that is, not to recognize previously claimed rights (which had been used to issue licensing agreements by respective governments to their nationals)—should also hold considerable appeal for Spratly Island claimants. No claimant state would be put at a diplomatic or political disadvantage, and all governments would gain economic access or tax revenues by participating in the agreement. A critical point here is that all this must be carried out in an exclusively peaceful manner.

The Spitzbergen (Svalbard Treaty) Arrangement

Svalbard, a cluster of glaciated islands in the Arctic Ocean lying 645 kilometers (400 miles) north of Norway, consists of the Spitzbergen group and several smaller islands. The discovery of extensive mineral and coal deposits in the late 19th century prompted several states, among them Norway, Sweden, Denmark, the Soviet Union, the United Kingdom and the United States, to stake claims in Svalbard. To remedy this conflictive assortment of national claims, in 1920 the Treaty Relating to Spitzbergen (Svalbard Treaty) was negotiated.⁹⁰

A major innovation of the Svalbard Treaty that might be applied to the Spratlys is its approach toward conflicting sovereignty claims by granting permanent *terra nullius* economic rights to participating parties.⁹¹ Nevertheless, it does not seem likely that all Spratly claimants would be willing to grant to any other single Spratly claimant state recognized sovereignty over the entire archipelago. The more likely scenario suggests that a management authority might be established that grants to each party equal access rights to the area. For further discussion on the Spitzbergen Arrangement, see Appendix B.

⁹⁰ Treaty relating to Spitzbergen (Svalbard), with annex. Done Feb. 9, 1920, entered into force August 14, 1925. 43 Stat. 1892, TS 686, 2 Bevans 269, 2 LNTS 7. For a full account of the negotiation of the Svalbard Treaty, see Willy Ostreng, *Okonomi og Politisk Suverenitet, Interessespillet om Svalbards Politiske Status* (Oslo: Universitetsforlaget, 1974).

⁹¹ *Terra nullius*, literally translated as “no man’s land” or “vacant land,” under international law is an unattributed territory that is hitherto unclaimed or unsettled. A *terra nullius* territory may be added to a state’s national territory if that state can perfect valid title through effective occupation, when demonstrated through permanent settlement.

Provisions of the Svalbard Treaty, moreover, leave unanswered certain questions pertaining to jurisdiction offshore—questions that have direct bearing on the resolution of the Spratly Islands dispute. Particularly important here is the geographical application of exploitation principles to the exclusive economic zone and continental shelf jurisdictions generated by the archipelago. Does the Svalbard Treaty extend to marine areas beyond the territorial sea? Can Norway assert rights to establish an EEZ and continental shelf regime around the archipelago? Are mining provisions providing equitable access to other states limited to land areas? Or do they by inference extend offshore into the continental shelf region as well? To what extent might establishment of EEZ and continental shelf regimes create conflicts and thus undermine the peaceful utilization purpose of the agreement? The resolution of these legal quandaries poses legal challenges for the Svalbard regime that eventually must be addressed.⁹² Similarly, such legal uncertainties must be overcome if an acceptable joint resource development authority is to be devised for the South China Sea area.

The Antarctic Treaty

Beginning in 1908, portions of Antarctica have been claimed by seven states—the United Kingdom, Australia, France, New Zealand, Norway, Chile, and Argentina. During the 1950s, after the great success of the International Geophysical Year, participating governments became convinced of the desirability of preserving the international cooperation in Antarctic affairs. The resultant diplomatic efforts produced the 1959 Antarctic Treaty.⁹³ For further information on the Antarctic Treaty, see Appendix C.

With respect to the Spratlys situation, several important principles flow from provisions in the Antarctic Treaty. Still in force today, the Antarctic Treaty was principally designed to promote scientific cooperation in the region. The Treaty expressly stipulates legal obligations banning military activities and nuclear weapons in the area, as well as guarantees for freedom of scientific research and cooperation and the obligation to settle disputes peacefully. An especially significant aspect is the system of unannounced, on-site inspection by any party of another party's

⁹² One is tempted to ask, then, why has this agreement worked so well for so long? The answer is grounded in political realism. The treaty well serves the national interests of the parties, and these legal quandaries have not yet risen to the level of problematic issues that must be resolved by those governments. See generally the discussion in Robin Churchill and Geir Ulfstein, *Marine Management in Disputed Areas: The Case of the Barents Sea* (New York: Routledge, 1992), 32–53.

⁹³ The Antarctic Treaty, signed December 1959, entered into force June 1961.

Antarctic vessels or research stations to verify that Treaty obligations are being met.⁹⁴ A similar type of inspection system might be especially useful for building confidence among regional states in negotiation for a Spratly development regime.

The Antarctic Treaty also provides for a special decision-making group, which has become known as the Antarctic Treaty Consultative Parties (ATCPs).⁹⁵ Included in this group are those signatory states that have acquired policy-making authority under the Treaty.⁹⁶ This group and its legal activities are self-creating, self-implementing, and self-administering. More than 225 special policies, called “recommendations,” have been adopted through consensus in Consultative Party Meetings.

Like the Spratlys, the Antarctic Treaty had to address delicate political complications created by ambiguous sovereignty claims held by states with mutually antagonistic interests in the region. Indeed, the claims of Argentina, Chile, and the United Kingdom entirely overlapped on the continent, and questions concerning who had sovereignty where, based on what legitimate legal grounds, constantly threatened to disrupt international cooperation in the south polar area. Antarctic Treaty negotiators had to finesse the sovereignty situation between these claimant states, as well as all other parties to the Treaty, amid steadfast refusal to recognize the lawful validity of any claims to Antarctica.

Particularly of interest for governments negotiating a Spratly Islands Resource Development Authority is the manner in which Article IV sets aside the status of sovereignty on the continent throughout the duration of the Treaty relationship. In legal effect, then, sovereignty considerations are shelved as factors that might complicate or undermine successful operation of the agreement. Yet, such a provision would not resolve the sovereignty problem in the South China Sea, nor would it shed much legal light on how to arrive at a solution. Agreeing to disagree on the status of sovereignty simply delays the time when the question of sovereignty disputes over the Spratlys will have to be addressed, a situation that ultimately might not prove satisfactory to all parties. Nevertheless, for the duration of an agreement, the issue of sovereignty would not

⁹⁴ Ibid. Article I. For discussion, see Christopher C. Joyner, “Non-Militarization of the Antarctic: The Interplay of Law and Politics,” *Naval War College Review* 42 (1989): 83–104; Antarctic Treaty, Articles III, V, VII, and XI.

⁹⁵ Ibid., Article IX.

⁹⁶ Ibid., Article IX, para 2.

encroach upon cooperation in developing resources in the South China Sea. The agreement would provide the framework for cooperation among the parties, and it would ostensibly permit all participant governments equal access with equal rights in managing resources in the region. Through such an arrangement for shared management, habits of cooperation and trust might be formed, leading to closer, more collaborative relationships among states interested in the South China Sea.

The Balance Sheet

The Timor Gap Agreement, Spitzbergen Arrangement, and Antarctic Treaty provide salient lessons for negotiating the Spratlys situation. Each case involved contentious claims of sovereignty to the same territory; each case involved access to and exploitation rights of potential mineral resources; each case involved a package deal approach wherein no crippling reservations were permitted that might undercut or dilute the legitimacy of the agreement or the participation of any party to it; each case did not resolve the sovereignty conundrum, but instead put it aside so that cooperation through the agreement might be allowed to work; in each case a special mechanism was created to make policies for the arrangement and to deal with disputes that might arise between parties; each case included efforts to enhance transparency of the governments' policies affecting activities in the region; and each case was successfully negotiated by the political willingness of all claimants (and involved non-claimants) to compromise on what had been highly intransigent, nationalistic positions.

These cases demonstrate that international agreements can be forged, and resource development arrangements can be produced—if the parties are willing to make them happen. But should any state, especially a key player, assume the bargaining position that it will give away nothing and only take everything, then no agreement will be possible. The geopolitical status quo will persist, or possibly deteriorate. Thus, in each of these successfully-negotiated resource arrangements, all governments were treated as co-equals, and all compromised to some extent, so that an agreement could be obtained that better served their national interests, especially by creating a climate of cooperative co-existence and shared expectations with the other parties. The key to the negotiating process was mutual trust and confidence in the end game as a workable outcome for all parties. No lasting agreement will be possible absent the political will to compromise positions so that the sovereignty, resource and sharing concerns of all parties can be accommodated.

CBMs AS PREVENTIVE DIPLOMACY

The ingredient most obviously missing, but necessary for resolving the South China Sea imbroglio, is sustained confidence and transparency between the governments of Southeast Asia and China. Confidence and trust among fellow governments are critical for progress in successful negotiations. How to nurture and advance CBMs among claimant states remains

The Spratly Island disputants must become involved in constructive negotiations aimed at solutions for satisfying their different interests through peaceful means.

critical for launching negotiations aimed at establishing a joint resource development authority for the South China Sea.

Asian states do not formulate their foreign policies for the Spratly

Islands in a vacuum. Other governments' actions exert important influence on their actions. The resolution of the Cambodia situation in 1991 has allowed Southeast Asian states to focus their attention on the South China Sea as a potential arena for regional conflict. Considerably overlapping jurisdictional claims, persistent military occupation of islands, aggravated military spending by concerned governments, and the leasing of disputed areas to international petroleum companies have all combined to aggravate tensions among states in the region. The issue of sovereignty disputes in the South China Sea thus surfaced in the early 1990s as a serious regional concern.

This awareness of regional tensions also highlighted the necessity of maintaining a maritime order in the South China Sea predicated on accepted rules of international law—rules that can be used fairly to accommodate the disparate national interests at stake. Toward this end, the Spratly Island disputants must become involved in constructive negotiations aimed at solutions for satisfying their different interests through peaceful means. This has already begun to happen, prompted by ASEAN's unified negative reaction to the Mischief Reef incident in February 1995 between China and the Philippines. By late 1995 China had agreed in principle to set up bilateral "codes of conduct" in the Spratly Islands with the Philippines and with Vietnam that pledge to resolve the disputes peacefully.⁹⁷

⁹⁷ Snyder, "The South China Sea Dispute," 8.

Presuming that large-scale military conflict is not in the national interests of governments involved in the South China Sea, the preeminent question becomes how to defuse tensions between the Spratly claimant states. How can a situation be cultivated to produce political conditions that permit negotiation of this complex, multilateral dispute? What ingredients or factors are necessary among claimant governments for generating the psychological impetus and political framework needed to negotiate issues affecting the status of the Spratly Islands?

An important first step is the pursuit of CBMs. Through CBMs, functional cooperation and direct communication could be fostered among the claimants as a means to preclude territorial disagreements from escalating into military confrontation. Measures for building confidence can lead to a better climate for negotiations and more positive results.

International negotiations between governments involve people with emotions, deeply held values, and perceptions. People can be unpredictable. Confidence-building aims at making the political climate more conducive to certainty. Confidence-building engenders working relationships where the trust, understanding, and respect built up over time can make subsequent negotiations easier, more efficient, and more constructive.

CBMs also make negotiators feel good about themselves and, often, more concerned about what others think of them as well. Hence, CBMs can contribute to raising sensitivities about other negotiators' national interests, and constraints on their negotiating positions affecting particular issues. Similarly, all negotiators must obtain an agreement that satisfies their national interests, but at the same time, they also must preserve a relationship of mutual trust with the other side. Otherwise, the negotiated solution is worthless.

Building confidence depends on nurturing mutual trust and understanding. For genuine confidence to be secured, governments must understand the motives and rationales behind the policies of other states in the region, and this can only come about through increased transparency of national policies and capabilities. Governments must also appreciate that competing self interests and violations of agreed measures can extract political costs by compromising the mutual trust in which CBMs are grounded. Transparency thus becomes key to confidence-building. In the case of the South China Sea, several measures can contribute to transparency and thus build confidence among the concerned governments.

For one, Spratly claimant governments might consider giving official and informal

assurances to restrain the use of military force in the region. Official pronouncements made by governments in the press or to international gatherings provide a public, written record of policy declarations, which makes it more difficult for that government to vacillate, or renege on those commitments.

Second, government officials might strive to recognize and respect national sensitivities arising from military deployments in the region. While some Spratly claimants might prefer not to recognize the legitimacy of other governments' claims in the region, they must respect the sensitivities arising from those claims. This is especially important (and will be most difficult) for China and Vietnam, the two most intransigent antagonists among the disputants.

A third constructive measure involves the need for governments to cease further occupation and annexation of territory in the Spratlys. Seizing and occupying more islets does little to promote a government's strategic position in the region. These features are insignificant as strategic outposts and hold little value for their natural resources. Moreover, new occupations reinforce suspicion and distrust over that government's disingenuousness toward future diplomatic negotiations. It seems prudent that claimant governments should accept the status quo as the starting ground for negotiation.

Fourth, governments claiming South China Sea territories might reign in efforts to expand military activities in the region. Military activities connote shows of force, not genuine sincerity to resolve contentious legal issues peacefully and diplomatically. It seems reasonable and prudent that no maritime military maneuvers be conducted without prior notification of other governments. Along this same line, governments might take friendly measures (e.g., direct communication and consultation with other concerned governments) when military exercises are being contemplated in the disputed region. Parties might agree not to station additional forces on the Spratlys and to provide notice when they are rotating troops already stationed on the islands. Similarly, arrangements might be made to notify governments about naval patrols in the region.

Fifth, it would be helpful to devise and coordinate a common set of operating procedures for navies and air forces of concerned governments in the disputed region. Such a "standardized manual of operations" would lessen tensions by reducing the likelihood for accidents and minimizing situations that could spark military conflict in the region. Negotiation of such a handbook, moreover, will require serious intergovernmental collaboration among national military representatives, which can foster greater appreciation for the national interests, sensitivities, and

priorities of their armed forces counterparts in the region. In addition, greater cooperation might also be made on the issue of naval piracy in the region.

Finally, efforts might be made to devise means and mechanisms that improve contacts and communication between mainland governments and their local military commanders on islands occupied in the South China Sea. Again, clearer state-to-state hotlines of communication could reduce possibilities of misunderstandings and misperceptions of other governments' policy intentions.⁹⁸ The establishment of hotlines between naval chiefs might also be useful.

The Indonesian Initiative

Opportunities do exist today for functional cooperation among states involved in South China Sea disputes. Mutual restraint and reasonable expectations in foreign policy initiatives are essential preconditions for making such undertakings effective. Yet, efforts at functional cooperation require time. Consensus must evolve gradually, in stages, to permit operation of a joint management program. Conflict resolution is not an end point. Rather, conflict resolution is a process that unfolds along a continuum, and that requires specific decisions to be made to assure progress. Conflict management is critical in this process; minor frictions or incidents must be controlled such that they do not erupt into major disagreements or serious disruptions in the confidence-building process.

The process of confidence-building among governments involved in the South China Sea situation has already begun. A regional dialogue on disputes, hosted informally through a series of workshops by Indonesia, has been annually convened since 1990 through its Department of Foreign Affairs. Although Indonesia is a South China Sea littoral state, it is usually viewed as a neutral party in the region, as it makes no claims to the Spratlys.⁹⁹ Its motive for undertaking this initiative appears straightforward: if regional tensions can be reduced and greater peace and order brought to the South China Sea, then Indonesia will share in the resultant growth in economic and

⁹⁸ Portions of these suggestions are drawn from B.A. Hamzah, "The Spratlys: What Can Be Done to Enhance Confidence?" in Hill et al., *Fishing in Troubled Waters*, 320–347, 335–6.

⁹⁹ Within the past few years, the PRC has made insinuations about claiming sea areas in Indonesia's EEZ around Natuna, which has pulled Indonesia directly into controversy with the PRC. This development, as seen by some observers, especially in Malaysia, may have compromised Indonesia's alleged neutrality in the region. The author is grateful to an anonymous reviewer for noting this point.

commercial opportunities.

The Indonesian initiative, also labeled the South China Sea Informal Working Group, aims to encourage confidence among South China Sea states through “Track Two Diplomacy” in order to ease tensions arising from sovereignty and jurisdictional disputes over the Spratly and

The process of confidence-building among governments concerned with the South China Sea situation has already begun.

Paracel Islands. The notion here is that persons from different states who may be parties to an international dispute will meet informally and discuss aspects and issues of the matter, in order to create an atmosphere of open free discussion, without the restrictions

imposed by having to maintain official government positions. The hope is to foster regional cooperation such that the South China Sea might be made legally compatible with a semi-enclosed sea, as provided for in the 1982 LOS Convention.¹⁰⁰

The University of British Columbia in Vancouver, Canada, administrates the project, with its counterpart in Indonesia being the Centre for Southeast Asian Studies. Issue-areas for potential cooperation between South China Sea littoral governments are identified, and now include marine scientific research, marine environmental protection, safety and sea communications, fisheries assessment and development, defense and security issues, territorial and jurisdictional issues (other than claims to islands and ocean space), and creation of institutions for cooperation.¹⁰¹

Workshop participants attend in their own private capacity and are drawn from governments (particularly the foreign affairs ministries), diplomatic corps and military services, academia and research organizations. Technical working groups have additionally convened to discuss issues affecting cooperation in marine scientific research, resource assessment and means of development, marine environmental protection, and navigational safety. Issues raised at these meeting are then re-circulated back to the annual workshop plenary meeting and adoption. The process is geared toward informal diplomacy, with the expectation that completed agreements on

¹⁰⁰ Ian Townsend-Gault, “Brokering Cooperation in the South China Sea,” in Lorne K. Kriwoken, Marcus Haward, David VanderZwaag, and Bruce Davis, *Oceans Law and Policy in the Post-UNCED Era: Australian and Canadian Perspectives* (Kluwer Law International 1996), 313, 316–17. For background treatment of the Indonesian initiative, see Catley & Keliat, *Spratlys: Dispute in the South China Sea*, 139–171.

¹⁰¹ Townsend-Gault, “Brokering Cooperation,” 318.

an issue can be returned to normal inter-governmental diplomatic channels for eventual negotiation.

The Indonesian initiative operates through an informal process, which offers participants the advantage of greater freedom to discuss ideas and an atmosphere of greater community. In so doing, the tendency has evolved to promote opportunities for consensus by avoiding adversarial situations, that is, the workshops eschew issues on which consensus obviously can not be reached. For example, there is no discussion of sovereignty over the Spratlys, or conflicting claims to jurisdiction over ocean space, or continental shelf drilling rights. Since no agreement within the workshop could be forthcoming, such sensitive issues are not even brought up. To do so would accomplish nothing constructive, and could seriously risk disrupting the entire cooperative process.

The initial Indonesian workshop gathered in Bali, in January 1990, and concluded that such informal discussion sessions were worthwhile.¹⁰² A second meeting in Bandung in July 1991 improved on that first exchange, where attendees expanded to include China, Taiwan, Vietnam, and Laos.¹⁰³ All participants agreed on a statement affirming that any territorial dispute in the South China Sea should be resolved by “peaceful means through dialogue and negotiation,” and that “the parties involved in such disputes are urged to exercise self-restraint in order not to complicate the situation.”¹⁰⁴ A third workshop convened in Yogyakarta in July 1992, and participants agreed in principle that “joint development” should be used as a peaceful means for resolving the dispute among states in the South China Sea.¹⁰⁵ Also at the 1992 workshop, two technical working groups were created, one on marine scientific research and the other on resource assessment and ways of development.¹⁰⁶ A fourth workshop met in August 1993 in Surabaya,

¹⁰² See William G. Stormont, “Report: managing potential conflicts in the South China Sea,” *Marine Policy* 18 (1994): 353–56.

¹⁰³ *Ibid.*, 353–54.

¹⁰⁴ Professor Doctor Hasjim Djalal, “South China Sea Island Disputes,” in Myron H. Nordquist and John Norton Moore, eds., *Security Flashpoints: Oil, Islands, Sea Access and Military Confrontation* (Kluwer Law International Publications, 1998), 109–134; Appendix 1: Workshop Statement, Bandung, 18 July 1991, reprinted in T. L. McDorman, “The South China Sea Islands Dispute in the 1990s—A New Multilateral Process and Continuing Friction,” *International Journal of Marine and Coastal Law* 8 (1993): 263–285.

¹⁰⁵ Appendix 2: Workshop Statement, Yogyakarta, 2 July 1992, in *ibid.*, 283–285.

¹⁰⁶ Stormont, “Report,” 354.

Indonesia.¹⁰⁷ On that occasion, Indonesian proposals for initiating

negotiations for a joint development program were rebuffed by China, and the idea was shelved. More CBMs are needed before any formal negotiations can be initiated.

In 1994, a fifth workshop convened in Bukittinggi, Indonesia, and addressed the issue of the “non-expansion of existing military presence.” While the principle enjoyed support by most, a few (including China) opposed it as beyond the proper purview of the workshop. Similarly, in the sixth workshop that convened in Balikpapan in 1995, the possible “exchange of military commanders” was introduced, but opposition by some parties led to dropping discussion of that subject as well. Some agreement was reached, however, on the need to secure greater transparency of the activities in the disputed area.¹⁰⁸

In retrospect, the 1993 workshop in Surabaya marked a watershed in that participants actually reflected on what the workshop process had accomplished thus far and where it was headed. The aim to produce CBMs had actually evolved into producing a confidence-building process. This can be seen in the parties’ decision to create technical working groups to discuss ocean law and maritime navigation in the South China Sea and agreement on the priority for continued diplomatic cooperation, notwithstanding the sovereignty issue. The formation of a Special Technical Working Group (TWG) on Resources Assessment and Ways of Development represents the early effort to deal with the joint development issue. The TWG has asked Vietnam to coordinate activities concerning “non-living non-hydrocarbon resources,” Indonesia to coordinate activities on the study of “non-living hydrocarbon resources,” and Thailand to coordinate activities concerning the study of “living resources,” namely fisheries, in the South China Sea. These discussions are intended to produced greater agreement on the zone that is to be developed; the nature of the issues on which cooperation is necessary (i.e., on fisheries, oil and gas, environmental protection, marine scientific research, and marine parks); the mechanism or authority for joint development; and who shall participate in such joint development or joint cooperation activities.¹⁰⁹ These issues surfaced more directly at the first meeting of the Technical Working Group on Legal Matters, which met in Phuket, Thailand in early July 1995. It was there that participants agreed that the 1982 LOS Convention furnished

¹⁰⁷ *Ibid.*, 354–55.

¹⁰⁸ Hasjim Djalal, “South China Sea Island Disputes,” 123.

¹⁰⁹ *Ibid.*, 124–26.

a suitable means for fostering cooperation among South China Sea littoral states, particularly in terms of the framework regime it creates for semi-enclosed seas.¹¹⁰

The seventh workshop met in Batam, Indonesia, in December 1996. A working outline for cooperation on many fronts during 1997 was put forward, which included meetings by: the Groups of Experts on Training and Education of Mariners and Seafarers (in Singapore); the Group of Experts on Hydrography, Data and Mapping (hosted by Malaysia); the Group of Experts on Marine Environmental Protection (hosted by Cambodia); the Second Technical Working Group Meeting on Legal Matters (in Thailand); the Second Technical Working Group Meeting on Marine Environmental Protection (hosted by China); and convening of the Eighth Workshop on Managing Potential Conflict in the South China Sea in late 1997.¹¹¹ During 1998, a number of subsequent Workshop committee meetings contributed to the regional dialogue on the South China Sea situation. The Study Group on Zones of Co-operation met in Vietnam in June; the Technical Working Group on Hydrographic Data and Information Exchange, the Working Group on Safety of Navigation, Shipping and Communication, and the Technical Working Group on Legal Matters convened in October; and the Sixth Meeting of the Technical Working Group on Marine Scientific Research, the second meeting of the Group of Experts on Marine Environmental Protection, and the first meeting of the Group of Experts on Non-living, Non-hydrocarbon Mineral Resources all met in November, 1998.

Notwithstanding Indonesia's shaky financial and political situation, in early December 1998 a ninth workshop was convened in Jakarta to set the agenda for 1999. The premise of the meeting was that economic recovery of the ASEAN region depended on political stability, and that this track-two diplomacy could contribute to that end by continuing to promote cooperation on South China Sea issues through the workshop's projects. New developments from the 1998 workshop included agreements to convene special meetings by the Committee for the Co-

¹¹⁰ The 1982 LOS Convention provides that States bordering on enclosed or semi-enclosed seas should cooperate with each other and "endeavour, directly or through an appropriate regional organization": (a) to co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea; (b) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment; (c) to co-ordinate their scientific research policies and undertake where appropriate joint programs of scientific in the area; (d) to invite, as appropriate, other interested states or international organizations to co-operate with them in furtherance of the provisions of this article. 1982 LOS Convention, Article 123.

¹¹¹ Hasjim Djalal, "South China Sea Island Disputes," 132-33.

ordination of Offshore Prospecting to compile data on non-hydrocarbon mineral resources in the South China Sea and by the Study Group on Zones of Co-operation to examine the prospects for joint cooperation and development. In addition, the Legal Matters Group would be charged with discussing the possible content of various codes of conduct that might be applied to activities in the region.¹¹²

Given this raft of regional cooperative activities generated by the Indonesian workshops, a strategy of confidence-building is in progress, and is producing tangible results—at least in terms of the number of ancillary discussions being convened among the participants. It is slow, ponderous, and piecemeal. While achieving few visible solid results, the workshop sessions and their spin-off committee discussions have provided opportunities for participants to air their views, thus compelling claimant governments to recognize differences of opinion, rather than merely ignoring them. The point here is that the workshops involve a process aimed toward regional cooperation, not a quick fix for demilitarization of and joint resource development in the South China Sea.

The attitude of China toward the workshop process is critical. Thus far, China has supported the workshop process, although the government apparently feels that the process is going too far, too fast. For China, prolonged patience is a diplomatic virtue when it comes to formulating arrangements in the South China Sea. The Chinese have also supported efforts to promote cooperation on select issues, albeit observers are not yet able to determine with certainty whether China is willing to participate in implementing any of the agreed upon collaborative projects.¹¹³ Likewise, China acknowledges the need to develop confidence-building among states in the region, but seems to regard the workshop process as an end in itself. China is thus unwilling to discuss other CBMs, which it feels lie beyond the capacity of the workshop. Perhaps most significant, China has intimated a willingness in principle to put aside territorial claims in favor of joint development. Still not clear, however, is the location and meaning of the “zone” that China is willing to jointly explore or bilaterally develop. “Joint development” to China apparently means just that: bilateral development undertaken jointly with another claimant in an area of the

¹¹² Statement of the Ninth Workshop on Managing Potential Conflicts in the South China Sea, Jakarta, December 1–3, 1998, paragraphs 10 and 11.

¹¹³ *Ibid.*, 128. Attitudes such as this have prompted some analysts to conclude that the Indonesian workshop mediation thus far has been a “failure.” See Catley & Keliat, *Spratlys: Dispute in the South China Sea*, 165–168.

South China Sea claimed by the other state.¹¹⁴

Personalities are critical for the success of the Indonesian workshops, and a central role is being played by Indonesia's Ambassador Hasjim Djalal. He enjoys international respect not only for being co-chair of the meetings, but for his stature as a diplomat of international standing, an expert on law of the sea and the recently elected President of the International Seabed Authority. That the participants trust and respect Ambassador Djalal contributes to confidence-building.

The Indonesian workshops represent the most serious regional effort thus far for promoting peace and cooperation in the South China Sea. These meetings serve as informal, private fora for confidence-building among nationals from states involved in Spratly Islands jurisdictional disputes. They have been purposefully designed to bring together representatives from concerned states in the region to discuss non-polemical issues affecting environment, navigation, pollution control, marine research, and possible means of cooperation.

The few practical results thus far do not diminish the political significance of these gatherings. The major contribution of the Indonesian workshops is that they have moved away from political confrontation, military conflict, and diplomatic inertia toward a process of dialogue and cooperation on the long road to dispute settlement. In that manner, these workshops have also fostered more salient appreciation of joint development as a potentially useful regional approach towards eventual resolution of the Spratly Islands dispute.

PROSPECTS FOR A NEGOTIATED SOLUTION

Several recent developments suggest that prospects still live for beginning negotiations on the Spratlys situation. Again, the role of the PRC is pivotal. First, China's strategic situation today is more favorable than at any time since World War II. Strategic and security factors are important considerations in China's policy toward the South China Sea, especially with regard to Vietnam's relations with Russia. A critical geostrategic objective of China policies in the South China Sea is to ensure that no security threat to its southern flanks comes from the United States,

¹¹⁴ Ibid., 128. In its bilateral overtures, China at times has demanded recognition of its sovereignty over the South China Sea in return for accepting a model of joint development. That position, of course, is a non-starter with other claimant states. See "Cautious Progress on Disputes Affecting China Seas Exploration," *Offshore* (October 1998).

Russia, or Japan. The withdrawal of the United States from Vietnam in 1975 and from the Philippines in 1992, coupled with the collapse of the Soviet Union in 1990, diminishes China's security concerns considerably.

Second, the use of force by the PRC in the South China Sea runs counterproductive to enhancing long-term Chinese political, economic, and commercial interests in the region. While China clearly stands as the military power with which to be reckoned in the region, since 1990 its government has consistently disavowed intentions of using force to resolve territorial disputes.¹¹⁵ Indeed, China has a vested interest in cooperative engagement with ASEAN states to allay persistent suspicion and mistrust of its long-term intentions created by the Mischief Reef incident. At the same time, the ASEAN states must pursue means of further integration among its membership, while engaging constructively with other governments in the region. China can not help but play a major role in ASEAN's regional integration strategy. To use military force over the Spratlys would seriously undercut China's long-term prospects for fostering closer, more dependable economic relations with its Asian neighbors. That would be a high regional price to pay for what would mostly be symbolic political gains at home.

Also, China's contemporary policy actually displays considerable flexibility. As noted earlier, China's foreign policy tends to be less initiative and more reactive toward other states' policies. If adversaries assert hard-line, uncompromising attitudes toward Beijing, then China can be expected to react with a similarly strong response. Conversely, if adversaries adopt more amiable postures, then China's behavior has demonstrated more amity in kind.

In like fashion, China's policy toward the Spratlys in particular and the South China Sea in general appears a function of that government's relationships with her Southeast Asian neighbors. When tensions rise between China other Asian states, especially Vietnam, then rivalry over the Spratlys may well also increase. But when overall relations improve, tensions over the Spratlys tend to abate. The key to unlocking a diplomatic solution is thus for governments to stress common ground and interests, to highlight areas of cooperation, and to minimize differences and conflicts among neighbors.

China, however, has developed an unfortunate habit of undertaking unilateral decisions that upset ASEAN states, on the eve of scheduled dialogues with them. The Mischief Reef incident

¹¹⁵ See Smith, "China's Aspirations," 284.

with the Philippines in early 1995 is one example. More recently, just prior to the ASEAN–China Dialogue in Bukittinggi in June 1996, China announced on 15 May its partial baselines for measuring its territorial sea offshore the mainland and the Paracel Islands, stipulating that it would “announce the remaining baselines of the territorial sea of the PRC at another time.”¹¹⁶ The critical question left hanging was what is meant by the “remaining baselines.” If these “baselines” include extension of the Chinese territorial sea to the Spratly Islands, then the regional situation will become more precarious—legally, economically, and politically. If China draws baselines out to and around the Spratlys, it would arrogate to itself a large part of the South China Sea as its internal waters, and would in fact violate Article 89 of the 1982 LOS Convention, which asserts that “no state may validly purport to subject any part of the high seas to its sovereignty.” Moreover, should China opt instead to draw straight baselines around the Spratlys, that act would violate specific provisions in the Convention pertaining to islands offshore and specific geographical situations for which straight baselines along a coast are permitted.¹¹⁸ The 1982 LOS Convention does not permit coastal states to draw straight baselines around small, scattered islands that they claim in the ocean. That right is reserved only for archipelagic states, a status for which neither mainland China nor the Spratly Islands qualify.¹¹⁹

These concerns aside, relations among the Spratly claimants at present are relatively good. Governments have moved toward patterns of accommodation and normalization during the 1990s. China, at least rhetorically, has indicated its willingness to cooperate with Southeast Asian states on joint development in the Spratlys.¹²⁰ Recent events suggest that while no negotiation means no compromise on Chinese sovereignty over the archipelago, resources might be exploited by other claimants if the PRC does nothing to protect those resources. Diplomatic pressures by a united ASEAN could work to dissuade China from taking a military response, largely because such

¹¹⁶ Hasjim Djalal, “South China Sea Island Disputes,” 129.

¹¹⁸ See 1982 LOS Convention, Articles 3, 5 and 6, which set out the criteria for establishing coastal baselines. Strait baselines may be permitted in the case where the coastline is deeply indented (Article 7:1), or where a delta produces “highly unstable natural conditions” (Article 7:2), or there is a river flowing into the sea (Article 9), or where the distance between the low water marks at the natural entrance of a bay exceeds 24 nautical miles (Article 10:5).

¹¹⁹ 1982 LOS Convention, Articles 46–54. See the text *supra* at notes 13–18.

¹²⁰ In 1993, Premier Li Peng asserted that: “On the issue of Spratly Islands whose sovereignty belong to China, our country puts forward the proposal of ‘shelving disputes in favor of joint development,’ and is willing to work toward the long-term stability, mutual benefit and co-operation in the South China Sea region.” “Annual Work of the Chinese Government by Premier Li Peng, to the First Plenary Session of the Eighth National People’s Congress” (13 March 1993), reprinted in *People’s Daily* (2 April 1993), 3.

hostilities would unravel increasingly cooperative commercial relations in the region.

The ultimate goals in the South China Sea should be strategic stability, national security, and reduced force levels in the region for all states. There is a need for more non-military mechanisms to keep the peace. Multilateral fora, such as the APEC Conference, are important for promoting transparency and mutual exchange of information on regional activities. Through such agreed upon rules, tensions, and conflict among the claimant states can be more easily contained.¹²¹

CONCLUSION

The essence of the Spratly dispute lies in questions of territorial sovereignty, not law-of-the-sea issues. The 1982 LOS Convention prescribes new legal rights and duties for Asian littoral states and other users of ocean space. In the South China Sea, the extension of 12 nautical mile territorial seas and 200 nautical mile exclusive economic zones has exacerbated conflicting claimed jurisdictions over non-living resources in overlapping continental shelf zones.¹²² Moreover, various political antagonisms and disputed sovereignty claims over the Spratly Islands have seriously complicated establishment of agreed-upon baselines for territorial waters.

The complexities of overlapping claims and the dispute's long history make determination of national sovereignty in the Spratlys extremely difficult. Obviously, if the issue of sovereignty can be resolved, then the maritime jurisdictional principles codified in the 1982 LOS Convention can be applied to the Spratlys. Such application would cede undersea resource rights to portions of the South China Sea to recognized legal owners. Yet, no claimant government is able to establish sufficiently substantial legal grounds to validate its claim. This situation, paradoxically, makes resorting to binding arbitration or adjudication by claimant states, especially China, less likely since none is willing to risk an unfavorable outcome. Uncertainty through ambiguity over disputed territorial claims is deemed preferable to certainty through clarity with less or no claimed territory at all. Put bluntly, the alluring prospects perceived for oil resources, when combined with only a dimmed possibility for resolving the Spratlys dispute in the foreseeable future, places all

¹²¹ See Peter Polomka, "Strategic Stability and the South China Sea: Beyond Geopolitics," in Hill et al., *Fishing in Troubled Waters*, 36–47. For a variety of other proposals see Valencia, Van Dyke, and Ludwig, *Sharing Resources of the South China Sea*, 199–225.

¹²² See Forrest and Morris, "Maritime Constabulary and Exclusive Economic Zones," 302–319.

the claimants in a political stalemate. The possibility that claimants might resort to force to defend their claims complicates an already protracted problem.

The Spratlys dispute is sharpened by strategic and geopolitical considerations. China requires increasingly more energy resources to meet the growing needs of its rapid industrialization process, and its massive population exacerbates its energy problem. China desperately needs to find more sources of hydrocarbon resources. The anticipated potential for oil and gas deposits beneath the seabeds offshore the Spratly archipelago, therefore, holds considerable attraction for the Chinese government.

ASEAN states are especially concerned because China historically has shown willingness to use military force to settle disputes within what it regards as its sphere of influence. China's build-up of naval forces is seen as expanding this sphere in the South China Sea through enhancing force projection. Moving to a blue-water naval capability is viewed by some as spawning a naval arms race among Asian states. Taken on tandem, China's vast size, growing population, rapidly expanding economy, and improved air and naval force projection capabilities make it increasingly formidable as a regional power.

Certain actions by Spratly claimants could spark conflict in area. Triggers include creeping occupation, such as that demonstrated by China during 1998–99 on Mischief Reef. Triggers for bilateral conflict abound: A claimant government's seizure of another state's fishing boats or commercial ships within disputed boundaries; confrontations between patrolling vessels of different navies; military resistance by Philippines to Chinese activities on Mischief Reef, or a future attempt by China attempt to repair structures, or build new ones elsewhere—all these are realistic events that could spark violent confrontation in the South China Sea. The ever-present possibility of accidents or miscalculations, compounded by persistent acts of occupation by China or over-reaction by some other claimant, make for serious violence waiting to happen.

A Spratly Resource Development Authority might alleviate pressures of conflicting sovereignty claims in the South China Sea. Such a cooperative arrangement could pool financial wherewithal of claimants into a joint effort to develop the area's resources within a politically stable, demilitarized environment. Previous agreements negotiated for resource management elsewhere provide fundamental principles, structures, and procedures for negotiating a treaty framework for cooperation in the South China Sea.

Whether such a scheme can be made acceptable to the Spratly claimants is still uncertain. All the claimants remain locked in a classic prisoner's dilemma. Unilateral control of the archipelago would yield the most benefits to that state. If each claimant, however, attempts to enforce unilateral control of the area, military confrontation will occur. The resultant loss in life, financial, and military resources—as well as in international trust and commercial confidence—would exact extravagant political costs on each antagonist, without any assurance of a favorable outcome. Indeed, for most claimants military conflict would be a lose-lose situation. Mutual cooperation, while yielding fewer benefits than unilateral control and exploitation of South China Sea natural resources, would protect more surely against the high costs of persistent or exacerbated conflict.

Confidence, trust, and transparency among the disputants remain wanting in the South China Sea situation. The Indonesian workshops can provide an interim solution, but they are only that. Such “talk shops” allow for airing views, concerns and issues, but they provide few incentives for immediate or long-term solutions. While the informal nature of the discussions has attracted key participants such as China and Vietnam, the effectiveness of their outcome depends on formalization of real solutions.

In short, the facts are these: No disputant in the region possesses in 1998 the ability to fight a sustained war over these islands. Further, few of the islands are sufficiently large to build airstrips. At the same time, the resource potential in the region remains unrealized. Thus, one might surmise that CBMs have not yet emerged because these issues have yet to become real or pressing, but once they do, more proactive efforts will be made toward resource development. The critical point is that the time for building trust, transparency, and cooperation is now. In the event that pre-existing institutional arrangements are not available, were Crestone to make a giant oil strike or China to acquire aircraft carrier capabilities in the South China Sea, beggar-thy-neighbor, self-help policies could well prevail over regional efforts at peaceful accommodation.¹²³

The critical realization for producing an acceptable diplomatic solution for the Spratlys is evident. Conflicting claims are driven by politics. Irrespective of the talents and personalities of negotiators around a table, if national government leaders lack the political will to produce a solution, such an outcome can not happen. If leaders are not willing to compromise at all on sovereignty issues for the sake of a long-term agreement, then no agreement is likely to be made.

¹²³ I am indebted to Professor Victor Cha of Georgetown University for pointing out the possibility of this scenario.

Governments must genuinely want to resolve the dispute—to negotiate an agreement that brings acceptable benefits to each party, albeit not at the expense of any vital interests to another.

Conflict over the Spratlys can be resolved only if policy makers have the political will and genuine determination to do so. Most states in the region confront common problems, among them political succession, economic development, and rising expectations from their people. In this regard, the Spratlys situation should be turned into an issue of regional unity, rather than division, with the creation of a joint development authority for exploiting resources under the seabed. That ambition has been successfully obtained for other contentious multinational sovereignty disputes elsewhere, and it is not beyond the realm of possibility to conceive such a management agency evolving for the South China Sea as well. The critical challenge is for governments in the region to make it happen.

APPENDIX A

The Timor Gap area lies south of the former Portuguese territory of East Timor, which was annexed by Indonesia in 1975. Australia recognized East Timor as part of Indonesia in 1978, ostensibly to facilitate resolution of the Timor Gap problem. The area is of considerable interest to petroleum geologists, as the seabed contains geological features with substantial hydrocarbon potential.

Negotiations between Australia and Indonesia were complicated by disparate views on principles of international law governing the concept of the continental shelf and the natural prolongation of the land mass.¹²⁴ The critical issue hinged on how to delimit the continental shelf between the two states, that is, what mutually agreeable legal means might be used to accommodate the claims of both states based on the shelf's natural prolongation.

In searching for viable solutions, negotiating teams explored the possibility of a provisional joint development regime to oversee final delimitation of the seabed. Detailed discussions then went forward in 1985 at the ministerial level, culminating in an agreement in September 1988. The Timor Gap Agreement, which established a three-area "Zone of Cooperation," entered into force in February 1991.¹²⁵

The Zone of Cooperation in the disputed seabed boundary area between East Timor and Australia covers 60,000 square kilometers (23,000 square miles). In Zone B, the area closest to Australia, Australia pays to Indonesia ten percent of the Gross Resource Rent Tax collected from petroleum production.¹²⁶ Similarly, Indonesia makes analogous payments to Australia from the Contractor's Tax collected in Area C, the portion of the Zone nearest to Indonesia.

¹²⁴ Australia contended that under customary law, two continental shelves existed, and the law should be applied accordingly under Article 76 of the 1982 LOS Convention. Indonesia contended that there was one shared continental shelf between the two states, and therefore a median line should be acceptable. This position, moreover, allegedly was supported by the concept of a 200 nautical mile EEZ with seabed rights.

¹²⁵ Treaty Between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area Between the Indonesian Province of East Timor and Northern Australia, reprinted in (1990) 29 *International Legal Materials* 457–529. For a prescient proposal, see Ernst Willheim, "Australia-Indonesia Sea-Bed Boundary Negotiations: Proposals for a Joint Development Zone in the East Timor Gap," *Natural Resources Journal* 29 (1989): 821–842.

¹²⁶ Timor Gap Agreement, Articles 2 (2b) and 4 (1b).

Zone Area A, the central and largest portion of the Zone possessing the greatest potential for hydrocarbons, is made subject to a joint development regime.

Responsibility for managing Zone Area A is delegated to a Ministerial Council. Comprised of an equal number of representatives from both states, the Council meets annually and operates by consensus. A Joint Authority, accountable to the Council, manages petroleum exploration and exploitation activities and is responsible for environmental management as delegated by the Treaty's provisions and the regulations issued by the Ministerial Council.

The agreement also specifically provides for cooperation in Area A in matters of search and rescue, air traffic services, and protection of the marine environment.¹²⁷ The parties are required to negotiate agreement on the exploitation of petroleum accumulations that overlap boundaries of Area A.¹²⁸ This Zone of Cooperation will be in force for forty years, and may be renewed for successive terms of twenty years if no permanent agreement is reached on continental shelf delimitation. The incentive is thus depreciated for producing a permanent settlement, particularly if it could lead to collapse of the interim agreement that now works satisfactorily for both parties.

¹²⁷ *Ibid.*, Articles 14–17.

¹²⁸ *Ibid.*, Article 20.

APPENDIX B

The Svalbard Treaty creates a regime of equity treatment in the exploitation of resources of Svalbard for all parties, which currently number forty. The agreement is designed to provide an international arrangement over the Svalbard archipelago by giving to Norway sovereignty over Svalbard, while maintaining existing access of other states to the islands for purposes of carrying out mining, hunting and other economic activities.¹²⁹

While the Svalbard Treaty contains few provisions and leaves much unsaid about the explicit nature of the regime governing the region, three essential purposes are clearly articulated in the treaty. First, it places the Svalbard archipelago under the sovereignty of a single state, Norway, so that the island would be subject to proper legal regulation.¹³⁰ Yet, it is important to realize the package-deal nature of this arrangement: Norway did not grant rights to other states and Norway was given sovereignty over Svalbard on condition that other states retained their previous extensive *terra nullius* economic rights. Nor does the Treaty give any indication that Norwegian sovereignty is of an inferior quality compared to the sovereignty of other states over their territory. A second purpose of the Svalbard Treaty is to ensure preservation of rights that other states had to exploitation of the archipelago's economic resources under the prior legal status of *terra nullius*. This is accomplished by ensuring equal access to economic activities and by requirement that all taxes collected be used on Svalbard.¹³¹ Lastly, the Treaty aims to secure peaceful development on the islands. If the first and second purposes can be attained, then the third can be more easily secured.

¹²⁹ Articles 2 and 3 provide that nationals of all parties to the Treaty “enjoy equally the rights of fishing and hunting and may engage in all maritime, industrial, mining and commercial operation on a footing of absolute equality.” As regards mining, Norway is obliged to provide mining regulations, which require the approval by other states parties under Article 8. The Norwegian authorities’ power to tax those who are enjoying rights under Articles 2 and 3 also restricted, so as not to exceed “what is required for the object in view.” Furthermore, the duty for any mineral exports is not to exceed one percent of the value of the minerals exported (Article 8). Finally, the archipelago is effectively demilitarized. Article 9 obligates Norway “not to create or to allow the establishment of any naval base” on Svalbard, nor to permit construction of “any fortifications in the said territories, which may never be used for warlike purposes.”

¹³⁰ Norway was chosen as that state because of its interests on Svalbard, Svalbard's geographical adjacency to the Norwegian mainland, and the need to reach a conclusive solution. Commission du Spitsberg, *Recueil des actes de la Conference*, part VII, Conference de la paix 1919–1920 (Paris 1924), 90.

¹³¹ Svalbard Treaty, Article 8(2).

APPENDIX C

Key to reaching a desirable outcome was successful negotiation of Article IV in the Antarctic Treaty. This provision is now recognized as the “flexi-glue” that holds the treaty together, as it makes possible a political context in which claimants and non-claimants are able to cooperate in Antarctic affairs. At the same time, Article IV permits governments to continue to disagree vehemently on where, when, how, and whether sovereignty has been properly acquired by states on or offshore the continent, without jeopardizing the treaty’s ability to function.¹³²

Article IV in effect stabilizes the sovereignty conundrum within the treaty regime. The first paragraph of Article IV permits all parties to the treaty to dodge the issue of sovereignty. Each party’s legal position towards the claims issue is thus preserved. Each party can participate within the framework of the treaty with other parties who espouse adverse legal positions. During the treaty’s operation thus far, this pivotal facet of Article IV has proved to be functional, pragmatic and demonstrably effective.

Article IV also plainly asserts that no new claim, or enlargement of an existent claim, can be asserted while the treaty remains in force. Moreover, no acts or activities that occur while the Treaty is in force can constitute a basis for any state “asserting, supporting, or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica.”¹³³

¹³³In full, Article IV provides: 1. Nothing contained in the present Treaty shall be interpreted as: (a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica; (b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise; (c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State’s right of or claim or basis of claim to territorial sovereignty in Antarctica. 2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial in Antarctica shall be asserted while the present Treaty is in force. Antarctic Treaty, Article IV.

¹³³ *Ibid.*, Article IV, para 2.

Military Confidence-Building Measures Across the Taiwan Strait

Kenneth W. Allen

During the 1990s, Beijing began negotiating military-related confidence-building measures (CBMs) with its neighbors in order to reduce tensions and promote regional stability and economic development.¹ Although Taiwan is fairly isolated diplomatically, the Republic of China's military does interact with other militaries through its weapons system procurement program and through informal information exchange channels. There have also been opportunities for direct and indirect interaction between the two militaries. Although military CBMs between the two sides are not carried out in a vacuum, and will most likely be implemented in conjunction with, or be subservient to, political and economic CBMs, the purpose of this essay is to discuss military-related CBMs that the People's Republic of China's (PRC) People's Liberation Army (PLA) and the Republic of China's (ROC) military could adopt over a period of several years to reduce tensions between them.²

Interviews with military and civilian analysts from the PRC and ROC elicited two general reactions. The first reaction, which came from everyone interviewed, was that there must be movement on political issues before there is any movement on military CBMs. The second reaction, which came from the PRC side, was that CBMs are designed to be used between states. Therefore, since Taiwan is a province of China and is not a state, how can CBMs be used between Beijing and Taipei? Both of these reactions have merit. However, with the resumption of the Koo-Wang talks in October, this may be a good time to look at the possibility of establishing some military CBMs.³

¹ For a global survey of confidence-building measures, please see *A Handbook of Confidence-Building Measures for Regional Security, 3rd Edition*. Michael Krepon, Michael Newbill, and Jenny Drezin, eds. (Washington, D.C.: The Henry L. Stimson Center, 1998).

² The author does not intend to advocate a "two Chinas" or a "one China, one Taiwan" policy. The terms PRC and ROC are simply used to conform with the way each side of the Taiwan Strait refer to themselves.

³ See Kenneth W. Allen, "China's Approach to Confidence-Building Measures," *supra*.

The paper begins by providing a brief historical overview of the military confrontation between the PRC and ROC. The second section covers the military's and PLA's foreign military relations and the next section provides a brief review of general military-related CBMs that could be used as a framework for cross-Strait military CBMs. The conclusion lays out a set of CBMs that Beijing and Taipei could implement over a long period of time under the right set of circumstances.

HISTORICAL OVERVIEW

One of the primary purposes of CBMs is to develop trust between adversaries. Mistrust between the ROC military and the PLA stems back to the early 1920s. Under Soviet guidance, the first rapprochement between the Chinese Nationalist Party (Kuomintang/KMT) and the Chinese Communist Party (CCP) brought Communists into the newly-established Whampoa Military Academy, with Chiang Kai-shek as the commandant and Zhou Enlai as the Director of the Political Department.⁴ This uneasy united front between the Nationalists and Communists lasted until 1927, when Chiang purged the Communists and established a Nationalist government in Nanjing.

Following several Nationalist military campaigns to try to oust the Communists from their mountain stronghold in southern China, the Communists began their epic 6,000 mile Long March in October 1934, which took them to Yan'an. A second united front was established in July 1937 following the Marco Polo Bridge incident with Japan, but broke down again in late 1938.⁵ It effectively ceased following a clash between Communist and Nationalist forces in 1941. The last

⁴ Chiang Kai-shek attended several months' of military and political training in Moscow in 1923 before returning to become the Whampoa commandant. The Chinese Communist Red Army was not formally established until 1927. Of particular note, the Soviet Union helped Sun Yat-sen's and Chiang Kai-shek's KMT and the CCP establish the same organizational structure during the 1920s. In response to Japanese actions in China, beginning with Japan's invasion of Manchuria in 1931, the Soviets supported the Nationalists by providing arms and advisors. From late 1937 until Germany attacked the Soviet Union in June 1941, Stalin provided about \$300 million in credits to Chiang Kai-shek's regime to finance Soviet aid, including hundreds of planes, pilots to fly them, and instructors to train Chinese pilots. Soviet advisors were also attached to Nationalist army units.

⁵ The Marco Polo Bridge incident refers to the event which sparked the beginning of the Sino-Japanese war from 1937-1945. The Japanese provoked the incident by making demands the Chinese could not fulfill, while the Japanese occupied Chinese troops in Peking, and Nanking's best troops in Shanghai. They were able to take the whole province of Shantung by 1938, and continue their campaign to take all of North China.

large-scale military clash came in 1958 over the Taiwan Strait.⁶ Although economic links have increased and political tensions have subsided somewhat, the two militaries are still at a standoff across the Taiwan Strait.

Since China's economic opening to the outside world, including Taiwan, began in the late 1970s, the PLA has embarked on a campaign to improve its military relations with countries around the world. This program has seen a surge in activity during the 1990s as Beijing has tried to assuage fears of a "China Threat" and to lessen tensions along China's border to help promote economic development. It is the premise of this paper that the time may be ripe for Beijing and Taipei to begin looking at military CBMs to lessen tensions across the Taiwan Strait. Before proposing specific CBMs, let us first examine the ROC military and the PLA relations with other countries since the 1950s.

Taiwan's Foreign Military Relations

Prior to the replacement of the ROC by the PRC in the United Nations in November 1971, the ROC military had an active foreign relations program, especially with the United States, Israel, South Africa, and other

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Asian countries, such as South Korea and Singapore. For example, from 1950 until the US changed its diplomatic recognition from the ROC to the PRC in 1979, thousands of ROC military personnel received training at all levels in the U.S. Beginning with the UN recognition of the PRC in 1971, most countries began changing their recognition from Taipei to Beijing, so that today only about twenty-five countries still formally recognize the ROC. However, many countries still have strong relations with Taipei through reciprocal trade offices that function as consulates. Many of the ROC's overseas trade offices include active duty military officers who perform the same functions as military attachés or military assistance and procurement officers.

While the PLA has opted for a visible foreign relations program since the early 1980s, the ROC military has opted for a low profile, but active program. For example, since 1979, US-ROC

⁶ From 1959-1967, the Nationalists flew 100 U-2 sorties over the mainland and had five aircraft shot down. The first U-2 was shot down on 1 November 1963.

military-to-military relations have mostly been limited to discussions and training associated with acquisition and maintenance of US weapons systems. The ROC has also maintained continuous military-to-military relations and exchanges with several Asian, Latin American, and African countries, and established a European-wide weapons procurement office in Paris in the early

While the PLA has opted for a visible foreign relations program since the early 1980s, the ROC military has opted for a low-profile, but active program.

1990s. The ROC military's Political Warfare College provides a Foreign Officers Course for select officers from Africa, Latin America, and Southeast Asia. In addition, the ROC Naval Academy has special courses for foreign officers.

Active duty ROC military officers are also involved in visiting fellow and graduate programs abroad, including the United States, Britain, Canada, and Germany. For example, there were 16 officers involved in strategic studies, command and staff education, masters degree programs, and PHD programs in foreign military and civilian universities in 1997. In addition, the Ministry of National Defense holds seminars and entrusts private academic institutes to hold seminars on national defense and special topics.⁷

Finally, the ROC military hosts numerous foreign retired senior officers and defense officials who were not able to visit Taiwan when they were on active duty or serving in an official capacity. Taipei takes these opportunities to "educate" them on developments in Taiwan and to elicit their support once they return home.

PLA MILITARY RELATIONS: 1949–1989

The PLA's military relations with other countries began in the 1950s, but were limited to the Soviet Union, North Korea, Albania, and the communist insurgencies in Southeast Asia.⁸ The PLA started developing military ties with developing nations in Asia and Africa in the 1960s in an attempt to extend Chinese influence and counteract Soviet and American influence.

In the late 1970s and early 1980s, a major change in the PLA's foreign military cooperation occurred when China began developing military contacts with West European nations

⁷ *Republic of China: 1998 National Defense Report* (Taipei: Li Ming Cultural Enterprise Co., Ltd., 1998), 184-185.

⁸ *China Country Study* (Washington D.C.: Library of Congress, Foreign Research Division, 1987).

and the United States, as well as providing considerable military assistance to countries such as Sri Lanka, Egypt, Tanzania, Sudan, Somalia, Zaire, and Zambia. At the same time, as Beijing began establishing diplomatic relations with countries in Southeast Asia and its relations with Vietnam cooled, Chinese military assistance to communist insurgents in Southeast Asia—with the exception of the Khmer Rouge and Cambodian resistance groups—tapered off. China continued to have close military ties and to sell military hardware under generous terms to traditionally friendly states in South Asia—Pakistan, Bangladesh, and Burma. Meanwhile, Sino–Albanian relations deteriorated in the 1970s, and Beijing terminated all assistance in 1978. However, China began to exchange military delegations with two other East European countries—Yugoslavia and Romania. Chinese military relations with these two countries were limited and, especially in the case of Romania (a Warsaw Pact member), served to irritate the Soviet Union.

These changes reflected China’s desire to counter Soviet influence, especially in Europe and Africa, as well as to develop relations with modern armed forces. China needed advanced hardware and technology, as well as organizational, training, personnel, logistics, and doctrinal concepts for modernizing the PLA. Chinese military ties with West European countries were strongest with Britain, France, and Italy. Chinese military relations with the United States developed rapidly in the 1980s and included exchanges of high-level military officials and working-level delegations in training, logistics, and education. Washington also concluded four foreign military sales (FMS) programs with Beijing to help modernize the PLA. However, these programs ceased following the June 1989 Tiananmen incident.

To put this in perspective, the PLA hosted over 500 military delegations from 1979 to 1989 and sent thousands of military officials abroad for visits, study, and lectures. China received port calls from thirty-three foreign warships, including the United States, Britain, France, and Australia, and the PLA Navy sent ships to visit Pakistan, Bangladesh and Sri Lanka in 1985. PLA departments, academies, and research institutes opened their doors to foreign military visitors. In 1989 China had ties with eighty-five foreign armies, posted Chinese military attaché offices in sixty countries, and hosted forty military attaché offices in Beijing.

PLA MILITARY RELATIONS: 1990–PRESENT

As a result of the economic opening and the strategic reassessment in the early 1980s, Chinese leaders began to view the use of CBMs primarily as tools to maintain a peaceful regional

environment beneficial to economic development.⁹ In July 1998, China issued its first white paper entitled: *China's National Defense*, which stated that China has been active in developing an omni-directional and multi-level form of military diplomacy.¹⁰ According to the paper, the PLA has established relations with the armed forces of more than 100 other countries. China has set up military attaché offices in more than ninety Chinese embassies abroad, and over sixty countries have set up their military attaché offices in China. In the last twenty years, more than 1,300 Chinese military delegations, of which some 180 were headed by senior officers, have visited over eighty countries. In the meantime, about 2,100 foreign military delegations involving several tens of thousands of persons have visited China, more than half of which were high-ranking delegations headed by defense ministers, commanders-in-chief (CMOS) of the armed forces or chiefs of the general staff. Since 1973, the PLA has trained nearly 10,000 officers at all levels as well as military technicians for developing countries, and sent over 8,000 experts to those countries.

During the 1990s, representatives from virtually every organization within the PLA, from the Central Military Commission (CMC) to academic institutions, have been involved in the foreign relations program. They include vice chairmen of the CMC, the Minister of National Defense, heads of the four general departments (General Staff/GSD, General Political/GPD, General Logistics/GLD, and General Armament/GAD), commanders and political commissars of the Navy and Air Force, commanders and political commissars of the seven military regions and three naval fleets, members of the Commission for Science, Technology, and Industry for National Defense (COSTIND), the Academy of Military Science (AMS), the National Defense University (NDU), and service academies and schools. The only organization that is not commonly represented is the strategic rocket forces, known as the Second Artillery. However, some Second Artillery representatives have worked in Saudi Arabia since Riyadh purchased several DF-3/CSS-2 medium range ballistic missiles (MRBM) in the mid-1980s. Specific examples of visits that took place between 1995–1998 including the following:

During 1995, the PLA hosted 125 military delegations from fifty-five countries, of which forty-seven delegations were led by either defense ministers, chiefs of staff, or commanders of

⁹ For a detailed analysis of this revised national military strategy, see Nan Li, "The PLA's Evolving Warfighting Doctrine, Strategy, and Tactics, 1985–95: A Chinese View," and Paul H.B. Godwin, "From Continent to Periphery: PLA Doctrine, Strategy, and Capabilities Toward 2000," both in David S. Shambaugh and Richard H. Yang, eds. *China's Military in Transition* (Oxford: Clarendon Press, 1997), 284–312. See also James Harris, "Chinese Defense Policy and Military Strategy in the 1990s," *China's Economic Dilemmas in the 1990s: The Problems of Reforms, Modernization, and Interdependence* (Washington, D.C.: Joint Economic Committee, Congress of the United States, April 1991), 648–649.

¹⁰ *China's National Defense*, (Beijing: Information Office of the State Council of the People's Republic of China, July 1998).

various services. Visitors came from Australia, Austria, Belarus, Britain, Canada, Chile, Egypt, Ethiopia, Finland, France, Germany, Holland, Hungary, Israel, Kuwait, Kyrgyzstan, Namibia, Nigeria, Peru, Portugal, Switzerland, Syria, Turkey, the Ukraine, and Zimbabwe.¹¹

During 1996 the PLA hosted more than 140 military delegations from over sixty countries, including Belgium, Bolivia, Britain, Finland, France, Hungary, Iran, Israel, Italy, Mozambique, Poland, Portugal, Romania, Spain, Tanzania, Uganda, the United States, Zambia, and Zimbabwe. They also included visits by American, British, and Italian warships.¹²

During 1997 and 1998, the PLA hosted visits from over 150 delegations from eighty-six countries across five continents. Visitors included high-ranking military leaders from Russia, Kazakhstan, Singapore, Indonesia, Thailand, Bangladesh, Japan, South Korea, Nepal, North Korea, Thailand, India, Myanmar, Pakistan, Vietnam, and Laos. Among them, twenty-three were vice-premiers and defense ministers, a sixty-four percent increase from 1996. Fifty delegations were at the level of general commander or chief of staff of foreign armed forces, vice defense minister and commander of different military units. Commanders from the Shenyang, Beijing, Lanzhou, Guangzhou, and Chengdu Military Regions also increased visits and exchanges with their counterparts in bordering nations.¹³

PLA NAVY PORT CALLS ABROAD

One of the most visible signs of PLA military cooperation is port calls abroad. In contrast to the coast-hugging visit to Sri Lanka and Pakistan in 1985 by two PLA Navy ships, a small Chinese naval task force sailed to North and South America in March 1997, stopping in Honolulu and San Diego before going on to ports in Mexico, Chile, and Peru. The vessels included one of China's few relatively modern surface combatants, a Luh-class guided-missile destroyer. It was accompanied by a modernized Luda III destroyer and the largest ship in the Chinese navy, the *Nanchang*, a supply ship. The last time Chinese warships made a journey of comparable distance was in 1433, when the Ming dynasty admiral Zheng He sent a fleet of four-decked war junks and

¹¹ "Official Reviews 1995 Sino-Foreign Military Ties," Beijing Xinhua Domestic Service in Chinese, *FBIS*, 2 March 1996.

¹² "Yearender: Active Military Exchanges Yield New Achievements," Beijing Xinhua Domestic Service in Chinese, *FBIS*, 19 December 1996.

¹³ "China: Report on Military Diplomacy in 1997," Beijing Xinhua in English, *FBIS*, 12 January 1998.

27,500 troops through Southeast Asia to the Middle East and Africa.¹⁴

In addition, in 1996, the PLA Navy conducted its first port call in North Korea to celebrate the 35th anniversary of the Sino–North Korean Friendship Treaty. Another North Sea Fleet ship also visited Vladivostok. At roughly the same time as the 1997 historic visit to the Americas, two ships of China’s East Sea Fleet sailed to Malaysia, Singapore, and the Philippines. These ships comprised the PLA’s only other modern guided-missile destroyer (a Luhua launched in 1996) and one of the recently completed Jiangwei-class frigates. This was the first-ever visit to these three ASEAN countries by PLA warships. In the case of the Philippines, the only previous encounters with the PLA Navy’s emerging naval power was in the South China Sea in March 1994, when Chinese ships supported the occupation of the Philippine-claimed Mischief Reef.

In May 1998, the navy headed south to Australia and New Zealand. A Luhua destroyer, supply ship, and training ship visited Auckland and Sydney, the most southerly point reached by the Chinese navy since Zheng He’s historic voyage. While Japan and Russia have recently had exchange ship visits, China and Japan have not yet reached agreement on ship visit exchanges.

PRC HIGH-LEVEL VISITS AND BORDER TALKS PROMOTE CBMs

High-level visits to or from China by heads-of-state or ministers responsible for foreign affairs and defense have been most successful in establishing CBMs. Discussions in Russia, the Central Asian Republics (Kazakhstan, Kyrgyzstan, and Tajikistan), India, and the ASEAN states have resulted in programs for military exchanges and various border agreements, including the establishment of hotlines, border demarcation negotiations, prior notification and restriction of military maneuvers and troop movements along borders.

A comparison of the 1996 Sino–Indian Agreement on the Line of Actual Control (LAC), the 1996 Sino–Russian/Central Asian Republics Shanghai Agreement, and the 1994 Vienna Document of the Organization for Security and Co-operation in Europe (OSCE), as shown in Table 1, provides a useful framework for potential military CBMs between Beijing and Taipei.¹⁵

The author of the study, Yuan Jing-dong, has made a number of observations based on the information in Table 1. First, there is a difference in the scope of application. While the

¹⁴ Gary Klintworth, “Expanded Horizons,” *Free China Review*, October 1998, 50–53.

¹⁵ This is from a draft paper by Yuan Jing-dong “The Process of Sino-Indian Confidence-Building: A Preliminary Analysis,” Institute of International Relations, University of British Columbia.

Vienna Document covers the entire OSCE (Europe) area, the Sino–Indian and Sino–Russian agreements concern only the border regions and the LAC. Second, the provisions and clauses in the Vienna Document are more elaborate, numerous, and more specific, while those in the Sino–Indian and Sino–Russian accords are more general and in places rather vague.

Third, implementation and verification have received scant mention in the Sino–Indian/Sino–Russian agreements while the Vienna Document has detailed provisions. In the case of Sino-Indian agreements, no timetable is specified for withdrawing troops from LAC or is the number of troops to be pulled back spelled out.¹⁶

Military CBM tools are designed to make the behavior of states more predictable by facilitating communication between states and establishing rules or patterns of behavior for their military forces, as well as the means to discern and verify compliance with those patterns.

POTENTIAL MILITARY-RELATED CBMs BETWEEN THE PLA AND ROC MILITARY

Military CBM “tools” can be of a declaratory nature, can have communication channels, impose constraints on military capabilities, require transparency for military activities, improve maritime safety, and assist in the verification of obligations reached. These tools are designed to make the behavior of states more predictable by facilitating communication between states and establishing rules or patterns of behavior for their military forces, as well as the means to discern and verify compliance with those patterns. This section will examine each of these tools to see how they might be applied across the Taiwan Strait.

Declaratory Measures

Declaratory measures state a country’s position on a particular issue in ways that are reassuring. They can be unilateral or reciprocal and can be merely symbolic or can have substance. Beijing’s affinity for “declaratory” CBMs is most evident in the nuclear field, where Beijing supports, among other issues, an international convention on unconditional no-first-use of nuclear weapons. In addition, China and Russia pledged in 1994 not to use nuclear weapons against one another and not to target each other with nuclear weapons. A similar agreement not

¹⁶ Damon Bristow, “Mutual Mistrust Still Hampering Sino-Indian Rapprochement,” *Jane’s Intelligence Review*, August 1997, 370.

to target each other with nuclear weapons was signed between China and the United States in June 1998.

As for cross-Strait relations, Taipei and Beijing have each used declaratory statements to state their basic positions on military relations. In 1987, Taipei lifted martial law, and in 1991 terminated the “period of mobilization against communist rebellion” marking an end to the ROC’s stated aim of retaking the mainland by force. These moves, though with marginal meaning in military terms, did indicate a fundamental shift in Taiwan’s policy toward the PRC.¹⁷ On the other hand, Beijing has included language on the “non-use of force” in its agreements with Russia, the Central Asian Republics, and India in order to promote CBMs. However, in Taiwan’s case, Beijing has consistently declared that “China will not commit itself not to resort to force” to reunify Taiwan with the mainland.¹⁸

Communication Measures

Communication measures, including military ties and hotlines, help keep channels of communication open between conflict-prone states or states with tense relations. Communication measures can be employed on a regular basis as consultative mechanisms designed to allow states to air grievances and ward off crises before they occur. They can also help defuse tensions during periods of crises.

Military-to-military communication can be fostered by visits of high-level delegations, ship visits, and functional exchanges.¹⁹ They can also include participation in conferences, visiting fellow programs, and student/faculty exchanges. They can be bilateral as well as multilateral. While the PLA is involved in each of these categories, the ROC military is essentially limited to visits directly related to arms purchases, participation in conferences, visiting fellow programs, and student/faculty exchanges. As noted above, the PLA has expanded its military relations worldwide since the late 1970s. These communication measures help the PLA and ROC military learn about other countries’ militaries and other countries to learn about them.

¹⁷ Alexander Chieh-cheng Huang, “Taiwan’s View of Military Balance and the Challenge it Presents,” *Crisis in the Taiwan Strait* (Washington, D.C.: NDU Press, 1997), 282-283.

¹⁸ *White Paper on China’s National Defense* (Beijing: Information Office of the State Council of the People’s Republic of China, July 1998).

¹⁹ Another facet of military-to-military relations is arms sales and military assistance, but these do not necessarily fall into the category of CBMs.

Bilateral and multilateral conferences, whether Track One (governmental) or Track Two (non-governmental), provide an opportunity for military personnel to meet each other and to exchange information. Both the PLA and ROC military are involved in conferences, but they rarely participate together. For example, China became a full member of the Council for Security Cooperation in the Asia Pacific (CSCAP) in 1996.²⁰ Membership is open to all countries and regions in the Asia-Pacific region. Although Taiwan has tried to become an Associate Member, Beijing has successfully blocked Taipei's participation. However, after lengthy negotiations, Beijing agreed to have Taiwan participate in Working Groups only (but not at Steering Committee meetings or General Membership meetings), and only in private capacities. There is a pre-approved list of names of Taiwan scholars who can come to Working Group meetings and procedures for clearing others. No Taiwan government officials or military officers are on the list or are likely to be approved in the near future.

Although Beijing has been resistant to allow the ROC military to be involved in military-related fora, the PLA, through its China Institute for International Strategic Studies, has invited national security academics and retired ROC military officers to Beijing for discussions on national security issues.

Although Beijing has been resistant to allow the ROC military to be involved in formal military and military-related international fora, the PLA, through its China Institute for International Strategic Studies (CISS) and National Defense University (NDU), has invited national security academics and retired ROC military officers to Beijing for discussions on national security issues.²¹

²⁰ CSCAP was established in June 1993 as a multilateral, non-governmental organization that links regional security-oriented research institutes and, through them, broad-based member committees composed of academics, business executives, security specialists, and former and current foreign ministry and defense officials.

²¹ CISS is a think tank subordinate to the General Staff Department's Second Intelligence Department. The director is Deputy Chief of the General Staff Lieutenant General Xiong Guangkai, who was a former military attaché to East Germany. The majority of the people who staff CISS are former military attachés.

Table 1
Comparison of the Sino–Indian Agreement on LAC, Sino–Russian/Central Asian Republics
Shanghai Agreement, and the OSCE Vienna Document²²

Issue Area	Sino–Indian Agreement on LAC	Sino–Russian/CAR Shanghai Agreement	OSCE Vienna Document
Underlying Principles	<ul style="list-style-type: none"> ▶ Transparency in the military field ▶ Mutual non-aggression ▶ Non-use of force ▶ Respect the LAC ▶ Peace and tranquillity ▶ Force reduction ▶ Non-interference in internal affairs 	<ul style="list-style-type: none"> ▶ Transparency in the military field ▶ Mutual non-aggression ▶ Non-use of force ▶ Peace and stability ▶ Force reduction 	<ul style="list-style-type: none"> ▶ Transparency in the military field ▶ Non-use of force or threat of use of force
Geographic Area	▶ 10 km from the LAC	▶ 100 km from border line	▶ Whole of Europe, adjoining sea air space
Military Activities/ Exercises Parameters	<ul style="list-style-type: none"> ▶ No exercises larger than 1 division (Approx. 15,000 troops) ▶ Exercises larger than 1brigade group (approx. 5,000 troops) to be notified in advance ▶ Prohibition of combat aircraft flights within 10km of LAC except with prior notification ▶ Prohibition of firing, blasting, hunting within 2 km of LAC 	<ul style="list-style-type: none"> ▶ Within 100 km: no exercises of more than 40,000 troops (Eastern Section) 4,000 troops and/or 50 tanks (Western Section) ▶ Within 15 km: no more than 1 regiment in live-fire exercise ▶ Within 10 km: border guards only 	<ul style="list-style-type: none"> ▶ Every 2 calendar years: no more than 1 military activity involving more than 40,000 troops or 900 tanks ▶ Each year: no more than 3 military activities involving more than 25,000 troops or 400 tanks ▶ Simultaneously: no more than 3 military activities involving more than 13,000 troops or 300 tanks
Equipment Specifications	▶ Combat tanks, infantry combat vehicles, guns (including howitzers) greater than 75mm, mortar with 120mm or bigger caliber, SSMs, SAMs, other weapons system as mutually agreed	▶ Battle tanks, armored vehicles, artillery systems (greater than 122mm), aircraft, helicopters, tactical missile launchers	▶ Battle tanks, armored combat vehicles, APC and armored infantry fighting vehicle look-alike, anti-tank guided missile launchers permanently/integrally mounted on armored vehicles, self-propelled and towed artillery, mortars and MRLs, (100mm and above), armored vehicle launched bridges, combat aircraft, helicopters

²² Modified from Amitav Acharya, *ASEAN Regional Forum: Confidence Building* (Ottawa: Department of Foreign Affairs and International Trade, February 1997), Table 5, 20-23.

Issue Area	Sino-Indian Agreement on LAC	Sino-Russian/CAR Shanghai Agreement	OSCE Vienna Document
Information Exchanges	<ul style="list-style-type: none"> ▶ Data exchange on military forces and arms to be reduced or limited ▶ Ceiling to be determined on principle of mutual and equal security 	<ul style="list-style-type: none"> ▶ Annual exchange on main categories of equipment ▶ Personnel strength (including ground forces, air force, air defense aviation, border guard troops) 	<ul style="list-style-type: none"> ▶ Annual exchanges on military organization, designation and subordination of units, manpower, major categories of equipment, planned troop increase, purposes and start/end dates of unit increase/activities, HQ locations, military budgets, planned notifiable military activities and plans for deploying major equipment systems
Notifications	<ul style="list-style-type: none"> ▶ 10 days in advance ▶ Exercises exceeding 5,000 troops (1 brigade) ▶ Notification of exercise termination within 5 days 	<ul style="list-style-type: none"> ▶ 10 days in advance ▶ Exercises exceeding 25,000 troops. ▶ Exercises which include 9,000 troops and/or 250 tanks from outside the border area ▶ Exercises in the border area which include 9,000 reserves ▶ Voluntary notification of any exercise involving more than 9,000 troops or 250 tanks 	<ul style="list-style-type: none"> ▶ At least 42 days in advance ▶ Activities involving 9,000 or more troops or 250 or more tanks or 200 or more aircraft sorties ▶ Amphibious or parachute landings involving 3,000 or more troops. ▶ Transfer into or to a point of concentration within the zone of application of 13,000 or more troops or 300 or more tanks or 3,500 or more paratroop/ amphibious troops. ▶ Changes to information provided on an annual basis (by the time activation occurs) ▶ Activities carried out without advance notice to the troops involved

Issue Area	Sino-Indian Agreement on LAC	Sino-Russian/CAR Shanghai Agreement	OSCE Vienna Document
Consultations	<ul style="list-style-type: none"> ▶ Clarification of doubtful situations ▶ Timely clarification for exercises ▶ Expanded regime of scheduled and flag meetings ▶ Expanded telecom links along LAC ▶ Establishment (step-by-step) of medium- and high-level contacts 	<ul style="list-style-type: none"> ▶ Request and response about ambiguous situations within 7 days ▶ Mutual visits of military commanders ▶ Study tours by expert groups ▶ Experts meetings to discuss implementation 	<ul style="list-style-type: none"> ▶ Reporting and clarifying hazardous military incidents ▶ Consult and cooperation within 48 hrs on unusual/unscheduled significant military activities occurring outside normal peacetime locations ▶ Annual implementation assessment meeting ▶ Establishment of Conflict Prevention Center ▶ Voluntary invitations on visits to dispel concerns
Exchange/Co-operation	(Not included)	<ul style="list-style-type: none"> ▶ Experience exchange (construction, training, etc.) ▶ Cooperation in logistics, etc. ▶ Other forms of cooperation, e.g. mutual participation in national holidays, athletic and cultural events 	<ul style="list-style-type: none"> ▶ Exchanges/visits of senior military/defense representatives and military commanders ▶ Contacts between military institutions ▶ Attendance on courses of instruction ▶ Exchanges/contacts between academics/ military experts ▶ Sporting/cultural events contacts
Observations	(Not included)	<ul style="list-style-type: none"> ▶ To exercises involving more than 35,000 troops. ▶ Voluntary invitation to exercises involving more than 13,000 troops, 300 tanks 	<ul style="list-style-type: none"> ▶ To all notifiable military activities ▶ To demonstrations of new types of major equipment systems when first introduced into the zone of application ▶ States may conduct inspections (subject to quota limits) ▶ States to provide opportunities for visits to active formations/ units to allow evaluation of information provided (subject to quota limits)

There have also been opportunities over the past several years for active duty officers from the PLA and ROC military to be visiting fellows or students at the same organization or school in the United States.²³ In addition, there have also been opportunities for visiting fellows or students in different organizations or schools to attend the same meetings. Each of these situations have allowed interaction between them.

Hotlines, if used correctly, can provide direct channels of communication between government leaders to discuss specific issues and can be used during moments of crisis to reduce tensions. Hotlines can also be used at lower levels, including communications between military forces facing each other across a border and hotlines for maritime rescue. During the 1990s, Beijing has used each of these types of hotlines.

During 1998, Beijing established head-of-state hotlines with Russia and the United States. In April 1996, during Russian President Yeltsin's third summit meeting in Beijing (and the fifth overall summit with Chinese President Jiang), the two sides agreed to maintain regular dialogues at various levels and through multiple channels, including a governmental telephone hotline. On May 3, 1998, a hotline between Zhongnanhai and the Kremlin finally began operating. This is the first time Beijing has established a hotline with the head of a foreign state. In April 1998, China's Minister of Foreign Affairs Tang Jiaxuan and US Secretary of State Madeleine Albright signed an agreement to establish a hotline between the governments of the two countries. The hotline was activated during President Clinton's visit to China in June 1998.²⁴

In February 1998, the Fujian border defense corps, which is responsible for guarding the 3,300 km coastline, disclosed its major tasks for the year, including investigating crimes in the Taiwan Strait. Because of the unique geographical and political background of the Taiwan Strait, there have always been areas where there are no patrols, thus causing security gaps in the Strait's maritime space. Criminal elements often take advantage of such gaps and endanger travelers passing through the Strait. Very often their acts of smuggling and killings go unpunished. The

²³ There have also been active duty US military officer visiting fellows or students, as well as officers from other Asia-Pacific countries, at the same location.

²⁴ Liao Xin, "New Relations Between China and Russia," *Beijing Review in English* (*FBIS-CHI-97-363*, December 1997), 7-8. Grigoriy Arslanov, "Russia: Hotline for Russia's Yeltsin's Jiang Now Operational," *Moscow ITAR-TASS in English* (*FBIS-SOV-98-125*, 5 May 98).

Fujian border defense corps also stated that it would explore channels with Taiwan for jointly maintaining cross-Strait security and cooperation.²⁵

Maritime Safety Measures

Maritime safety measures are closely linked to communication measures. These measures insure maritime safety, including maritime safety agreements and discussions about joint search and rescue exercises. For example, in January 1998, China and the United States signed the “Agreement Between the Department of Defense of the United States of America and the Ministry of National Defense of the People’s Republic of China on Establishing a Consultation Mechanism to Strengthen Military Maritime Safety.” According to the agreement, the agenda items of their maritime and air forces may include, among other items: measures to promote safe maritime practices and establish mutual trust as search and rescue, communications procedures when ships encounter each other, interpretation of the Rules of the Nautical Road, and avoidance of accidents at sea. Beginning on December 3, 1998, the US Navy and the PLA Navy conducted a three-day joint search and rescue exercise (SAREX 98) south of Hong Kong.²⁶

In addition, Beijing and Taipei have already implemented some maritime safety measures involving hotlines. Two significant maritime CBMs took place between the PRC and ROC in April 1997. First, direct shipping began on a trial basis. A year later, ten ships (six from the mainland and four from Taiwan) authorized to participate had completed 154 voyages. Second, a hotline was set up to assist in maritime rescue. Previously, messages had to be transmitted through Hong Kong making it impossible to have dialogue between the two sides when maritime rescue was needed.²⁷

In November 1997, the Taipei-based China Rescue Association and its mainland counterpart, the China Marine Rescue Center, reached an agreement to set up a hotline to facilitate marine rescue work in the Taiwan Strait. Under the agreement, when accidents occur in the Taiwan Strait involving the ships of both Taiwan and the Chinese mainland, the ships in distress

²⁵ “Fujian Seeks Taiwan Cooperation on Fighting Crimes at Sea,” Beijing Zhongguo Xinwen She in Chinese (*FBIS-CHI-98-040*, 6 February 1998).

²⁶ Brendan Delfino, “PLA Joins Forces With US in Historic Exercise,” *South China Morning Post*, 3 December 1998.

²⁷ “Cross-Strait Direct Shipping Test Goes Smoothly,” Hong Kong Zhongguo Tongxun She in Chinese (*FBIS-CHI-98-107*, 16 April 1998).

and the rescuing ships may use the hotline to ask for help and request permission to enter the waters and harbors of the other side. The hotline will operate twenty-four hours a day.²⁸

Constraint Measures

Constraint measures, including “thin-out zones,” are designed to keep certain types and levels of states’ military forces at a distance from one another, especially along borders. Constraint measures, in the form of requirements to provide advance notice (up to one–two years in some European cases) of certain levels of troop movements, also aim to constrain states’ abilities to move the troops and equipment needed to mount large-scale offensives.

Thin-out zones, or limited force deployment zones, restrict the type and number of military equipment or troops permitted in or near a certain territory or boundary. In China’s 1996 border agreement with India, each side pledged not to attack each other or cross the LAC, and to reduce troops and armaments along the common border. They also agreed to avoid holding large-scale military exercises involving more than one division (15,000 troops) in close proximity to the LAC and to refrain from flying combat aircraft within ten kilometers of the LAC. Unarmed transport aircraft, survey aircraft, and helicopters are permitted to fly up to the LAC.

In the Taiwan Strait, the ROC Air Force and PLA Air Force have established voluntary constraint measures. For example, according to a November 29, 1998 article in Taipei’s *Tzu-Li Wan-Pao*, “since the end of air battles over the Taiwan Strait in 1958, when carrying out patrol duties during ordinary times, our fighters have always kept a distance of thirty sea miles from the mainland’s coast, while the Chinese Communist fighters usually carry out their duties close to their own coast line. Maintaining a tacit agreement on an invisible central line of the strait, neither side has conducted any provocative flights against each other, so as to prevent an air battle from breaking out due to misjudgments made by their pilots.”²⁹

Transparency Measures

²⁸ “Hotline To Facilitate Rescue Work in Taiwan Strait,” Taiwan Central News Agency in English (*FBIS-CHI-97-329*, 25 November 1997).

²⁹ “Mainland Fighters Said To Appear Above Taiwan Straits,” Taipei *Tzu-Li Wan-Pao* (*FBIS*, 29 November 1998).

Transparency measures are used by states to foster greater openness of their military capabilities and activities. These include publication of defense white papers, pre-notification requirements for exercises and troop movements, data exchanges, voluntary observations, and exchange of military attachés.

As discussed in the previous essay on Chinese CBMs, China lags behind other Asia-Pacific countries in providing military transparency through publication of defense white papers. Beijing published its first defense white paper in July 1998. Meanwhile, Japan has published its *Defense of Japan* white paper annually for over two decades; South Korea began publishing their annual *Defense White Paper* in 1988; Taiwan has published its *National Defense Report* every two years since 1992.

Pre-notification requirements of a certain time period for planned military exercises or troop movements of an agreed upon level also help make a state's military intent more transparent. Notification mechanisms can be applied to missile tests as well. Near contentious borders, this type of transparency measure can help eliminate fears that an exercise may be part of preparations for war. Establishing and exchanging a regular schedule of military exercises can further build confidence between parties.

Data exchanges detailing existing military holdings, planned purchases, military personnel and budgets can clarify a state's current and projected military capabilities and provide advance notice of destabilizing arms build-ups. Data exchanges can take place bilaterally or multilaterally. An example is the United Nations Register of Conventional Arms established in December 1991, in which states are asked to report all imports and exports of weapons in seven categories.³⁰ China is one of ninety-two countries that has reported in at least some areas. However, Beijing withdrew in November 1998 in protest because the United States submits information about arms sales to Taiwan on the arms buyers list submitted each year to the UN.³¹

Voluntary observations on another state's military exercises provide first-hand access to that party's equipment and operating procedures. For example, in the 1996 Sino-Russian/Central Asian Republic agreement, the parties were encouraged to invite observers to troop exercises on

³⁰ These seven categories include battle tanks, armored combat vehicles, large caliber delivery systems, combat aircraft, attack helicopters, warships, and missiles or missile systems.

³¹ Thalif Deen, "China Pulls out of U.N. Arms Register over Taiwan," *Inter Press Service*, 11 November 1998. <http://www.oneworld.org/ips2/nov98/chi.tai.html>; accessed on 17 November 1998.

a mutual basis and to strengthen friendly contact between servicemen. As mentioned above, Beijing hosted the ASEAN Regional Forum's Inter-Sessional Support Group on CBMs in March 1997 and invited attendees to visit a PLA division to watch live-ammunition drills and visit the barracks. In addition, in July-August 1998, two PLA Navy officers became the first Chinese participants to observe the multinational Rim of the Pacific (RIMPAC) 1998 naval exercises near Hawaii.³²

Exchanging military attachés is a valuable means of providing transparency, because it allows countries to have a direct link between their military organizations. As mentioned above, the PRC and ROC have military attachés in their embassies throughout the world. In 1988 the PRC had ties with eighty-five foreign armed forces, posted military attaché offices in sixty countries, and hosted forty military attaché offices in Beijing. Today, the PLA has established relations with the armed forces of more than 100 countries, has set up military attaché offices in more than ninety countries, and hosts over sixty military attaché offices in China. The ROC has military attachés in many of its embassies and in its unofficial trade offices where it does not have an official embassy or consulate. All of these attaché offices help facilitate exchanges of high ranking officials and functional delegations.

Beijing and Taipei already provide public notification through their respective Ministries of Defense or government spokesmen about pending military exercises. In order to establish a form of transparency CBMs, Beijing and Taipei could make formal notification to each other through organizations such as Taiwan's Strait Exchange Foundation (SEF) or the mainland's Association for Relations Across the Taiwan Strait (ARATS). As has been done in Europe, agreements could be made to specify the amount of lead time for announcements, and then gradually increase the lead time.

Verification Measures

Verification measures are designed to collect data or provide first-hand access in order to confirm or verify a state's compliance with a particular treaty or agreement. Verification

³² RIMPAC is a multinational, biennial naval exercise that has been held since 1971 during the summer months in the vicinity of Hawaii. Participants in RIMPAC '98 involved forty-one ships, seven submarines, 250 aircraft, and over 30,000 personnel from the United States, Australia, Republic of Korea, Canada, Chile and Japan. There were also eight observers, including China, Ecuador, Indonesia, Mexico, Peru, Russia, Singapore, and Thailand.

measures include aerial inspections, ground-based electronic sensing, and on-site inspections. However, in order for any CBMs to be effective, they have to be voluntary and the states have to have a commitment to implement them.

It is unlikely there will be any significant movement toward military CBMs across the Taiwan Strait until there is movement on political issues.

Aerial inspections enable parties to an agreement to monitor compliance with force deployment limitations in restricted zones, to confirm data exchanges on the disposition of military forces, and to

provide early warning of potentially destabilizing activities. Third parties may carry out aerial inspections, or parties themselves may jointly participate in overflights. Strict guidelines regulate the type of aircraft and surveillance technology allowed on board, as well as flight patterns permitted. Ground-based electronic sensing systems, whether manned or unmanned, can also verify states' compliance to agreed restrictions on equipment deployment or troop movements. On-site inspections, consisting of challenge and routine inspections, can help verify that states are complying with agreements. Inspections may be carried out by third parties, or jointly. For example, China has accepted on-site inspections as a signatory to the 1994 Chemical Weapons Convention.

CONCLUSIONS

Three conclusions follow from this analysis. First, China's movement on military CBMs has followed breakthroughs in high level political visits. Following these visits, it has taken several years to work out details and begin implementing the military CBMs. Second, it is unlikely there will be any significant movement toward military CBMs across the Taiwan Strait until there is movement on political issues. The next real test of cross-Strait relations could be in March 2000, when the ROC will hold its next presidential elections. Third, Beijing has moved forward on military-related CBMs with most of its neighbors during the 1990s, and Taipei and Beijing have established communications on maritime rescue issues. In addition, there have been meetings between the PLA and national security-related organizations in Taiwan, as well as contact between active duty PLA and ROC military officers in the United States. However, the ROC military will most likely not be allowed to participate in multilateral events without Beijing's tacit approval.

Several types of CBMs could be established between the PLA and ROC military under the right set of circumstances. Although many of these CBMs would be symbolic in nature, they could eventually lead to substantive CBMs. A list of possible CBMs, without specifying any particular time frame, is as follows:

Two of the most important, and most difficult, measures involve declaratory statements concerning the use of force and Taiwan independence. Either side could break the logjam by making unilateral declarations. Beijing could renounce its policy to use force to reunify Taiwan with the mainland. Taipei could also renounce the possibility of declaring independence for Taiwan.³³ However, the probability of either of these two situations occurring is not high, at least in the near term.

Communication measures are the most likely, and easiest, measures that the PLA and ROC military could implement. To begin with, there could be a formalized program that begins by exchanging delegations composed of retired military officers, as well as national security experts, sponsored by organizations like the PLA's China Institute for International Strategic Studies and National Defense University and Taiwan's Chinese Center for Advanced Policy Studies and the ROC military's Armed Forces University. Active duty officers could gradually be added as the program evolved. Eventually, direct military relations could be enhanced by exchanging military liaison officers or attachés. These officers might then be allowed to observe exercises.

As this program matures, Beijing could be inclined to withdraw its objection to ROC military officers attending international fora such as CSCAP and the ASEAN Regional Forum. A

³³ During his inaugural speech on May 20, 1996, ROC President Lee Teng-hui stated, "The Republic of China has always been a sovereign state. Disputes across the Straits center around system and lifestyle; they have nothing to do with ethnic or cultural identity. Here in this country it is totally unnecessary or impossible to adopt the so-called course of 'Taiwan independence.' For over forty years, the two sides of the Straits have been two separate jurisdictions due to various historical factors, but it is also true that both sides pursue eventual national unification. Only when both sides face up to the facts and engage in dialogue with profound sincerity and patience will they be able to find the solution to the unification question and work for the common welfare of the Chinese people." During a meeting with SEF Chairman Koo Chen-fu in October 1998, Qian Qichen, member of the Political Bureau of the Central Committee Chinese Communist Party, urged early political talks between the Chinese mainland and Taiwan. Qian said cross-Straits political talks are only a matter of time should the reunification be achieved through peaceful means. "Taiwan now practices a capitalist system and after the reunification, Taiwan may retain the capitalist system while the mainland of the motherland practices socialist system. By reunification, we mean to safeguard the state territorial integrity and sovereignty, not to argue over systems." He said the "one China" principle is the basis for maintaining stability and developing cross-Straits relations and is also recognized by various countries in the world. "We are not in favor of all statements and actions about 'two Chinas' or 'one China, one Taiwan.' Nor will we tolerate Taiwan to be ceded."

formula similar to Taiwan's participation in the Asia-Pacific Economic Cooperation (APEC) and international sports events might be arranged.

Establishing hotlines, whether symbolic or substantive, could be an important step in reducing tensions between the two sides. These hotlines could be at senior levels or at lower levels, such as the maritime rescue hotline discussed above. The PLA and ROC military could also use these hotlines to provide formal notification to each other about pending military exercises.

Beijing and Taipei could agree upon various transparency and constraint measures, including requirements to provide advance notice of certain levels of troop movements and exercises. At some point in the future, they could begin discussions about troop movements in Taiwan and within the Nanjing and Guangzhou Military Regions opposite Taiwan, as well as naval vessel movements. They could also agree to avoid holding large-scale military exercises involving more than an agreed-upon number of troops and vessels, and to refrain from flying combat aircraft within a specified area over the Taiwan Strait.

Once both sides have agreed upon various constraint measures, they will have to agree upon the necessary verification measures designed to confirm compliance with the agreement. They could agree to joint aerial inspections, ground-based electronic sensing, and/or on-site inspections. Or they could involve a third party in these measures.

While it appears that the near term probability of Beijing and Taipei establishing new military CBMs is not high, opportunities for military CBMs can grow over time. For example, who could have predicted twenty years ago that China would have broad military relations with Russia and the United States today, given their adversarial relations during the 1960s and 1970s? Bold leadership provided the impetus for this to happen. Over the past decade, Taiwan has invested over \$30 billion on the mainland and informal discussions between SEF and ARATS were put back on track in October. Bold leadership could yet be the decisive factor between Taiwan and the mainland.

Today, Beijing and Taipei have a choice of renewed confrontation, with potentially explosive results for the entire region, or a gradual accommodation and resolution of their differences. If they choose the latter, then CBMs will be an essential means for reconciliation.

