China-ASEAN: Tensions Promote Discussions on a Code of Conduct

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During the first quarter of the year China-ASEAN relations were almost wholly focused on territorial disputes. China’s relations with the Philippines and Vietnam presented contrasting patterns. Encroachments by Chinese fishing vessels in the waters around Scarborough Shoal became a constant irritant and led to the exchange of diplomatic protests and strongly worded statements between Manila and Beijing. At the same time, China reacted negatively to the revival of U.S.-Philippines joint military exercises. In contrast, China and Vietnam moved to capitalize on the signing of a Treaty on the Land Border by keeping the momentum of negotiations going. China and Vietnam used the occasion of the 50th anniversary of the establishment of diplomatic relations to wax effusively about their “traditional friendly relations.”

Elsewhere in the region, China and the pro-independence leaders of East Timor discussed the shape of future relations. China teamed up with Thailand to provide loans to Laos. China also conducted negotiations on accession to the World Trade Organization with Thailand and the Philippines.

Scarborough Shoal

Scarborough Shoal lies 200 nautical miles west of the Zambales province in the Philippines. It is an outlying feature that is not generally considered part of the Spratly Islands. On January 6, a Philippines’ naval vessel sighted six Chinese fishing vessels, reportedly carrying coral, off Scarborough Shoal (Huangyan in Chinese). Four of the vessels later anchored inside the shoal. Three of the Chinese vessels fled while three refused to leave. According to a Philippine military report, the naval vessel “then left the area in compliance with the rules of engagement.” When told of the incident, the Chinese Ambassador to the Philippines, Fu Ying, claimed that what was thought to be coral was merely “piles of fishing baskets used in fishing.”

Three days after the incident, Defense Secretary Orlando Mercado stated, “We should protest this incident because of its impact on food security. Not only is Scarborough Shoal within our 200-mile exclusive economic zone and part of our territory but also a spawning ground for our corals. Not only are they intruding into our space, they’re destroying our corals as well. It seems they have no concern for our food security.” This provoked a response from Zhu Bangzao, a spokesperson from the Chinese Foreign Ministry on January 11. According to Zhu, “Huangyan Island [Scarborough Shoal] is an integral part of Chinese territory... The action taken by the Philippine side has seriously hampered the peaceful production of Chinese fishermen. We express our strong concern.” On January 14, the Philippines protested Chinese intrusions in a note verbale delivered to the Chinese Embassy in Manila. The note also pointed out that coral reefs are protected by three international conventions to which China is a signatory.
Matters became more heated on January 23, when a Philippine aircraft on maritime patrol reported citing four motorized wooden Hainan-type Chinese fishing vessels and ten sampans near Scarborough Shoal. Over the next two days, a Philippine navy patrol craft chased four of the Chinese boats, two of which sought refuge in the shallow waters of Scarborough Shoal. On January 26, Defense Secretary Mercado announced he had ordered the navy to “make extra effort in patrolling the area to prevent possible construction activities that may take place.” At the same time, Philippines’ naval personnel boarded two of the Chinese fishing vessels and confiscated nine dynamite sticks, seven blasting caps and soft coral before ordering them to leave. Bad weather prevented their departure.

The Philippines issued its second diplomatic protest to China on January 27. The note _verbale_ once again demanded that the People’s Republic of China “observe Philippine rules and regulations against illegal entry” and refrain from “acts inimical to the protection and preservation of the marine environment and resources.” The protest note also said that the recent “series of incursions” violated an understanding reached between China and the Philippines in March 1999 to “refrain from acts which will increase tension and complicate the situation in the South China Sea.”

On February 1, China stepped up its rhetoric. Foreign Ministry spokesperson Zhu Bangzao declared, “Recently, the Philippine side has, with regard for China’s sovereignty over Huang Yan Island, wantonly harassed Chinese fishermen engaging in normal fishing operations in the waters and even gone so far as to force their way on board to conduct inspections and rob the fishermen of property … claiming that the Chinese fishing boats had violated the sovereignty of the Philippines. This act of confusing right and wrong is not acceptable to the Chinese side.” Philippine officials dismissed the Chinese statement out of hand.

Events in the area matched the step up in rhetoric. On February 2, the _Rajah Humabon_, a destroyer escort, fired warning shots at two Chinese fishing boats. According to Navy chief Vice Admiral Luisito Fernandez, the _Rajah Humabon_ was forced to fire warning shots to avert a collision with two Chinese fishing boats and only after the Chinese boats refused to respond to radio contact, loudspeaker, sirens, and flashing lights. The following day the Philippines’ media reported that two Chinese “platform vessels” reportedly carrying construction materials had been sighted southeast of Scarborough Shoal.

These events prompted re-analysis of Philippine strategy. On February 7, Defense Secretary Mercado ruled out future arrests of Chinese fishermen who entered Philippines’ territorial waters. “In the end [we] release them also. It’s a tedious function. So, I think our task now, instead of arresting them, is to be preventive in our actions” and to deter fishing boats from entering disputed territory, he said. His remarks were underscored by Lauro Baja, Foreign Affairs Undersecretary, who stated that the Philippines was in a “lose-lose” situation in dealing with Chinese fishermen because of the cost and drain on resources. Domingo Siazon, Foreign Secretary, stressed the same theme. He said foreign fishermen found poaching in Philippine waters should no longer be arrested to avoid tension. The navy’s duty should be limited to guarding against the destruction of the marine environment. Finally, in an effort to diffuse tensions and lower the volume of rhetoric, on February 19, Defense Secretary Mercado
suggested that to ease tensions in the South China Sea claimants should negotiate a treaty declaring the disputed islands “common fishing ground” on the model of the Antarctic Treaty, which declared the region a “common environmental resource.”

Nevertheless, Chinese fishing vessels continued to intrude into waters claimed by the Philippines. Throughout the last two weeks of February, Philippine air and naval patrol craft recorded multiple sightings of Chinese vessels off Panata Reef, Nanshan Reef, and Parola Island (North East Cay). In early March, at least five Chinese fishing craft were sighted off Rizal Reef (Commodore Reef) and two off Pagasa Island. These latest intrusions were more daring than previously, as they took place in an area where the Philippines maintained its largest military presence. In March 8-12, Philippine authorities spotted a total of sixteen Chinese vessels gathering coral and giant clams around Scarborough Shoal. The Chinese boats refused to leave when signaled to do so. On March 26, the Philippines’ Navy deployed two gun ships to Scarborough Shoal in an effort to intimidate the Chinese fishing vessels into leaving the area.

In mid-March, while the above events unfolded, the Philippines Ambassador to China Romualdo Ong was ordered to relay Manila’s concerns to Chinese authorities. He informed them that the Philippines would delay filing a diplomatic protest in order to observe the actions of nine Chinese boats. Meanwhile, Chinese Ambassador to the Philippines, Fu Ying, agreed to raise the matter with her Foreign Affairs and Agriculture ministries. Filipino sources quoted Ambassador Fu as stating that Chinese officials were unable to monitor the situation effectively because there were too many Chinese fishing vessels in the Scarborough Shoal area. The Philippines Navy was ordered to employ maximum tolerance toward poachers.

Throughout the first quarter Philippines’ government officials had to contend with domestic pressures. For example, in January, Representative Roilo Golez, chair of the House Committee on Public Order and Safety, charged that Chinese vessels near Scarborough Shoal were preparing to occupy and erect permanent structures in the area. On March 20, Golez speculated that China had deployed spy ships to Scarborough Shoal disguised as commercial fishing vessels to monitor the movements and communications of Philippine military forces. Philippine government officials could not confirm these allegations.

U.S.-Philippine Military Exercises

Philippine officials attempted to allay Chinese concerns about the conduct of joint military exercises with the United States during late January-early March. Codenamed “Balikatan 2000” (Shoulder-to-Shoulder), the exercise involved up to 5,000 troops in a variety of activities. On January 29, Defense Secretary Mercado said he had been assured by Ambassador Fu Ying that China was not opposed to the conduct of war games as they were a bilateral matter between the Philippines and the United States. Mercado told Ambassador Fu that naval exercises in Palawan would be in Philippine waters. Armed Forces Chief General Angelo Reyes said the exercises were not intended to send any message to China or any other country. On February 7, Mercado stated that joint U.S.-Filipino military exercises were not linked in any way to growing tension between the Philippines and China over competing claims in South China Sea. Despite these assurances, on March 14, on the eve of China-ASEAN discussions on a code of conduct for the South China Sea, it was reported that Yang Yanyi, Senior Counselor of China’s Foreign
Ministry, expressed concern about large-scale military exercises involving countries outside the region. “If some countries continue to beef up their military alliances or joint exercises, all sides will continue to be suspicious of one another,” she said.

**Sino-Vietnamese Relations**

In contrast to Sino-Philippines relations, Sino-Vietnamese relations were tension free during this quarter. On December 30, 1999, China and Vietnam reached an historic Treaty on the Land Border. Vietnamese reactions and expectations following the signing of this treaty have been very optimistic. Vietnamese Deputy Foreign Minister Vu Khoan, for example, wrote that the treaty would permit better border management, assist economic construction and development, accelerate comprehensive bilateral cooperation, and create momentum for the delineation of the Gulf of Tonkin in 2000.

On January 24, Vu Khoan, enroute to North Korea, stopped in Beijing to meet with Foreign Minister Tang Jiaxuan to discuss follow-up measures to the border treaty including negotiations on the delineation of the Gulf of Tonkin. There are a number of steps which China and Vietnam must now take, including formal ratification of the treaty by their respective legislatures. According to Tran Cong Truc, chairman of Vietnam’s Government Border Commission, the borderline must be defined on land and border markers put in place. After fieldwork is completed, both sides must sign a protocol to certify the maps and the minutes accord with international law and customary practice, then sign a convention on border management. This process could take several years. In the meantime, any problem that arises would be resolved under the terms of the provisional treaty on border management signed in 1991. After Khoan’s visit, Vietnam and China held the seventh round of border talks in Beijing (February 21-22), where officials discussed how to push forward negotiations on demarcating the Gulf of Tonkin. The officials also held annual consultations on diplomatic issues and “international and regional issues of common concern.”

During February 24-27, Nguyen Dy Nien made a three-day visit to China, his first since appointment as Minister of Foreign Affairs. Nien held talks with his Chinese counterpart, Tang Jiaxuan, on differences over their land and maritime boundaries and ways to raise total trade to $2 billion in 2000. Both parties reiterated their desire to forge “comprehensive cooperation” and accelerate the demarcation of the Gulf of Tonkin. Nien also met with Premier Zhu Rongji and Li Peng. Premier Zhu noted that Nien’s visit, so soon after his appointment “clearly shows the Vietnamese party and government attach great importance to the development of Sino-Vietnamese relations.” Nien’s visit was followed by the twelfth round of negotiations on maritime borders from March 20-22. The next round is scheduled for in Hanoi in April.

The upbeat nature of Sino-Vietnamese relations was further signaled in January when both countries celebrated the 50th anniversary of the establishment of diplomatic relations. The leaders of both countries exchanged effusive greetings, highlighting their profound, fraternal friendship.

**Code of Conduct**
On March 15, senior officials from China and ASEAN met in Thailand to discuss for the first time their respective draft Codes of Conduct for the South China Sea. According to press accounts, the proposed draft code covered four areas: dispute resolution in the South China Sea, building trust and confidence, cooperation on marine issues and environmental protection, and modes of consultation. ASEAN tabled a seven point code, while China put forth a document containing twelve points. Both documents advocated cooperation to protect the environment, marine scientific research, safety of navigation, and search and rescue. Both also urged self-restraint and no resort to the use or threat of force pending resolution of disputes.

There are significant differences, however. China’s draft consists of general principles, while the ASEAN draft is more specific. One of the major differences is the scope of geographic coverage. China wants the Code confined to the Spratly Islands, while ASEAN insists on the inclusion of the Paracels. The status of Scarborough Shoal remains unclear. It is evident that there are differences within ASEAN on the Paracels. According to Foreign Secretary Domingo Siazon at a February 2 press briefing, “if the area of coverage were limited to (the) Spratlys, I think that I would say that within three days, our diplomats would be able to find a set of words that would be acceptable to the contesting parties in the Spratlys.”

ASEAN insists on a halt to future settlement and construction. Point 2 of the ASEAN draft code states, “The parties undertake to refrain from action of inhabiting or erecting structures in presently uninhabited islands, reefs, shoals, cays and other features in the disputed areas.” China has concerns about “any military exercises directed against other countries” in or near the Spratlys, and “dangerous and close-in military reconnaissance.” China pushed to attain assurance that its fishermen would be able to fish in disputed areas of the South China Sea. Beijing also proposed that the claimants “refrain from use or threat of force, or taking coercive measures... against fishing boats or other civilian vessels engaged in normal operation in the disputed areas, nor against nationals of other countries thereon.” China defined coercive measures as including “seizure, detention and arrest.”

In its present form, the ASEAN code is an open-ended document that provides for regular consultation and checking for compliance in order to build trust. It would not be legally binding. Disputes between countries would be settled on a bilateral basis. At the end of the March meeting it was agreed to hold the next round of talks in Malaysia in April.

**East Timor**

On January 24, East Timorese independence leader Xanana Gusmao commenced a four-day visit to Beijing as part of a trip to South Korea, Singapore, the Philippines, Malaysia and Thailand. Gusmao sought Chinese aid, diplomatic recognition, and political support for East Timor’s membership in ASEAN and APEC. While in Beijing, Gusmao held talks with Minister of Foreign Trade and Economic Cooperation Shi Guangsheng, Foreign Minister Tang Jiaxuan, Vice Premier Qian Qichen and Vice President Hu Jintao. After pledging support for the “one-China” policy, Gusmao was successful on all counts.

China promised to establish diplomatic ties as soon as East Timor became independent. In the meantime, China requested permission to open a liaison office in Dili. Gusmao received an offer
of $6 million in aid and Chinese political support for membership in regional groups. China also stated it would continue to support United Nations peacekeeping efforts in East Timor. Both sides also worked out a modus vivendi for East Timor-Taiwan relations.

**China and World Trade Organization Accession**

In January, Thai Deputy Prime Minister Suphachai Panitchpakdi visited China and concluded negotiations with Shi Guangsheng, Minister for International Trade and Economic Cooperation, on China’s entry into the World Trade Organization (WTO). Both sides signed a trade agreement that provided for quotas for Thai agricultural produce (rice and rubber) and tariff reductions on 94 products. Another 12 products, including tapioca powder and processed fruits, are subject to further negotiations. An agreement on China’s admission into the WTO was signed in March.

In February, the Philippines and China successfully concluded their negotiations on China’s accession to the WTO. Under the terms of the agreement, the Philippines obtained favorable tariff concessions for agricultural and industrial products and a tariff-only regime. China previously reached agreements with Indonesia and Singapore. It has yet to reach agreement with Malaysia.

**Loans for Lao Infrastructure**

Under the terms of an agreement reached between Deputy Prime Minister Suphachai Panitchpakdi and Vice Minister of Finance Jin Linqun, Thailand and China have agreed to equally loan money to the Lao government to enable it to buy back concessions previously granted to Thai companies. The purpose of this arrangement is to finance the upgrading of a 150 km road linking Chiang Rai (Thailand) with Luang Namtha (Laos) and Bo Ten, Jinghong and Kunming in China. The agreement was reached at the ninth ministerial conference of Greater Mekong Subregion held in Manila under the auspices of the Asian Development Bank. The opening of this area would facilitate trade and investment.

**Policy Implications**

Secretary of Defense William Cohen’s remarks to the Vietnamese National Defense Academy urging ASEAN members to use their collective leverage in dealing with China on disputed territory in the South China Sea is to be welcomed for the message it sent to Beijing and other capitals in the region (see chronology: 15 March). At the same time, the revived U.S. military-to-military relationship with the Philippines has served the useful purpose of reminding regional states that the U.S. is not just a Northeast Asia-centered power. These initiatives, which have been undertaken in an election year, must be followed up by whoever wins the White House in November. The United States must reassure its traditional allies and seek further engagement with former foes if it is to shape the potentially volatile regional security environment.

*The views expressed in this article are those of the author and do not reflect the official policy or position of the Asia-Pacific Center for Security Studies, Department of Defense, or the U.S. Government.*
Chronology of China-ASEAN Relations
January-March 2000

Jan. 6, 2000: Six Chinese fishing vessels reportedly carrying coral, a protected species, are sighted off Scarborough Shoal (Huangyan Island) by a Philippine naval vessel.

Jan. 8-10, 2000: A symposium marking the 50th anniversary of the establishment of diplomatic relations between China and Vietnam is held in Nanning, China.


Jan. 12, 2000: The Vietnamese Institute of International Relations and the Ministry of Foreign Affairs hold a seminar in Hanoi on fifty years of Vietnamese-Chinese relations.


Jan. 14-21, 2000: A Vietnam Communist Party delegation led by Le Van Dy, member of the Central Committee and Secretary of the Ba Ria-Vung Tau provincial party committee, visits China.

Jan. 17, 2000: A delegation of Vietnam’s Supreme People’s Procuracy, led by its head Ha Manh Tri, visits China.

Jan. 17, 2000: Vietnamese Ambassador to China, Bui Hong Phuc, hosts a reception to mark the 50th anniversary of the establishment of diplomatic relations between China and Vietnam. Vice Premier Qian Qichen and Vice Foreign Minister Yang Wenchang attend.

Jan. 18, 2000: Vietnamese and Chinese leaders exchange messages on the 50th anniversary of the establishment of diplomatic relations; several receptions are held in both capitals to commemorate the occasion.


Jan. 23, 2000: A Philippines aircraft on maritime patrol reports citing four Chinese fishing vessels and ten sampans near Scarborough Shoal.

Jan. 24, 2000: Do Muoi, adviser to the VCP Central Committee, receives in Hanoi Chinese Ambassador to Vietnam Li Jiazhong, who paid a new year’s courtesy call.

Jan. 24, 2000: Deputy Foreign Minister Vu Khoan holds discussions in Beijing with Chinese Foreign Minister Tang Jiaxuan on economic and commercial cooperation and measures to accelerate negotiations on the delineation of the Gulf of Tonkin.
Jan. 24, 2000: East Timorese independence leader Xanana Gusmao begins a four-day visit to Beijing.

Jan. 24-25, 2000: Four Chinese fishing vessels in vicinity of Scarborough Shoal are chased by a Filipino navy patrol craft. Two seek refuge in shallow waters near the shoal.


Jan. 27, 2000: The Philippines issues its second protest over the intrusion of Chinese fishing vessels into the Scarborough Shoal area.


Jan. 28, 2000: Philippine Defense Secretary Orlando Mercado directs the Navy to persuade intruders to leave its territorial waters and to avoid direct confrontation.

Late January/early March. U.S.-Filipino joint military exercise, codenamed Balikatan, is conducted in the Philippines.

Feb. 1, 2000: Foreign Ministry spokesperson, Zhu Bangzao, reveals that China has sent two notes to the Philippine Embassy in Beijing expressing deep concern over recent developments and lodging protests over illegal acts by the Philippines against Chinese fishing vessels in the area around Huangyan Island (Scarborough Shoal).

Feb. 2, 2000: After a short chase involving two Chinese fishing boats in the vicinity of Scarborough Shoal, the Philippine navy destroyer escort Rajah Humabon fires warning shots.

Feb. 3, 2000: Philippines’ Ambassador to China, Romualdo Ong, is summoned to the Chinese Foreign Ministry to explain why the Philippine Navy has boarded two Chinese fishing vessels.

Feb. 3, 2000: Filipino fishermen report seeing two unidentified platform vessels southeast of Scarborough Shoal. A Philippine patrol boat and islander plane are tasked to conduct naval and aerial patrols.

Feb. 5, 2000: Philippine Navy chief Vice Admiral Luisito Fernandez states that destroyer escort Rajah Humabon was forced to fire warning shots to avert a collision with two Chinese fishing boats near Scarborough Shoal. The Chinese boats reportedly refused to respond to radio contact, loudspeaker, sirens, and flashing lights.

Feb. 7, 2000: Defense Secretary Mercado states that joint U.S.-Filipino military exercises are not linked in any way to the growing tension between the Philippines and China over competing claims in the South China Sea.


Feb. 19, 2000: Defense Secretary Mercado proposes a treaty, modeled on the Antarctic Treaty, to declare the disputed South China Sea “common fishing ground” for claimant nations.

Feb. 22, 2000: Newly appointed Foreign Minister Nguyen Dy Nien states that Vietnam attaches great importance to the development of friendly relations with China as its long-term consistent policy.

Feb. 24, 2000: In response to China’s White Paper on Taiwan (issued February 21), a Vietnamese Foreign Ministry spokesperson reiterates Vietnam’s support for the “one-China” principle.

February 27- March 2, 2000: Thai Deputy Prime Minister Bhichai Rattakul makes an official visit to China at invitation of Vice Premier Li Lanqing.

Feb. 28, 2000: Liu Qi, Mayor of Beijing, and Bhichit Rattakul, Mayor of Bangkok, sign Year 2000 Memorandum of Friendly Exchanges.

Mar. 2, 2000: Senior officials from Indonesia and China complete consultations on a draft document on the framework of cooperation as the main foundation for enhancing bilateral relations in the 21st Century.

Mar. 7-20, 2000: Thai Princess Maha Chakri Sirindhorn visits China.

Mar. 8-12, 2000: The Philippines Navy sights a total of 16 Chinese vessels engaged in illegal fishing in the vicinity of the disputed Scarborough Shoal.

Mar. 10, 2000: Suphachai Panitchpakdi, Thai Deputy Prime Minister and Commerce Minister, and Shi Guangsheng, Chinese Minister of Foreign Trade and Economic Cooperation, sign a bilateral agreement on China’s accession to the WTO.

Mar. 12, 2000: The China Institute of Contemporary International Relations issues a paper calling for regional alliances between China and most of Asia to oppose the United States and Japan.

Mar. 13, 2000: Philippine Congressmen Senator Rodolfo Biazon and Representative Juan Miguel Zubri call on President Estrada to use American aid to modernize the Armed Forces of the Philippines to enable it to respond to threats from other countries, such as China, rather than spend the aid on counter-insurgency.
Mar. 13, 2000: Philippine navy vessels allow nine Chinese fishing craft to shelter at Scarborough Shoal due to bad weather.

Mar. 14, 2000: Yang Yanyi, Senior Counsellor of Chinese Foreign Ministry, expresses concern over large-scale military exercises involving countries outside the region.


Mar. 15, 2000: Secretary of Defense William Cohen addresses Vietnam’s National Defense Academy. He states, “One of the very important and beneficial aspects of ASEAN is that you have collective interests, and those collective interests can in fact, if you act in concert, give considerable leverage in dealing with China in the future on a peaceful and cooperative basis.”

Mar. 15-16, 2000: Chinese and ASEAN senior officials meet in Thailand to discuss their respective draft Codes of Conduct for the South China Sea. They agree to frame a common code of conduct for territorial disputes in South China Sea. The next round of discussions is scheduled for Kuala Lumpur in April.

Mar. 20, 2000: Philippine Representative Roilo Golez says China has deployed spy ships in Scarborough Shoal area to monitor movements by the Philippine Navy.

Mar. 20-22, 2000: Vietnam and China complete the 12th round of bilateral negotiations on maritime borders in Gulf of Tonkin.

Mar. 22-27, 2000: Vice President Gloria Macapagal-Arroyo visits China at the invitation of Vice President Hu Jintao.

Mar. 23-30, 2000: A delegation of the CCP Central Committee Organization Department, led by its deputy director, Yu Yunyao, pays a friendly visit to Vietnam and Laos.

Mar. 26, 2000: The Philippine navy deploys two gunships to convince eight Chinese fishing vessels still moored near Scarborough Shoal to leave.