

## **POSSIBLE TRIGGERS OF CONFLICT IN THE SOUTH CHINA SEA**

*B.A. Hamzah*

### **Introduction**

The fast moving security situation in the South China Sea has defied sensible predictions. The present calm situation could be just a lull before a big storm. Or, it could also just be simmering with nothing earth-shaking taking place. Despite reassuring words from the outgoing Chinese Premier Li Peng at Kuala Lumpur in August 1997, recent events involving Manila and Beijing in the Spratlys do not bode well for maritime security in the region.

### **Purpose**

The purpose of this paper is to examine some triggers of conflict. Put it differently, the paper is required to address the other side of the coin i.e., the prospect for cooperation and peace in the South China Sea.

### **State of Play**

The issues in the South China Sea are well known and it would be superfluous to plough the same ground in details. It is just like beating a dead-horse. There is nothing new that we all do not know already that would change the trend towards an uncertain geo-political environment *in situ*.

Before analysing the triggers, it will be helpful to disaggregate two major issues emanating from the conflicting claims. First - the claims are an intra-Asean problem, i.e., the problem of overlapping jurisdiction between different sets of Asean countries - Brunei, Malaysia, Vietnam, Indonesia and the Philippines. The second deals with China's claim to the entire region as indicated by its 1949 arbitrary dotted-line which most observers claim representing its outer maritime boundary.

The intra-Asean maritime zone delimitation problem has not become an obstacle to regional maritime security. Certain-built-in crisis management mechanisms within Asean have managed this problem rather well. Otherwise, we will be at each other's throats already by now. Despite the territorial problems, the Asean countries have not resorted to force to settle their maritime disputes. Malaysia and Indonesia, for example, have agreed to submit their dispute over the ownership of two islands, Ligitan and Sipadan, to the International Court of Justice (ICJ) at the Hague. Likewise, Indonesia and Vietnam too had held discussions over an overlapping maritime area in the South China Sea. Thailand

and Vietnam have signed an agreement on the continental shelf boundary in the Gulf of Thailand on 9 August 1997, after years of delay. Similarly, Vietnam had entered into active discussions with Malaysia even before oil was discovered in September 1997 in a disputed area. Manila and Kuala Lumpur had also held extensive discussions on their differences in area north of the 7 degrees 40 minute latitude. Kuala Lumpur had also initiated a series of discussions (the latest in August 1997) with Bandar Seri Begawan over Brunei's proclaimed EEZ. Although none of these territorial problems have been finally resolved, they do not preclude the prospects for cooperation between these Asean countries. It is extremely unlikely for any of the disputing Asean countries to resort to force for the resolution of their conflicting territorial claims with each other.

In fact, the overlapping claims disputes between Asean countries are more likely to result in some sort of a joint condominium in the form of a joint development area as in the case of Malaysia and Thailand or Malaysia and Vietnam.

The Primary problem in the South China Sea, in my view, is not so much the conflicting claims *per se*, but how to manage China, to persuade a resurgent maritime power to honour its promises and to play by the accepted rules in international relations.

Our records show that China has conducted many "mischiefs" in the South China Sea since it seized the Paracels from South Vietnam in 1973/1974. In 1983 China defeated a quickly assembled Vietnamese navy in the Spratlys and since then has assertively conducted itself. Some of the activities that China has done over the years include the following: constructing an airfield on Woody Island (1995), occupied Mischief Reef (1995), drilled the continental shelf claimed by Vietnam (1997) and sent frigates as recently as in April and May 1997 to the Spratlys' area-especially in area claimed by the Philippines and Vietnam. Apart from fishing, China has also conducted on numerous occasions marine science surveys in the EEZs of other countries.

These activities must be seen against the backdrop of the following: the decision by China to unilaterally declare a law on its territorial sea and contiguous zone (1992), a baseline around the Paracels and other parts of China's coastline (excluding the Spratlys) in 1995, the ratification of the UNCLOS (1996), gave an undertaking in 1995 to abide by the Asean Declaration on the South China Sea (July 1992) which provides an informal guideline for conduct in the South China Sea and a bilateral Memorandum of Understanding (MOU) with the Philippines in August 1995 against adopting unilateral activities in the South China Sea.

When China ratified the UNCLOS on 7 June 1996, there was so much optimism in the region. Everyone thought that China would not violate the spirit of the 1982 Law of the Sea Treaty or spurn its own promises and would be

prepared to play by the accepted rules of the game. So when China despatched two armed frigates to the Spratlys on April 25, 1997-not only Filipinos were angry with the incident but many others to cried foul. What is China really up to?

China has been testing the waters in the South China Sea for over two decades since it seized the Paracels during the final days of the Vietnam War. China's objectives in the South China Sea are not difficult to determine. It is certainly more than mere presence; China want to dominate the area. This make sense from Beijing's perspective which views the South China Sea as its own lake. China mistakenly believes it has full sovereignty over the disputed area. Of course, this unilateral position of China is disputed by other claimants who question its legal basis.

After China's fall-out with Soviet Union and Vietnam in 1978, the South China Sea was perceived by Beijing as a weak flank that needs strengthening. China's policy of dominating the area has been made much easier by the decline of the US interest in the region and the collapse of the Soviet Union. China started to pour in troops into the South China Sea-fortified the base at Hainan, constructed airfields in the region and displayed its forceful presence by deploying naval task forces to the Spratlys on a regular basis. Apart from military activities, China also encouraged its fishing fleets to fish in the disputed area. It has also conducted oceanic surveys as well as drilling for oil and gas as evidence by the recent incident (May 1997) of oil drilling on the continental shelf of Vietnam. China also took steps to strengthen its meteorological services in the region by erecting meteorological stations on some atolls in the South China Sea.

It would appear that China's objectives in the South China Sea are not directly linked to its overall strategic interests in the region. China seems to treat the South China Sea differently from its growing interests in trade, investments, technology transfer and other forms of commercial activities. While China needs a stable regional environment to support its robust economic growth, it will not likely to give up sovereignty in the South China Sea. This policy to de-link and de-couple the South China Sea from the other strategic objectives is noticeably recent.

How to handle China-a big power? Anybody who can come up with a final solution deserves a Noble prize. The present policy of engaging China Seems to work very well in as far as making China more open and liberal in its economic policy. But this engagement policy of China has not resulted in China's putting a brake to its military modernization programmes nor has it changed Beijing's policy in the South China Sea. The engagement policy has also not resulted in a more transparent human right policy. Neither has the policy to align China with mainstream interests has achieved satisfactory results. Persuading China to play by the accepted rules in international relations, for example, to renounce the threat force as a national policy has not been very successful as evident in the South China sea. In other words, to make China a responsible

member of the community of nations has been the cornerstone of the constructive engagement policy. The judgement on this is still divided. Yes and no.

In our judgement, China intends to become a responsible member of the community of nations, still grappling hard to accept some basic international rules. This is the problem in the South China Sea. China does not keep its words and does not mean what it says. It is short on promises. It violates its own code of conduct and making it difficult to predict its next move in the South China. This uncertainty is a source of uneasiness in the region.

Yet on the other hand, a policy to contain China may also not work. Firstly, it is in no one's interest to create 1.2 billion enemies in a country likely to be the world's biggest economy in a decade from today. Secondly, the Asian countries are not likely to take sides and isolate China-although some of them may have territorial problems with China. The other strategic interests are more important. They want a China which does not threaten their interests, a friend if not an ally and, as some one who they believe can stand up to US supremacy. The region wants a stable China that can feed its own people to avoid a massive exodus of immigrants at their doorsteps. Containing China may cause a breakdown in the civil society and causes millions to emigrate. Europe and America are too far for the immigrants. But not Japan or Southeast Asia. Thirdly, Asians will not want to see the entire region being engulfed in a conflicts that will pit Japan against China, for example. In the words of Ezra Vogel, *"China is a rising power, but it need not be an enemy."* This, I concur. Michael Swain has unveiled some myths of media's hype over Chinese militarisation. In his words these myths are mistaken beliefs that China could threaten the US interests and the interests of others in the region. These myths range from China's hard-line policy on Taiwan to a crash programmes of military modernization, spending, by various estimates, US\$80 billion to US\$150 billion a year on defense, to its power projection capability to challenging US interests in the area.

The verdict on China is not out yet. But it is wise not to exaggerate the wickedness of this rising power to the point that overnight it becomes a new evil empire. We must discern facts from mere myths. In light of this, it is important for the region to develop strong multilateral institutions that China could relate to and has a stake in and feel that, no one is trying to undermine its security. China has to do two things to avert a policy of containment: demonstrate evidence that it will play by the rules of the game and adopt much more transparent policies in military policies, stop saber rattling and intimidation. What China did to Taiwan last year had offended many. It was an unnecessary war of nerves. Taiwan, renegade province, no doubt-but bullying Taiwan would not endear China to the world. No power is trying to take Taiwan away from China. China should also realize no outside forces are ganging up to destabilize it. In short,

China does not have to fear the world if it does not become a regional bully.

### **The Triggers**

What are the triggers for military conflicts in the Spratlys?

This paper now enters the realm of speculation as predicting the future in a fluid scenario amidst an uncertain environment is very much a guessing game. At the risks of competing with astrologers in the field, let me suggest what I consider could be triggers for military conflicts in South China Sea.

*Firstly*, the breakdown in communication between the disputing parties. Communication provides an indispensable purpose in crisis management. By communicating with each other—either directly or indirectly—it allows the crisis to be ventilated and minimizes the distance or variance in conflicts. It is a process of engaging the other party to reduce systematic polarization that could lead to a communication breakdown resulting in a conflict. The channels of communication must be open at all times. The assumptions are these: theoretically, if communication between the disputing parties show a decreasing tendency the situation is likely to be polarized because the "distance" between the protagonists is likely to increase. Increased distance measured by amount of communication implies *less* information, *less* accurate information, and perhaps even empathy with the other party and his problems. Through this rather circuitous path, distance becomes hypothesized as being related to a greater likelihood of prolonging or intensifying a conflict situation. On the contrary, as it is generally postulated in the literature on international relations, situations of decreasing distance will be more likely to set opposite tendencies in motion and the conflict is more likely to de-escalate or cease to exist.

Conceptually, the Asian Regional Forum (ARF) and other peace-building and crisis-management mechanisms are *communication* avenues for discussion and to let steam off and in the process, generate some cooling-off effect that would reduce the distance or inclination for conflict. While the theory of distance and communication may not work all the time—as communication can also be used as a strategy to reinforce weak positions and a technique to strengthen preparations for conflicts, the chances are that, effective communication conducted in good faith has produced positive results in almost every conflict-ridden situation. The failure to communicate effectively often pushes the protagonists over a precipice. It was Churchill who said "*jaw-jaw, talk-talk, no war*". The implication is clear, talking to each other will minimize the tendency to go to war.

With regard to the problems in the South China Sea, the critical question is not so much the lack of a forum for interaction—but the level. There are numerous occasions, for a and meetings for the disputing parties to air views on the South China Sea but we do not seem to move beyond rhetoric. There are

second track avenues as well as first track-yet we seem to have entered a *cul-de-sac*. Maybe we are not talking to the right decision-makers. We must now talk to each other, rather than past each other. If this assumption is true, the time has come to change tactics. While there are plenty of benefits to be gained from informal discussions, the problems of territorial jurisdiction must be tackled at the appropriate official level. The problem of sovereignty or overlapping jurisdiction in the South China Sea cannot be solved if governments are not prepared to get involved. Researchers and academics cannot resolve territorial problems-because they do not have the mandate to do so. As opinion makers researchers and academics may have the best of ideas. But at the end of the day it is the political masters who will decide whether to negotiate or not. Political will seems to be lacking. The time has come for us not to skirt the issue any longer. If the situation in the South China Sea is considered very serious to regional security that warrants a final solution, the disputing Governments must now sit down to discuss the problems with China [if they recognise Chinese claim] as they have done among the Asean contenders. On the other hand, if governments feel they can live with the problems as these are not regime threatening and let time heal the discomfort, and prefer to shelve the problem to the next generation or simply manage the problem on a day-to-day basis, they should indicate clearly to the public and researchers alike, so we can be better informed and not make wild guesses, instead. Without the political will to get engaged and be engaged, the issue of sovereignty will not be resolved.

The second trigger that could lead to a military conflict in South China Sea is the use of force to settle scores. If for some reasons, a disputing party mounts an invasion against an occupied base/islet, it will be inviting a serious showdown. The response will depend on many factors-among them, the parties involved, the capacity to retaliate, the willingness (or lack of it) to escalate the conflict level, local and international politics. The response may not always result in military action. It could also take the form of a diplomatic note or trade embargo or both. Against a stronger power, it could be just verbal complaints.

The militarisation of the South China Sea could trigger military accidents. This is more so when overzealous local commanders have the flexibility to pursue unilateral rules of engagement without approval from their respective authorities. By the time the authorities are consulted, the damage has been done and the situation could become out of control. One worrying trend in the South China Sea is the tendency of some countries to provide naval escorts to own nationals conducting illegal activities, primarily fishing without permission in the EEZ of other countries. While it is agreed that the status of the EEZ is under dispute, still the sending of naval escorts cannot be justified as it gives ground to local commanders to act impulsively and it gives the impression of official complicity. Similarly, further militarisation in the South China Sea

will simply means expanding/enhancing the capacity to inflict injury or damage. This will not provide any strong incentive for confidence building. While arms control will be most difficult, as it is complex to enact, in the absence of one the region should consider a less taxing mechanism like an incident-at-sea (INCSEA) prevention regime. This policy had worked well for the US and Soviet Union during the cold war period. Japan and South Korea have a similar arrangement. Tokyo and Moscow too have established an INCSEA regime in their seas. Additionally, there should also be unilateral restraints from introducing into the conflict area offensive systems e.g., sophisticated long-range weapons systems including submarines, missiles, long range bombers and fighter aircraft. No state will be prepared to sit-down and talk peace in a hostile environment.

Thirdly, any activity in the South China Sea that is viewed by some as interfering with international navigation rights could lead to military response. Singapore, Japan and the US have made it known that they will not tolerate any activity that could restrict navigational rights guaranteed under international law. Although such interference to international navigation in the South China Sea is remote, it cannot be discounted. The forms of retaliation against any state that conducts activities which are viewed as interfering with international navigation rights can be speculated and does not preclude, for example, the sending of warships by some maritime powers into the area to secure safe passage.

Fourthly, military domination of the South China Sea by one power will send fears down the chill of many. If, in the unlikely event that China succeeds to convert the South China Sea into its own internal water (a lake), Japan would have reasons to take positive military steps to counter that. Beijing has enacted policies which could be interpreted as incompatible with international law but it has not enforced them. For example, China has already demanded vide its 1992 law on territorial sea and contiguous zone that *"foreign submarines and other underwater vehicles, when passing through the territorial sea of the People's Republic of China shall navigate on the surface and show their flag"* (Article 7). Part 2 of Article 6 of the 1992 law makes it mandatory for military vessels to have prior approval of the Government *"for entering the territorial sea"* of China. These two provisions are not consistent with majority state practice and run counter to the relevant provisions of the 1982 Law of the Sea.

Fifthly, illegal activities in the disputed area can also raise the conflict level. Some of the illegal activities include fishing without permission, dumping of waste, illegal broadcasting, piracy, illicit drug trafficking, marine fraud and many others. While the incidents of these activities have been limited, illegal fishing has been rampant and could trigger bigger problems. The major complaint from the Filipinos, apart from recent sighting of PLA Navy in their EEZ, is illegal fishing. Most regional navies have to patrol the EEZ and on numerous occasions have to deal with illegal fishing by foreign nationals. While illegal fishing is expected to continue mainly because of the unclear status of the

EEZ and competition for scarce fishery resources, it can lead to, as it had in the past lead to, nasty incidents between navies in trying to effect arrest. Some foreign fishermen who are well armed had on many occasions resorted to force to resist arrests including ramming and damaging naval vessels. Such actions have resulted in the loss of lives and property. Complications arise when navies are under instruction to provide protection to their own nationals in foreign waters. There have been a few cases in recent past in the region where the navy has used force to prevent local enforcement agencies from arresting its nationals for illegal fishing. In one incident last year off the Cambodian coast, the Royal Thai Navy opened fire and sank the boat making the arrest.

### **What can be Done?**

It is impossible to totally eradicate conflict, but needless strife could be averted by understanding the root-causes of the problems and having the skills to manage these low-level conflicts from escalating into military conflicts. Short of a final solution the essence is how to manage the conflicts effectively to avert a war.

There are several ways of minimising or avoiding military conflicts in the South China Sea. The following conflict prevention and control (i.e., management) solutions are important parameters for consideration. They are:

- Keeping communication channels open at all times especially between local commanders. In a state-of-art information technology situation this is not difficult to achieve. Real-time information of the activities at sea is now possible from orbiting satellites. But we need more than just communication, we have to know who to talk to. In this respect, it will be helpful, for example, for each country to determine a focal point in each capital and in the disputed area for the purposes of exchanging information and act as a complain bureau.

- Promote transparency through a systematic monitoring and verification mechanism. There should be neutral and independent mechanisms to verify security related activities in the South China Sea e.g. track down the introduction of offensive weapon systems on a periodical basis to avoid surprises and insinuations. Countries can make use of satellite pictures of the area from time to time to monitor major developments. These satellite pictures should be verified and evaluated from time to time by an independent organisation.

- States abutting the South China Sea should also get together to establish their own specialised regional ocean satellite network which could also double-up to monitor and track down natural phenomena e.g., global natural disasters. At the end of the day, these satellites information could provide a basis for a database for maritime related hazards e.g. global/regional disasters or hazards mapping. The database could provide information on the following:

- ocean contamination/pollution control;



- ocean accidents/search and rescue activities;
- movements of refugees;
- shipping movements;
- infiltration;
- drug trafficking interdiction;
- piracy and anti-piracy activities;
- fisheries activities-especially illegal fishing;
- smuggling and anti-smuggling activities;
- humanitarian aid;
- coastal security;

•By agreement, limit the introduction of offensive weapon systems/platforms by constructing an arms control/monitoring regime and incidents-at-sea prevention mechanisms in the South China Sea. A regional arm control/monitoring incident-at-sea regime to monitor the introduction of offensive long-range weapons systems and platforms is useful to curb an unwanted arms race in the area. An incident-at-sea-agreement between the disputing parties and other interested maritime powers in a defined area can go along way in minimising conflicts of sea. One of the earliest INCSEA agreements was concluded in 1972 between the US Navy and the Soviet Navy. This INCSEA has been hailed as a success by many critics and has served as a model for other agreements e.g., between the UK and the USSR (1976), between Germany and the USSR(1988), between France and the USSR (1989), between Norway and Canada (1989). In 1993 Japan and Soviet Union signed a similar agreement. The Republic of Korea and Russia signed an INCSEA agreement on June 2, 1994. The potential benefits for an INCSEA agreement in a confined South China Sea area between the disputing parties and outside parties are clear.

• On a less serious note let us pray for divine intervention for a rise in sea-level that would submerge many islands and atolls in the South China Sea. Without the atolls and islands, the basis for claim may be weakened although it will not stop illegal fishing and oil exploration. With the disappearance of islands in the South China Sea most of the territory there will become exclusive economic zones. Only one area (donut hole) in the middle of the South China Sea would qualify as high sea (depending from where the baselines are drawn). This is a short-term quick-fix scenario that has a long-term significance in the region. If the sea-level were to rise due mainly the process in global warming, it would have an unintended effect. Because, not only the islands will go under water, there are other productive low-lying areas along the coasts of the contesting countries which will be flooded.

• Remove the veil of secrecy by *enhancing non-military activities* in the Spratlys. What some of the countries should do is to emulate Malaysia which had successfully converted one of its islands in the South China Sea [*Pulau Layang-Layang*] into an international resort. All are welcome to this island

where greenback and Malaysian ringgit reign. By opening more islands to tourists, the entire disputed area can hopefully become a zone of cooperation instead of an arena of conflict and tension.

• Maximise the potential for joint development. During his official visit to Malaysia (20-27 August 1997) Premier Li Peng has further reassured Malaysians that China was prepared to shelve the territorial claims in the Spratlys as it “*does not want the Spratlys to stand in the way of its relations with Asean countries.*” According to Li Peng China prefers to “*jointly develop the disputed zone through peaceful consultations for economics gains.*” He further elaborated on Beijing’s willingness to abide by “*international law of the sea*” (presumably the 1982 Law of the Sea Convention) as a basis for consultation. But like previous announcements, he gave no details on the area and the forms of joint development that Beijing is prepared to pursue. Although Chinese leaders had made such statements in the past, its timing and venue are significant. The statement came amidst charges and counter charges of illegal fishing and naval deployment in the Spratlys-directed mainly against China. The signals are mixed. On one hand, China wants to be seen on record as taking a softer-line, on the other hand, it has been flouting certain goog-conduct rules in the South China Sea. Whether Li Peng is signalling a new approach or not is hard to guess at this moment. In other words, I am not sure whether we should trust Li Peng, who will retire as Premier in March 1998, this time around. His past record on this matter had not been encouraging.

Those critical of China’s initiative points to two issues. Firstly, China is trying to legitimise its weak claim to the area through back door. By getting other countries to cooperate in joint development projects, they have indirectly recognised China’s Sovereignty in the area. Secondly, this initiative is a public relations exercise for China. Beijing had clearly declared that it would not be prepared to negotiate the sovereignty question in the South China Sea. It is just bidding for time.

Given such ambivalence and suspicions, the prospects for joint development are not very encouraging. However, the possibility for *joint programmes* may take off. The joint programmes are soft projects like weather monitoring, navigational safety, etc. These programmes are less contentious in nature and can be easily undertaken as they pertain more to coordination and harmonisation of national rules or procedures.

## **Conclusion**

The complexity and fluidity of the geo-political situation in the South China Sea has defied sustainable predictions. The recent developments in the Spratlys emanating mainly from Chinese activities are not very encouraging and do not

seem to bode well for regional maritime security.

Although the prospects for a major conflict in the South China Sea are remote, there is a sense of uncertainty and insecurity hanging in the air. Despite very reassuring words from the outgoing Chinese Premier Li Peng, the region cannot just take things for granted. The situation in the South China Sea could be just a lull before a big storm or it could be simply simmering.

It is important that all channels of communication are open at all times, particularly between the local commanders to mitigate the effects of overzealousness, insinuations or suspicions. Some forms of transparency with regard to military deployment in the area using satellite pictures can go a long way in restoring confidence and to avoid surprises.

China could play a positive role in shoring up confidence in the South China Sea – in particular the Spratlys – by restraining from illegal activities. Recent events involving China and some disputing parties in the Spratlys do not bode well for regional maritime security. So the policy of engaging China and persuading it to play by the generally accepted rules of the game will be vital in any regional form of confidence building in the Spratlys.