

## China Occupies Mischief Reef In Latest Spratly Gambit

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During January 1995 the aptly named Mischief Reef<sup>1</sup> was the latest Spratly feature to be occupied by one of the six claimants - in this instance, the People's Republic of China (PRC). This would bring to 44 the number of occupied Spratly features: 25 by Vietnam, eight by the Philippines, seven by the PRC, three by Malaysia, and one by Taiwan.<sup>2</sup> The Chinese activity came to light when Filipino fishermen were detained by PRC forces.<sup>3</sup> In subsequent talks, the Philippines and PRC failed to reach agreement, but the sides pledged to meet again. The Philippines responded by detaining Chinese fishermen in the area and destroying Chinese survey markers on nearby reefs.

This westward expansion of Chinese installations continues a checkerboard pattern of force deployment and brings the contest closer to the Philippine home islands. In directly confronting a member of ASEAN, the PRC's action departs from recent policy, which took active measures against only Vietnam. China may be responding

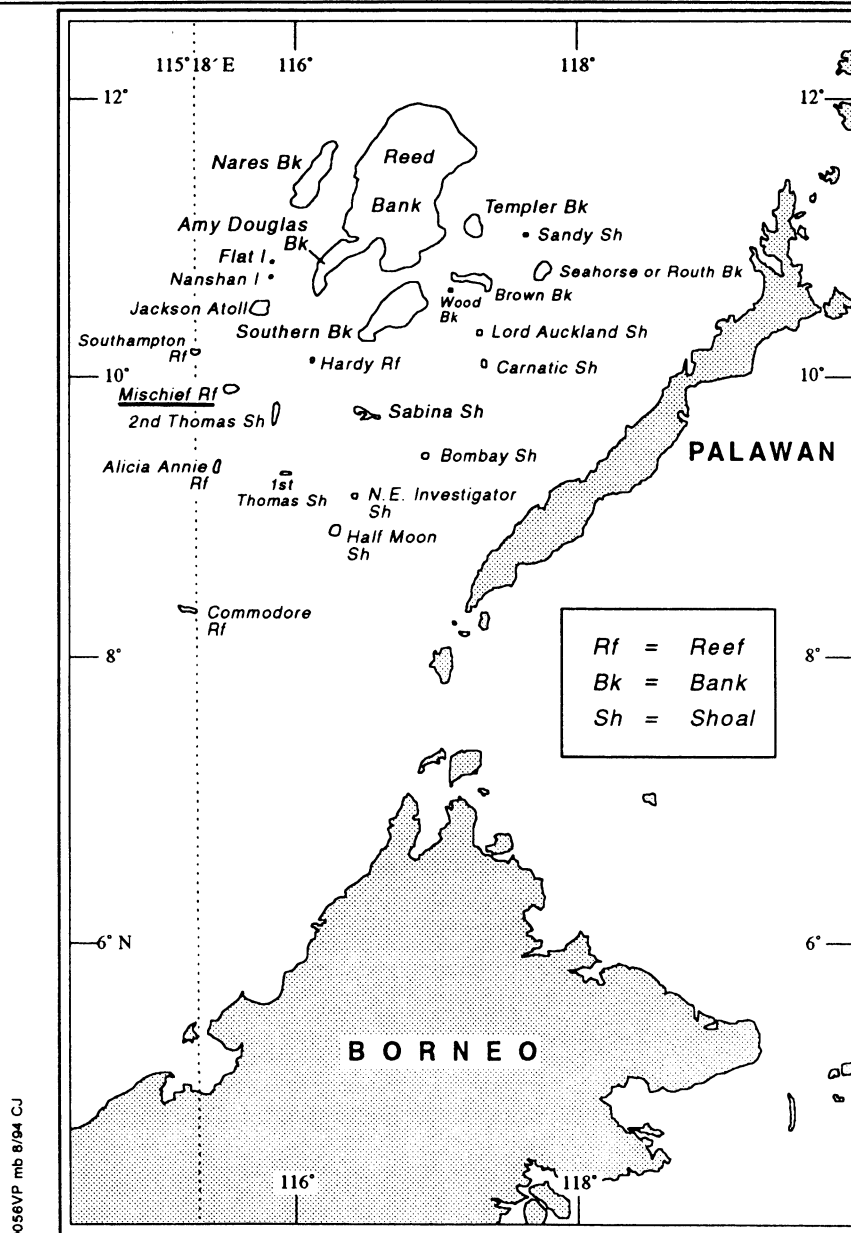
to recent Philippine actions, such as its oil exploration plans for the area or its talks with the Vietnamese Defence Minister about the Spratly Islands. The occupation might also be a warning to ASEAN, which is about to add Vietnam as its newest member.

### Where?

Mischief Reef is a horseshoe-shaped reef, about nine kilometres long and six kilometres wide. It is submerged at high tide, so it does not qualify as an island for purposes of maritime jurisdiction under the 1982 United Nations Convention on the Law of the Sea. The reef lies in the eastern Spratly islands, near the centre of the Philippine's polygonal Kalayaan claim. It is within the area also claimed by the PRC, Taiwan and Vietnam, but it is outside the Malaysian and Bruneian claims.<sup>4</sup> Situated approximately 240km west of Palawan Island in the main Philippine archipelago, Mischief Reef is roughly 100km

**Table: Distances from Mischief Reef (9.92°N, 115.53°E)**

	Latitude	Longitude	Distance	Distance
Feature	(°N)	(°E)	(nm)	(km)
Cam Ranh Point (Vietnam)	11.87	109.28	386	715
Hainan Island (PRC)	18.38	110.05	599	1110
Palawan (Philippines)	8.60	117.27	129	239
Spratly Island Features (Occupier)				
Sin Cowe East Island (Vietnam)	9.91	114.56	57	106
Nanshan Island (Philippines)	10.73	115.81	51	95
Kennan Reef (PRC)	9.92	114.48	62	114
Itu Aba (Taiwan)	10.38	114.36	74	138



Source: Hancox, D. and Prescott, J.R.V. (1995) 'A Geographical Description of the Spratly Islands and an Account of Hydrographic Surveys amongst those Islands', *Maritime Briefing*, Durham: International Boundaries Research Unit (forthcoming).

equidistant from the nearest Spratly features occupied by the Philippines and Vietnam (see table). It is also about the same distance to the nearest feature previously occupied by the PRC. Philippine forces subsequently destroyed survey markers that the PRC had erected on Jackson Atoll, Half Moon Shoal, and Sabina Shoal.<sup>5</sup> Jackson Atoll is 25km south of Philippine-occupied Nanshan Island. Half Moon and Sabina Shoals are 111km and 135km, respectively, west of Palawan Island.

### No Threat to Navigation

Tensions in the Spratlys invariably raise the spectre of "threats" to navigation, because press

reports frequently assert that the Spratly Islands "straddle major shipping routes."<sup>6</sup> This assertion is tenuous; it ignores the fact that mariners stay well clear of the area because of shallows, shoals, and poor charting. Most important South China Sea shipping routes pass well west of the Spratly Islands.<sup>7</sup> For instance, the main Hong Kong-to-Singapore route comes no closer than 140km to Vanguard Bank, the nearest "Spratly" feature, and 260km to Spratly Island.<sup>8</sup> The only significant shipping route east of the Spratly Islands is the Jakarta-Manila route that hugs the coasts of Borneo and Palawan. This route lies over 150km east of Mischief Reef.

Some commentators have suggested that application of the 1992 law of the PRC on the

territorial sea to the Spratly Islands would impede navigational rights.<sup>9</sup> A close reading of the law does not support this position. The law affects navigation only within 12 nautical miles (22.2km) of the baselines of the territorial sea. There is no justification for extensive baselines within the Spratly Islands, so no territorial sea zone would overlap current shipping lanes.

Occasional incidents involving fishing boats or seismic survey vessels in the employ of one of the claimants have occurred and will continue.<sup>10</sup> However, these events are linked to resource activities in the disputed area, not to navigation rights. There appears to have been only one incident involving a third-party vessel. In 1983, Vietnamese forces reportedly attacked a German yacht, killing two crew members.<sup>11</sup> Therefore, conflict in the Spratly Islands, though a threat to regional stability, will not affect navigation unless the conflict widens to full warfare among the claimants.

### When?

As often happens in the Spratlys, the PRC did not announce when it built four structures on stilts above Mischief Reef. In late January 1995 the Philippine military initially discounted a report by Filipino fishermen that the Chinese were at Mischief Reef.<sup>12</sup> As a crucial parliamentary vote on the Philippine defence budget neared, Philippine military reconnaissance suddenly confirmed four structures and spotted several PRC military vessels near Mischief Reef.

However, Philippine authorities quickly acknowledged that they had no feasible military option, given the weakness of their forces. They protested to the PRC, cited provisions of the 1992 Manila Declaration in which the six claimants agreed to exercise restraint, complained about violations of their exclusive economic zone (EEZ), and sought to rally international support.<sup>13</sup>

The PRC claimed that the structures were not military, but built to shelter its fishermen.<sup>14</sup> Philippine President Ramos said that China responded to his government's protest by maintaining that "*the occupation was ordered by low-level personnel acting 'without the knowledge and consent of the Chinese government'.*"<sup>15</sup> This Chinese effort at deniability is poor; there is no

possibility that a low-level Chinese bureaucrat had the authority to dispatch seven naval vessels to set up an outpost over 1,000 kilometres from mainland China.

In the face of a *fait accompli*, some Philippine military officials maintained that the structures were, indeed, shelters for fishermen. They also took comfort that five of the seven naval vessels had departed and only two remained.<sup>16</sup> Then, on 15 February, President Ramos ordered reinforcements to the Philippine outposts in the Spratlys and increased reconnaissance.<sup>17</sup> The Philippine government also established a Marine and Archipelagic Development Policy Task Force to prepare plans for developing the Kalayaan area and vowed to build lighthouses there.<sup>18</sup> About this time, Philippine authorities acknowledged that the Vietnamese also had forces and significant weaponry on four Kalayaan features, but distinguished between the Vietnamese occupation that began before the 1992 Manila Declaration, and the more recent PRC move.<sup>19</sup>

The PRC initially discounted the growing tensions. On 16 February, a Foreign Ministry spokesman called for negotiating a solution and, pending a solution, for shelving the dispute and conducting joint development.<sup>20</sup> Beijing continued to press for bilateral negotiations and joint development arrangements.<sup>21</sup> Eventually, the Philippines and PRC agreed to move up an annual meeting and discuss the Mischief Reef issue at the undersecretary of foreign affairs level in Beijing beginning 19 March.<sup>22</sup> Three days of meetings failed to resolve the issue, but the sides pledged further meetings without specifying a date or venue.<sup>23</sup> While the talks were taking place, the Philippines destroyed PRC markers on Half Moon Shoal, Jackson Atoll, and Sabina Shoal.<sup>24</sup> On 25 March, a Philippine naval patrol apprehended four Chinese fishing boats near Alicia Annie Reef (about 55km south of Mischief Reef) and took them to a base on Palawan Island.<sup>25</sup>

### Why?

It is not clear what prompted China to occupy Mischief Reef, but two measures by the Philippines may have triggered a Chinese response. On 6 July 1994 the Philippines announced that Alcorn Petroleum, an American

subsidiary, would conduct preliminary research for oil in the Kalayaan area. Reporting on the Alcorn permit mentioned the area around Lawak (Nanshan) and Patag (Flat) islands, which are the closest Philippine-occupied islands to Mischief Reef.<sup>26</sup> Although the Philippines maintains that Alcorn agreement will not entail on-site exploration, the PRC could view the deal as violating the 1992 Manila Declaration by destabilising the situation.

Another stimulus for Chinese action may have been fear of military cooperation between Hanoi and Manila. On 4 December 1994, Vietnamese Defence Minister Doan Khue arrived in Manila for a five-day visit that was to focus on the Spratly dispute.<sup>27</sup> In a subsequent interview, Philippine President Ramos stated that Vietnam had agreed to an "exchange of visits at the very highest levels as well as at detachment level."<sup>28</sup> Vietnamese Foreign Minister Nguyen Manh Cam was due to visit Manila for talks on the Spratlys about the time that Chinese activity was detected.<sup>29</sup>

Although discussions among foreign ministers of the disputants are not unusual, talks between defence ministers are rare. Coming with Vietnam's imminent ASEAN membership, in what most observers acknowledge as an anti-Chinese coalition,<sup>30</sup> Beijing may have viewed the talks in Manila as threatening encirclement. Certainly, the occupation of Mischief Reef flanks the Vietnamese outpost on Sin Cowe East Island and interposes Chinese personnel between the Vietnamese and forces on the main Philippine island of Palawan.

The PRC is pressing ASEAN's weakest member in an area outside that claimed by other current members (Brunei and Malaysia). This reduces the likelihood of a strong ASEAN response from an organisation that is already divided on how to proceed in the Spratlys. The PRC appears to view peaceful activities, including the occupation of uninhabited reefs in order to engage in economic activities such as fishing, as permissible under the Manila Declaration.<sup>31</sup> Chinese pressure also reinforces Beijing's preference for bilateral over multilateral negotiations. Beijing has forced Manila into bilateral discussions.<sup>32</sup>

## The Responses

Because the Philippines is so weak militarily that it cannot hope to dislodge the PRC by force, Manila has attempted to regionalise and internationalise the dispute.<sup>33</sup> In protesting the PRC occupation of Mischief Reef, the Philippine authorities have frequently cited the PRC's violation of their EEZ.<sup>34</sup> However, the Philippines' unilateral EEZ claim ignores any potential EEZ radiating from the Spratlys themselves. Maritime jurisdiction flows from sovereignty over land territory, not the reverse. If the Philippines is not sovereign of the Spratly Islands, then Mischief Reef would probably fall outside Manila's EEZ jurisdiction. The Philippine claim of violation to its EEZ may be an effort to muddy the juridical water and gain international support for its weak sovereignty claim.

Manila has tried to enlist the support of the other ASEAN members and major powers. Some Philippine legislators suggested that the Chinese incursion should prompt an American response under the US-Philippine Mutual Defence Treaty, though Secretary of Foreign Affairs Romulo maintained that the treaty did not apply to the Kalayaan area.<sup>35</sup> Previous efforts by the Philippine government to include the Kalayaan area within the defence treaty have been rebuffed by the US.<sup>36</sup> Article 5 of the Mutual Defence Treaty states that "an armed attack on either of the Parties is deemed to include an armed attack on the metropolitan territory of either of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific."<sup>37</sup> Since the Philippines first entered the Spratly dispute by claiming the Kalayaan area in 1978, the US has consistently maintained that the defence treaty only applies to territory in the Philippines at the time the defence treaty was signed (1951).<sup>38</sup> Even if the treaty were interpreted to include the Kalayaan area, the agreement only binds the parties to act in accordance with constitutional processes and report to the UN Security Council (Article 4). These acts are not specified. Essentially, the treaty only binds the parties to consult in the event of an armed attack. The US is unlikely to change its position. The American Ambassador Negroponte called on China and the Philippines to solve the dispute peacefully.<sup>39</sup> Philippine President Ramos reportedly raised the navigation threat as the reason the US, and

possibly Japan, would intervene in the China-Philippine dispute if the situation deteriorated into armed conflict.<sup>40</sup>

Japan responded to the rising tensions with calls for restraint and peaceful settlement. A Japanese foreign ministry delegation visiting Manila, reportedly cited their vital interest in the safety of sea-lanes in the South China Sea.<sup>41</sup>

Philippine President Ramos suggested that every disputed island be placed “*under the stewardship of the country closest to it*” and urged the demilitarisation of the area.<sup>42</sup> Ramos’ stewardship proposal would eliminate PRC and Taiwanese forces because their mainlands are most distant from the disputed islands. It would effectively partition the Spratlys among Brunei, Malaysia, the Philippines, and Vietnam - a solution unlikely to win Beijing’s favour.

Vietnam reaffirmed its sovereignty of the disputed islands and accused the PRC of causing instability in the area by building the structures. Hanoi called for a peaceful resolution.<sup>43</sup> Oddly, Hanoi does not appear to have mentioned the military aspect, i.e. the presence of PRC naval vessels.<sup>44</sup> Late in February, Vietnam reinforced its troops in the Spratlys.<sup>45</sup>

Once the PRC reduced the number of ships, appeals by the other countries appeared to taper off.<sup>46</sup> On 18 March the ASEAN foreign ministers issued a statement expressing serious concern over developments in the South China Sea. They urged all parties to observe the Manila Declaration and specifically called for “*early resolution of the problems caused by recent developments in Mischief Reef.*”<sup>47</sup> On 22 March Vietnam endorsed the ASEAN minister’s relatively mild statement of concern.<sup>48</sup>

### Outlook

The PRC occupation of Mischief Reef is ill-advised and violates the spirit of the Manila Declaration, but this action should be kept in perspective. It is not new; this is the 44th Spratly feature to be occupied since the 1950s. Unlike its 1988 displacement of Vietnamese forces, the PRC’s manoeuvre was not violent. Regrettably, such reef-hopping by claimants will continue and

probably accelerate in the near term. The largely unoccupied eastern Spratlys are likely targets.

The PRC’s gambit will escalate the arms race in Southeast Asia. Because of recent events, the Philippine Senate passed a bill to modernise that country’s armed forces.<sup>49</sup> Both the Philippines and Vietnam have increased force levels in the area.<sup>50</sup> Vietnamese membership in ASEAN may decrease, not increase, the security of Southeast Asia. Like most sovereignty disputes, that in the Spratlys is longstanding and subject to periodic flare-ups. More will follow.

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- 11 Daniel J. Dzurek, 'Southeast Asian Offshore Oil Disputes,' *Ocean Yearbook*, 11, ed. Elisabeth Mann Borgese, Norton Ginsburg, and Joseph R. Morgan (Chicago: University of Chicago Press, 1994), p. 173.
- 12 'Manila Probes Report of Chinese Ship in Spratlys,' *Reuter* (Manila), 01:51 EST, 30 January 1995; 'Ramos Discusses MNLF, Spratlys, DPRK Ties,' *Quezon City PTV-4* television broadcast in English, 0656 GMT, 1 February 1995, transcribed in *FBIS*, East Asia (1 February 1995), p. 49.
- 13 'Manila Vows "Quiet Diplomacy" on Spratlys,' *UPI* (Manila), 04:41 EST, 9 February 1995; 'De Villa Confirms PRC Ships in Disputed Area,' *Quezon City PTV-4* television broadcast in Tagalog, 1000 GMT, 9 February 1995, translated in *FBIS*, East Asia (10 February 1995), pp. 62-3; 'Manila Rules Out Armed Response in Spratlys,' *Reuter* (Manila), 06:45 EST, 10 February 1995.
- 14 'Philippines Lowers Spratlys Alert'; 'China: No Tension over Spratlys,' *UPI* (Beijing), 07:40 EST, 10 March 1995.
- 15 'Philippines Orders Forces Strengthened in Spratlys,' *Reuter* (Manila), 02:46 EST, 15 February 1995; 'Leaders Want "Substantive Reply" from PRC,' *AFP* (Hong Kong) broadcast in English, 1024 GMT, 17 February 1995, transcribed in *FBIS*, East Asia (17 February 1995), pp. 63-64.
- 16 'Philippines Lowers Spratlys Alert,' *UPI* (Manila), 01:24 EST, 11 February 1995; 'Enrile Expresses Confidence on Spratly Situation,' *Quezon City PTV-4* television broadcasts in Tagalog, 1100 GMT, 10 February 1995, and 2230 GMT, 12 February 1995, translated in *FBIS*, East Asia (13 February 1995), pp. 77-78.
- 17 'Philippines Orders Forces Strengthened'; 'Ramos Orders Reinforcements,' *Quezon City GMA-7* broadcast in Tagalog, 2230 GMT, 15 February 1995, translated in *FBIS*, East Asia (16 February 1995), p. 62; 'Philippine Leader Vows to Defend Sovereignty over Dispute Islands,' *Washington Post* (20 February 1995), p. A30.
- 18 'Manila Panel to Study Spratly Claim,' *UPI* (Manila), 06:01 EST, 22 February 1995; 'Philippine President Seeks Spratly Plan,' *Reuter* (Manila), 07:40 EST, 22 February 1995; 'Task Force Formed to Address Spratlys

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## Notes

- 1 The Filipino name for the shoal is Panganiban Reef; its Chinese name is Meiji Jiao; the Vietnamese call it Vanh Khan.
- 2 Sources vary, slightly as to the precise number of features occupied by Vietnam.
- 3 'Manila Probes Report of Chinese Ship in Spratlys,' *Reuter* (Manila), 01:51 Eastern Standard Time (EST), 30 January 1995; William Branigin, 'China Takes over Philippine-claimed Area of Disputed Island Group,' *Washington Post* (11 February 1995), p. A18.
- 4 US government sources locate it at 9°51'N or 9°55'N, and 115°32'E; a PRC gazetteer places the reef at 9°54'N, and from 115°30'E to 115°36'E.
- 5 'China Lashes Out at Philippines,' *United Press International* [UPI] (Beijing), 00:24 EST, 25 March 1995.
- 6 'Philippines Lowers Spratlys Alert,' *UPI* (Manila), 01:24 EST, 11 February 1995.
- 7 See, for example, 'Shipping Routes' map in *Atlas for Marine Policy in Southeast Asian Seas*, edited by Joseph R. Morgan and Mark J. Valencia (Berkeley: University of California Press, 1983), p. 94.
- 8 Measured from US Defence Mapping Agency nautical charts no. 93030 (scale 1:1,071,000, 4th ed., 15 March 1980) and no. 71027 (scale 1:1,091,700, 7th ed., 21 May 1983). Specialists and even the claimants disagree as to what features to include in the Spratly Islands. For a discussion, see Daniel J. Dzurek, *The Spratly Islands*

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- 19 'Leaders Want "Substantive Reply".'
- 20 Lorian Holland, 'China Downplays Spratly Dispute,' *UPI* (Beijing), 06:46 EST, 16 February 1995.
- 21 Lorian Holland, 'China Stands Firm on Spratlys,' *UPI* (Beijing), 05:55 EST, 23 February 1995; 'China Calls for Talks on Spratlys,' *UPI* (Beijing), 07:58 EST, 16 March 1995.
- 22 'China, Philippines to Talk on Spratlys,' *Reuter* (Manila), 07:17 EST, 23 February 1995; 'China: No Tension over Spratlys': 'Talks with PRC on Spratlys Set for March,' Radio Filipinas (Quezon City) broadcast in English, 0230 GMT, 24 February 1995, transcribed in *FBIS*, East Asia (24 February 1995), p. 65; 'China, Philippines Open Talks on Spratlys,' *Reuter* (Beijing), 22:06 EST, 19 March 1995.
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- 24 Lorian Holland, 'Philippines Downplays China Dispute,' *UPI* (Beijing), 04:42 EST, 24 March 1995; 'China Lashes Out at Philippines.'
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- 26 'Ramos Defends Oil Search in Disputed Waters,' *Kyodo* (Tokyo) broadcast in English, 1031 GMT, 6 July 1994, transcribed in *FBIS*, East Asia (6 July 1994), p. 54.
- 27 'Vietnamese Minister in Manila for Spratlys Talks,' *Reuter* (Manila) 04:30 EST, 4 December 1994.
- 28 'Leaders Want "Substantive Reply".'
- 29 'Philippine Navy Sends Ship to Disputed Shoal,' *Reuter* (Manila) 06:20 EST, 2 February 1995.
- 30 John Rogers, 'Security Is Key Theme in Vietnam-ASEAN Link,' *Reuter* (Hanoi), 23:27 EST, 18/2/95.
- 31 Holland, 'Philippines Downplays China Dispute'
- 32 'China: No Tension over Spratlys,' *UPI* (Beijing), 07:40 EST, 10 March 1995.
- 33 Amando Doronila, 'Analysis,' *Philippine Daily* (Manila) (19 February 1995), pp. 1, 4, transcribed in *FBIS*, East Asia (24 February 1995), pp. 62-63.
- 34 See, for example, Pepper Rodriguez, 'Manila to Beef Up Forces in Spratlys,' *UPI* (Manila), 04:14 EST, 15 February 1995; 'With Eyes Wide Open' *Malaya* (Quezon City) (14 February 1995), p. 4, transcribed in *FBIS*, East Asia (16 February 1995), p. 61.
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- 36 See, for example, Philippine Defence Secretary de Villa's comments reported in 'US Pact May Be Invoked If Attack in Spratlys,' *AFP* (Hong Kong) broadcast in English, 0700 GMT, 25 January 1994, transcribed in *FBIS*, East Asia (25 January 1994), p. 63; 'China Tests the Water,' *Philippine Daily* (Manila) (15 February 1995), p. 8, transcribed in *FBIS*, East Asia (17/2/95): 64.
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- 39 Davidson, 'Manila Rules Out.'
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- 41 'Japanese Urge Peaceful Settlement of Spratlys,' *AFP* (Hong Kong) broadcast in English, 1331 GMT, 23 February 1995, transcribed in *FBIS*, East Asia (24 February 1995), p. 65.
- 42 'Ramos Orders More Troops to Spratlys,' *AFP* (Hong Kong) broadcast in English, 0711 GMT, 15 February 1995, transcribed in *FBIS*, East Asia (15 February 1995), p. 50; 'Philippines Orders Forces Strengthened in Spratlys,' *Reuter* (Manila), 02:46 EST, 15 February 1995.
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- 44 Holland, 'China Downplays.'
- 45 'Hanoi Reinforces Troops on Spratlys,' *Kyodo* (Tokyo) broadcast in English, 0842 GMT, 28 February 1995, transcribed in *FBIS*, East Asia (28 February 1995), p. 85.
- 46 'Officials View PRC Withdrawal from Spratlys,' *Quezon City PTV-4* television broadcast in Tagalog, 0500 GMT, 13 February 1995, translated in *FBIS*, East Asia (13 February 1995), p. 77.
- 47 'ASEAN Ministers Express Concern over Spratlys,' *Reuter* (Singapore), 05:39 EST, 18 March 1995.
- 48 'Vietnam Echoes ASEAN Statement on Disputed Spratlys,' *Reuter* (Hanoi), 09:07 EST, 22 March 1995.
- 49 'Beijing Extends Envoy's Term to Defuse Crisis,' *AFP* (Hong Kong) broadcast in English, 1138 GMT, 16 February 1995, transcribed in *FBIS*, East Asia (16 February 1995), p. 64.
- 50 Holland, 'China Downplays;' 'Hanoi Reinforces Troops.'

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