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Conflict in the South China Sea: China's Relations with Vietnam and the Philippines

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Part I Trouble and Strife in the South China Sea: Vietnam and China

A source of serious interstate tension between some members of the Association of Southeast Asian Nations (ASEAN) and China for much of the 1990s, territorial disputes in the South China Sea became less contentious in the early 2000s: A less assertive stance by China being a critical component in Beijing's Southeast Asian "smile diplomacy," a diplomatic offensive designed to assuage the ASEAN countries' security concerns vis-à-vis a rising China. Recent controversies, however, have underscored the seemingly intractable nature of the dispute and the continued sensitivity over sovereignty issues, particularly between the main protagonists: Vietnam, China, and the Philippines. In the first part of a two-part series, this article examines the impact of the dispute on Vietnam's relations with the PRC.

Among the 10 members of ASEAN, Vietnam's relationship with the PRC is without question the most complicated, multifarious, tense, and conflict-prone. From Vietnam's perspective, it is also the most laden by historical baggage. Two millennia of Chinese overlordship—first as a formal part of the Chinese empire from the first century BC to 938 AD, then as a tributary state until 1885—combined with an intense relationship over the past 60 years characterized by extremes of amity and enmity, have shaped Vietnam's China psyche to be almost schizophrenic. There is respect, even admiration, for Chinese culture, system of governance and economic reform on the one hand, coexisting with deep resentment, bordering on hatred, of Chinese condescension, bullying, and perceived attempts to control its political destiny. China's perception of its southern neighbor is equally conflicted: A tenacious fighter of colonialism worthy of massive Chinese support from 1949 until the early 1970s, but a devious, unfilial "puppet" of the USSR during the 1980s.

In 1991, after more than a decade of hostility—the low point of which was a short but intense border conflict in 1979 following Hanoi's occupation of China's ally Cambodia—Vietnam and the PRC normalized relations.

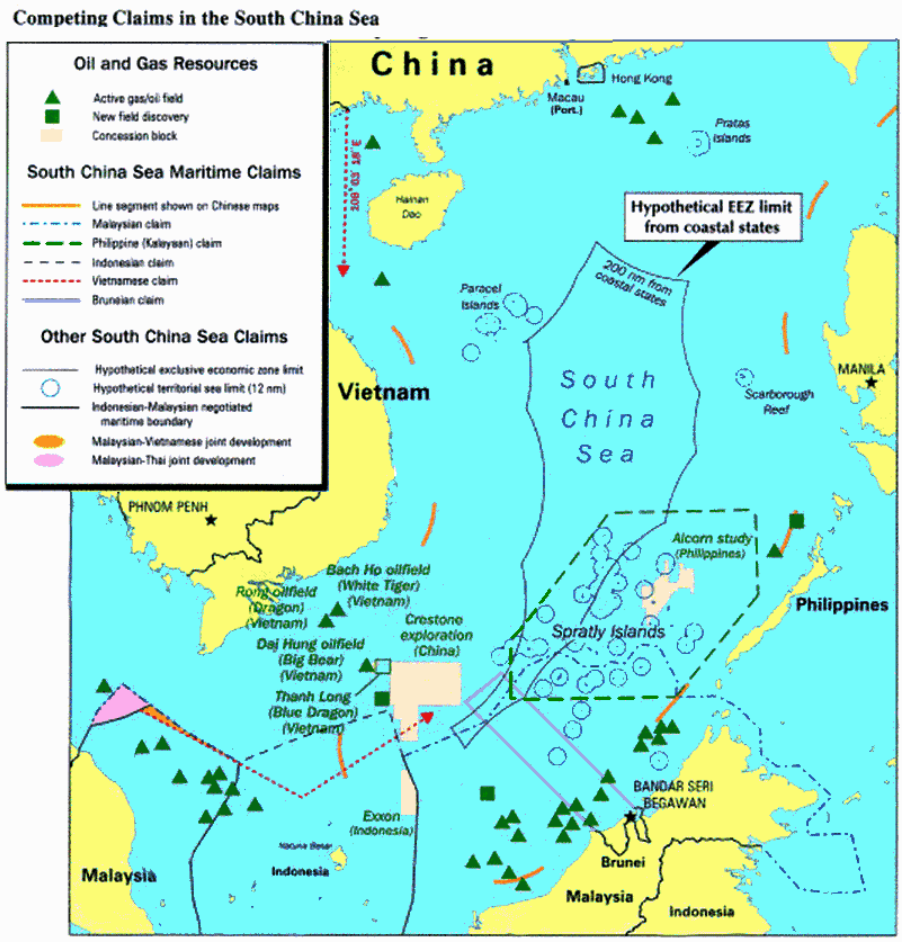
Chinese forces enter Vietnam in the 1979 border war

Since then, bilateral relations have broadened, deepened and improved to an extent few would have predicted. Today, bilateral relations are guided by the official mantra of "long-term stability, orientation toward the future, good neighborliness and friendship, and all round cooperation" in the spirit of "good neighbors, good friends, good comrades, and good partners."

Vietnamese Pres. Nguyen Ming Triet and Chinese President Hu Jintao affirm relations in 2005

Political relations have been buttressed by the regular exchange of high-level delegations, while economic ties have burgeoned. The value of two-way trade has risen from almost nothing in 1991 to $15 billion in 2007, making China Vietnam's largest overall trade partner (Xinhua News Agency, January 23). For Vietnam though, this has been a mixed blessing: As cheap Chinese-manufactured goods have flooded the Vietnamese market, its trade deficit with the PRC has ballooned, reaching $2.87 billion by 2005; expanded cross-border trade has also led to an increase in counterfeit goods, smuggling, and illegal trafficking in people and narcotics; and the Vietnamese are continually disappointed at the low level of Chinese investment.

Since 1991 bilateral relations have been dominated by three sets of territorial issues: Demarcation of the 850-mile land boundary, delineation of the Gulf of Tonkin, and overlapping sovereignty claims in the South China Sea, particularly the Paracel and Spratly Islands. It is important to stress, however, that early on in the post-normalization phase of the relationship the Vietnamese and Chinese governments determined not to let such problems fetter the development of bilateral ties, and to that end agreed to norms of behavior and put in place a framework of negotiations to manage and eventually resolve their disputes. Despite frequent flare-ups, mutual suspicions and distrust, and political grandstanding, substantial progress was achieved and, most importantly, conflict between their armed forces has been avoided.



South China Sea conflicting territorial claims

In the early 1990s, joint working groups were established to discuss the three disputes, with priority given to the land boundary and Gulf of Tonkin problems. In 1997 the two sides agreed to resolve the land frontier issue by the end of 2000. On December 30, 1999, the Land Border Treaty was finally signed; it came into effect in July 2000 following ratification by both countries' national assemblies. Details of the treaty's provisions remained secret, however, and this fueled rumors inside Vietnam that under the dual pressures of the 2000 deadline and bullying from China, Hanoi had conceded too much land to Beijing. These rumors were partly propagated by so-called "cyber-dissidents," several of whom were imprisoned in 2002 for posting "anti-government" material on the Internet. In late 2002 the Vietnamese government was able to quash these rumors by publishing details of the treaty online; it also revealed that ownership of 87.6 square miles of land had

been under dispute, and that the treaty had awarded Vietnam 43.6 sq mi and China 44 sq mi (Associated Press, September 16, 2002). By the time details of the treaty had emerged, work had already begun on planting 1,533 border tablets. Laying the border markers has been a very slow process, mainly due to difficult terrain and the movement of peoples required by exchanges of land. In 2005 the two sides agreed to accelerate the process and complete the task by the end of 2008. Currently 85 percent of border tablets have been planted, and the entire process is expected to be completed by mid-year. An agreement concerning border management and regulations is due to be signed before the end of this year.

Substantial progress in the Gulf of Tonkin has also been achieved. After 17 rounds of negotiations, on December 25, 2000, Vietnam and China signed the Agreement on the Demarcation of Waters, Exclusive Economic Zones and Continental Shelves in the Gulf of Tonkin, which divided the gulf along an equidistant line. At the same time, they concluded an Agreement on Fishing Cooperation in the Gulf of Tonkin which delineated exclusive and common fishing areas. These agreements were not ratified, however, until July 2004 due to protracted negotiations over lucrative fishing rights in the area, and it was not until a Supplementary Protocol to the fishing agreement was signed that ratification could take place [1]. Nevertheless, even after ratification skirmishes between fishing vessels in the Gulf of Tonkin continued to occur, leading each side to accuse the other of infringing the agreements. The most serious incident took place in January 2005 when Chinese patrol boats opened fire on Vietnamese fishing trawlers, killing nine crewmen. In its wake, the two sides agreed to a series of measures designed to prevent further incidents and enhance cooperation in the area. These have included regular joint naval patrols beginning in 2006, the first between China and a foreign country; a joint survey of fishing resources; joint exploration for oil and gas (in November 2005 state-owned PetroVietnam and the China National Offshore Oil Corporation inked an agreement to this effect); and a commitment to start negotiations on demarcating areas outside the Gulf of Tonkin.

Progress toward resolving overlapping sovereignty claims in the South China Sea have been less than encouraging. During the 1990s the two sides remained fundamentally at odds over the issue: Vietnam wanted to discuss sovereignty of the Paracel Islands—occupied by China in 1974—while China considered the matter closed; Vietnam wanted to discuss the Spratlys issue in a multilateral setting with ASEAN, while Beijing favored a bilateral approach. Neither side was willing to compromise its sovereignty claims, leading to a number of tense Sino-Vietnamese stand-offs in the mid-1990s.

The November 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DoC), an agreement aimed at freezing the status quo and encouraging cooperative confidence-building measures among the disputants, represented both a victory and a defeat for Vietnam. It was a victory because China had conceded the need to approach the problem multilaterally, but it was a defeat because Hanoi had wanted to clearly define the scope of the agreement to include the Paracels—China objected, Hanoi relented.

When the Philippines and China agreed to conduct joint explorations for oil and gas in contested waters in September 2004, Vietnam initially condemned the move as a violation of the DoC, but eventually agreed to participate in the tripartite Joint Marine Seismic Undertaking (JMSU) in March 2005. Officially Vietnam claimed it had joined the JMSU in the interests of promoting regional stability; in reality, Hanoi was prepared to participate in the project because the survey zone covered by the agreement was not located in waters claimed by Vietnam—or China for that matter. As will be examined in Part Two, in the last few months the JMSU has aroused considerable political controversy in the Philippines, and a question mark hangs over the agreement's future.

Moreover, the JMSU has done little to mitigate Sino-Vietnamese tensions in the South China Sea as a whole. Indeed, in 2007 relations sharply deteriorated over the dispute. Three sets of incidents combined to rile Vietnam. The first took place in April when China accused Vietnam of violating its sovereignty by allowing a consortium of energy companies led by British Petroleum (BP) to develop two gas fields in the Con Son Basin, 230 mi off Vietnam's southeast coast. Vietnam rejected China's protest by claiming the project was well within its EEZ. In June, however, BP announced that it was suspending work in the two gas fields until further notice, fueling speculation that Beijing had put pressure on the company by threatening to exclude it from future energy deals in China. Energy-hungry Vietnam was furious at China's perceived bullying.

The second set of incidents related to the Paracel Islands. In July 2007, Chinese naval patrol vessels fired on a Vietnamese fishing boat, killing one sailor; in August 2007, China announced plans to begin tourist cruises to the Paracels, leading Vietnam to reaffirm its sovereignty claims over the archipelago; and in November Vietnam protested Chinese military exercises in the Paracels.

The third incident concerned the allegation—not yet confirmed by the PRC government—that the National People's Congress had passed a law in early December 2007 creating a county-level city in Hainan province called Sansha to administer China's claims in the South China Sea, including the Paracel and Spratly Islands. For the Vietnamese government the Sansha proposal was the last straw. Over two consecutive weekends in December it allowed hundreds of students to conduct anti-China protests near the Chinese embassy in Hanoi and consular office in Ho Chi Minh City. The demonstrators expressed anger over China's claims in the Paracels and Spratlys, accusing Beijing of pursuing hegemonic ambitions (Straits Times, December 17, 2007).

Protester in front of the Chinese embassy in Hanoi. "The Paracels and Spratlys of Vietnam"

The Vietnamese government claimed the coordinated protests had been spontaneous, though this is highly unlikely in tightly controlled Vietnam; in fact, Hanoi had taken a leaf out of China's playbook and used the demonstrations to register its indignation with Beijing. The Chinese government declared itself "highly concerned" at the rallies and chided the Vietnamese authorities to adopt a "responsible attitude" and "avoid bilateral ties from being hurt" (Xinhua News Agency, December 11, 2007). Relations took another hit in January when China accused Vietnamese fishermen of attacking Chinese trawlers in the Gulf of Tonkin. Vietnam responded that Vietnamese and Chinese fishing boats had merely bumped into each other after getting their nets entangled.

In keeping with their long-standing commitment to resolve outstanding disputes through peaceful means and not through force, and not to let territorial issues hinder the forward momentum of ties, Vietnam and China moved quickly to stabilize relations. The China-Vietnam Steering Committee met in Beijing on January 23, 2008 to douse the flames: Co-chairs Chinese State Councilor Tang Jiaxuan and Vietnamese Deputy Prime Minister and Foreign Minister Pham Gia Khiem agreed to "properly handle the problems in bilateral relations" through "dialogue and consultation," and accelerate negotiations on the delineation of remaining areas of the Gulf of Tonkin and issues relating to the South China Sea (Xinhua News Agency, January 23). Prior to the steering committee meeting, Vietnamese and Chinese officials had met on four separate occasions in January to discuss the land border, Gulf of Tonkin, and South China Sea, agreeing on the need to maintain peace and stability in the area, refrain from complicating the situation, and promote cooperative activities (BBC, January 30).

Since normalization, Vietnam has had to contend with the problems posed by being the weaker party in an increasingly asymmetric relationship: How to accommodate a rising China, steer a middle path between hostility and dependence, and preserve the country's political autonomy. The South China Sea dispute is emblematic of Vietnam's problems, and despite improved ties with China, the sovereignty issue is as far as ever from a resolution and continues to overshadow the relationship. While both parties have a vested interest in avoiding confrontation so that they can concentrate on economic development, against a backdrop of ascending oil prices and rising demand for off-shore energy resources, future Sino-Vietnamese contention in the South China Sea seems more likely than not.

Note

[1] Guifang Xue, China and International Fishery Law and Policy (Netherlands: Martinus Nijhoff, 2005), p. 225.

Part II Trouble and Strife in the South China Sea Part II: The Philippines and China

At a banquet to welcome visiting Chinese President Hu Jintao in April 2005, Philippine President Gloria Macapagal Arroyo proclaimed that in view of China's eagerness to invest in the country's crumbling infrastructure, booming Philippine exports to the PRC, and a recently concluded agreement among the national oil companies of Vietnam, China and the Philippines—the Joint Marine Seismic Undertaking (JMSU)—to conduct seismic research in the disputed waters of the South China Sea, Sino-Philippine relations had entered "a golden age"; her guest graciously concurred.

Hu and Arroyo

Three years later, a series of damaging scandals, investigations and controversies have stripped the gilt off this so-called golden age. Allegations concerning corrupt practices associated with the provision of Chinese overseas development aid (ODA) have prompted Congressional investigations, resulting in the cancellation of several major Chinese-backed initiatives, while Arroyo's opponents have called into question the constitutionality of the JMSU. Those seeking to oust President Arroyo have also made explosive allegations linking Chinese loans to the territorial disputes. Events in the Philippines over the past year not only represent a blow to the PRC's "charm offensive" in Southeast Asia, but also a major setback for Sino-Philippine relations, which many hoped had turned the corner.

After President Arroyo assumed power in 2001, Sino-Philippine relations experienced something of a renaissance. Arroyo hoped to revitalize the stagnant Philippine economy by coupling it to China's more dynamic economy. For that to happen, and for bilateral relations to improve more generally, the president resolved not to let overlapping sovereignty claims in the South China Sea impede the development of bilateral ties. Throughout the 1990s, Sino-Philippine relations had centered on the contentious issue of ownership of the Spratly Islands, resulting in tense physical and diplomatic stand-offs between the two countries. Arroyo characterized her approach to China as one of "comprehensive engagement," aimed at the development of "all round, multidimensional, and far-sighted relations." Thanks largely to China's insatiable appetite for natural resources, commercial ties boomed under Arroyo. According to the International Monetary Fund, the value of two-way trade rose from $1.77 billion in 2001 to $5.3 billion in 2003, and hit $8.29 billion in 2006. Unlike some of its ASEAN partners, the Philippines has enjoyed a healthy trade surplus with China since 2002. Pleased with the results of this policy, in 2007 Arroyo declared China to be "a very good big brother."

Aside from burgeoning trade, another key factor in improved relations was the PRC's generous offers of ODA, described variously in the regional press as between $1.8 and $8 billion (South China Morning Post, January 14)—the lower estimate probably being more accurate. Philippine politicians praised China for the fast approval of concessional loans—contrasting it with Japan's cumbersome process, a common refrain in Southeast Asia these days—and the absence of "strings" in the form of accountability guidelines and exhortations to improve governance, which usually accompany Western aid. In a short time span, the PRC has become a player in ODA to the Philippines: according to one report, in 2006 it ranked fifth, behind Japan, the Asian Development Bank, World Bank and United Kingdom, providing 5 percent, or $460 million, of $9.5 billion in total ODA (Philippine Daily Inquirer, March 9).

After 2001 China agreed to pump ODA into several large infrastructure projects in the Philippines. The most high-profile of these projects were railways and the provision of network technologies for establishing an e-government. In 2003 China agreed to fund the North Luzon Railway (NorthRail), the rehabilitation of a 20-mile line from Metro Manila to the Clark Economic Zone (the former U.S. air base vacated in 1991) at Pampanga in the Central Luzon Region. The total cost of the project was set at $503 million, of which the China Export-Import Bank would furnish $400 million. Later, China agreed to extend another loan for the South Luzon Railway (SouthRail), the upgrade of the 263-mile line from Calamba City in Laguna province to Legazpi city in Albay province to be followed by the construction of a new 84-mile line from Albay to Sorsogan province. The total cost was put at $932 million, 95 percent of which would be loaned by the China Export-Import Bank (China Brief, August 16, 2006).

A third major project was the National Broadband Network (NBN), a $329.5 million initiative designed to link 2,295 national offices and 23,549 village and municipal offices and give the government an online presence throughout the archipelago. The deal, signed by Arroyo on the sidelines of the Boao Forum on Hainan Island, China in April 2007, is covered by a 20-year loan of 3 percent interest per annum. The loan was conditional, however, on Chinese company Zhong Xing Telecomm Equipment Corporation (ZTE) being appointed exclusive supplier and provider.

All of these deals came under heavy criticism at the time from opposition groups, the business community, and civil society groups in the Philippines for their lack of transparency [1], overpricing and claims of kick-backs. The NBN deal in particular became a lightning rod for those dissatisfied with the Arroyo government, with allegations that the First Family had personally benefited from it (Channelnewsasia.com, February 5). Senate investigations were subsequently launched and the projects quickly became embroiled in the soap opera that is Philippine domestic politics, leading to the resignation of several public figures close to the Arroyo government. Finally, on September 22, 2007, in an effort to end the controversy, Arroyo suspended the NBN deal, and two weeks later informed President Hu that it was effectively cancelled. At the same time, another agreement paving the way for a PRC company to invest $3.8 billion to grow high-yielding varieties of corn and rice on 2.47 million acres in the Philippines was also suspended. Meanwhile the Senate investigation into NBN rumbled on.

Early in 2008 attention again shifted to the South China Sea dispute. As noted earlier, the Spratlys dispute greatly strained bilateral relations in the 1990s but tensions eased with the conclusion of the ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DoC) in November 2002, a non-binding agreement aimed at freezing the status quo and encouraging cooperative confidence building measures (CBMs) among the disputants (China Brief, August 16, 2006). Following on from the DoC, in September 2004, Philippine National Oil Company (PNOC) and the China National Offshore Oil Corporation (CNOOC) agreed to conduct seismic soundings in the South China Sea; Vietnam protested the agreement as a violation of the DoC, but subsequently signed up to the renamed JMSU in March 2005. Reactions to the JMSU at the time were mixed; the lack of transparency surrounding the agreement—the text and location of the study were never made public—made some people uneasy, while others hailed it as a major potential breakthrough in the long-running dispute. The JMSU came into effect on July 1, 2005 and the contract was awarded to a Chinese company, China Oilfield Services Ltd., a subsidiary of CNOOC, to begin the seismic survey.

In the January-February issue of the Far Eastern Economic Review (FEER), Barry Wain of the Institute for Southeast Asian Studies published an article entitled "Manila's Bungle in the South China Sea." In it he contends that in agreeing to the PNOC-CNOOC deal in late 2004, the Arroyo government had not only broken ranks with its ASEAN partners by cutting a bilateral deal with China without consulting them, but that more seriously Manila had made "breathtaking concessions" to Beijing since approximately one-sixth of the area designated for the seismic survey lay within Philippine territorial waters, and outside the claims of both China

and Vietnam.

The contents of the FEER article were quickly capitalized on by Arroyo's opponents, some of whom accused the government of prejudicing the country's territorial claims in the South China Sea and violating the 1987 Constitution, Article 12 of which stipulates that any consortium undertaking exploratory activities in Philippine waters must be 60 percent owned by Filipinos. Critics assailed the government for selling out the national patrimony; some even called for the president's impeachment for treason. An even more explosive insinuation followed: that the Philippine leader had agreed to the JMSU as a quid quo pro for Chinese ODA (News Break, March 6). Opposition figures have, however, failed to provide any concrete evidence to back-up this extraordinary and incendiary claim.

A Filipino fisherman holds a sign calling for scrapping the JMSU

The government and supporters of the JMSU moved to defend the agreement on the following grounds. First, the JMSU was a necessity given the rising price of oil in 2004, and was a critical component of the government's 5-point energy independence program, one of which is to find and develop new indigenous sources of petroleum reserves. Second, the JMSU is a tripartite commercial agreement among national energy companies and in no way affects or alters the government's territorial claims. Third, the JMSU does not violate the Constitution because it is a "pre-exploration" study; seismic sounding, they argue—rather disingenuously—does not constitute exploration. Fourth, the actions of the government are consistent with the DoC and that the JMSU is an important CBM aimed at transforming the South China Sea from a "region of conflict" into a "region of peace and cooperation." These attempts to justify the JMSU have done little to dampen the controversy, and separate probes by the Philippine House of Representatives and Senate will be launched at the end of April. There have also been calls for the committee investigating the NBN scandal to extend its probe into the NorthRail and SouthRail projects. Although work on the two railway lines is proceeding, a Senate inquiry could result in their cancellation like the other Chinese ODA funded projects.

The JMSU controversy has been linked in turn to the passage through the House of Representatives of a bill to update the Philippines' archipelagic baseline claims ahead of an extended continental shelf submission to the UN Commission on the Limits of the Continental Shelf, the deadline of which is May 2009. The bill, which reaffirms sovereignty claims over 53 geographical features in the Spratly Islands—a subset known to Filipinos as the Kalayaans—and Scarborough Shoal further north, passed two readings in 2007 but has stalled before the third and final reading. According to the author of the bill and chair of the House Committee on Foreign Affairs, Antonio Cuenco, one reason for the delay has been opposition from the PRC. Cuenco claims that in December 2007 the Philippine Embassy in Beijing was sent a note verbale by the Chinese government expressing its "shock and grave concern" that the bill had defined the country's baselines to include the Spratlys. This, according to Beijing, was a violation of the DoC and would "exert a negative impact on the healthy development of our bilateral relations." The note urged Manila to "strictly abide" by the "consensus and commitments agreed to by both sides" and to handle the issue with "utmost prudence" (Philippine Daily Inquirer, March 12). Cuenco later told the press that a Chinese diplomat who approached him in January 2008 reiterated China's displeasure with the bill. The government favors amending the bill to describe the Kalayaans as "a regime of islands" whose ownership is contested. This is to avoid straining diplomatic relations with China any further, though the government denies it is yielding to Beijing (Philippine Daily Inquirer, March 20). Beijing's objections to the bill seem rather hypocritical given the reported passage of legislation in December 2007 by China's National People's Congress (NPC) to create a county-level city in Hainan province called Sansha, which covers both the Spratly and Paracel islands (China Brief, April 14).

What impact have these controversies had on Sino-Philippine relations? Officially the Arroyo administration has downplayed the impact, characterizing relations as "strong." Unofficially, however, it must be deeply worried that its China policy is rapidly unraveling, with possibly more damaging allegations to come. The PRC, through its embassy in Manila, has expressed worry about "some recently emerged tendencies in the Philippines which may impose negative influence on China-Philippine relations and mutually beneficial cooperation." China, the embassy maintains, stands for a peaceful resolution of disputes and notes that the JMSU is "conducive to the maintenance of peace and stability in the South China Sea" (Xinhua News Agency, March 12).

If the Senate investigation into the JMSU goes ahead, there is a distinct possibility that the Arroyo administration will seek to distance itself from the agreement and allow it to lapse when it expires on June 30. Already the government seems to be preparing the groundwork for such an announcement: Chief Presidential Legal Counsel Sergio Apostal is reported to have said that the Department of Energy is disinclined to renew the JMSU because of "political noise" (ABS-CBS, March 11). If the JMSU is not renewed it could cause a serious rupture in Sino-Philippine relations—Vietnam, which was always lukewarm about the agreement, would probably be ambivalent—and would also be a major setback for those who believe that the principle of shelving sovereignty disputes in favor of joint development is the only solution to the vexatious dispute.

Recent turbulence in Sino-Vietnamese relations outlined in Part I (China Brief, April 14) together with the scandals associated with Chinese ODA to the Philippines, and questions concerning the legality of joint exploration projects in the South China Sea, underscore the limits of Beijing's so-called "charm offensive" in Southeast Asia. For despite improved relations, issues of sovereignty continue to hit a raw nerve in the ASEAN capitals, particularly when China is perceived to be exerting undue pressure on its smaller Southeast Asian neighbors. Recent controversies call to mind warnings made by former Philippine President Joseph Estrada in 1999: "China's sweeping claims to the Spratlys is not merely about barren and uninhabitable islets. It is about Southeast Asia's bottom-line security."

Note

[1] In several instances contractual documents associated with these projects were alleged to have been stolen or gone missing.

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