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## LIVING IN THE PAST: Mishandling the Spratly territorial row

*Government must abandon the 20<sup>th</sup> century politics of colonialism and neo-colonialism and begin to act more responsibly with a mature and independent foreign policy.*

By the Policy Study, Publication, and Advocacy (PSPA)  
Center for People Empowerment in Governance (CenPEG)  
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The Philippine government should use a different tack in pursuing its claim on the Spratly Islands and other small territories in the South China Sea (SCS). The government posturing is beginning to sound like a broken record again by tying its response on external affairs to U.S. support even if the Philippines, a former American colony, remains far remote from Washington DC's international radar.

In the past few months, tension over the Spratlys built up with reports of incursions by China into islets in the SCS claimed by the Philippines. The incidents triggered diplomatic protests by the Philippines; the Beijing government denied the accusations. There is "freedom of navigation" in the SCS, China said, but it also called for a stop to oil exploration by other countries in the Spratlys.

Aquino officials were quick to warn that the Philippines can use its 1951 Mutual Defense Treaty (MDT) with the U.S. to defend its territorial claim in the Spratlys. Modern military equipment was also to be purchased in the U.S., it was also announced. More to the point, Defense Secretary Voltaire Gazmin asked for U.S. navy ships' deployment in the SCS to check Chinese aggression. "When the cat (U.S.) is away, the mice (China) will play," he said.

The U.S. embassy in Manila, however, stopped short of promising direct military support amid assurances that the Philippines remained a "strategic ally" and that both countries will continue "to consult and work with each other on all issues including the South China Sea and Spratly Islands." Instead of committing specific military support to defend the Philippines' claim, the American envoy called for "restraint" in the territorial row.



Photo: [www.asianews.it/files/img/CHINA\\_haixun31](http://www.asianews.it/files/img/CHINA_haixun31)

HAIXUN 31, China's biggest maritime surveillance ship, heads to South China Sea

### Centerpiece policy

Underneath the knee-jerk and uninformed reactions by the Aquino government are illusions about a special U.S.-Philippine relationship - the prize centerpiece of past administrations' foreign policy. The price of this misperception has been the failure to discern the kernel of truth about foreign policy: That it is pursued by a sovereign state chiefly for its own interests.

A cold war-vintage pact, the 1951 U.S.-Philippine MDP provided for mutual support against foreign aggression. But it was invoked by the U.S. only a few times for no other reason than to coerce Philippine participation in the U.S. wars in the Korea Peninsula and in Indochina. It was also used to legitimize the onerous Visiting Forces Agreement (VFA, 1999) which allows the entry of U.S. forces in any part of the Philippine archipelago in the guise of joint war exercises. U.S. trainings under the VFA have been used by

the U.S. to devise new counter-insurgency doctrines in Afghanistan, Iraq and other war-torn countries while maintaining permanent facilities in the Philippines as forward-deployed forces for military projection in the region.

The UN Convention on the Law of the Sea (UNCLOS, 1994) cited by the Philippines in support of its territorial claim in the Spratlys has not even been ratified by the U.S. In particular, the U.S. is opposed to the provision pertaining to the exclusive economic zone (EEZ) for being unfavorable “to American economic and security interests.”

### 'Mother of territorial disputes'

South China Sea is known as the “mother of all territorial disputes” – a flashpoint of future wars. Covering 3.5 million sq. km. and one of the richest fishing grounds in the world, the SCS is also claimed as the “second Persian Gulf” for being rich in oil, gas, and sea-based minerals. It is the world's second international sea-lane where more than 25 percent of the world's trade traverses – as well as Japan's energy needs (70 percent) and China's (65 percent). Being the world's top energy consumer and second biggest oil importer today, China holds strategic interest in the SCS to ensure continuing supply of oil and gas products from the Middle East, Africa, Latin America, as well as Asia where it has active energy exploration and production projects.

In the SCS' southern part is the Spratly Islands which is comprised of some 750 barren islets, rock formations, and sandbanks of varying size, spread over 425,000 sq. km. – with a total land area of only less than 5 sq. km. Both China and Vietnam have territorial claims over the Spratlys in whole, while the Philippines, Taiwan, Malaysia, and Brunei have stakes on parts of the archipelago. China asserts historical claims over actually the whole SCS dating back to 2 BC but it issued its first direct claim in 1951. In 1956, Tomas Cloma, a Filipino adventurer and fishing magnate, staked his claim over the Spratlys calling it the “Free Territory of Freedomland” with a separate government.

Of all the littoral claimant-states, China is most assertive of its irredentist claims over the Spratlys and the whole of South China Sea. But it is with Vietnam that Beijing has engaged in actual military skirmishes and, with the

Philippines, in recurrent tension. Just the same, China declares that it adheres to “freedom of navigation” in the SCS and consents to multilateral or multi-polar talks on issues involving the sea. But it prefers bilateral negotiations in settling territorial feuds.

### China's 'soft power'

China is trying to balance its “hard power” approach with “soft power” by offering joint exploration and development of oil and marine resources in the SCS with other claimant-countries. Thus in 2005 it entered into a Joint Marine Seismic Undertaking (JMSU) with the Philippines and Vietnam which, however, raised constitutional issues in Manila. The JMSU ended in June 2008 with its extension compromised by allegations of corruption linking Chinese ODA loans to the Philippines.

Signed in 2002 by China and the Association of Southeast Asian Nations (ASEAN), the Declaration on the Conduct of Parties in the SCS is a conflict management forum providing for the peaceful resolution of the overlapping claims. The non-binding code of conduct, however, has been constrained by China's refusal to use it for multilateral arbitration as well as by ASEAN member-states' differing and vaguely-defined claims in the Spratlys.

As a rising maritime power, China is expected to secure its territorial waters and sealanes. But it is bound by a foreign policy in ensuring a peaceful environment conducive for steering an economy now considered as the second largest in the world with a global projection that will require a modern maritime and defense system. Even as it says it will use military means only as a last resort to defend its territorial claims China cannot afford a war in the South China Sea at this time. War will not favor China's growing trade and investments in Southeast Asia. To this end, it has engaged in or is negotiating joint oil and gas exploration and development in Brunei and with Vietnam in the Gulf of Tonkin.

As it appears, negotiation is the only mechanism available for the Philippines to settle its territorial claims with China – as well as with the rest of the claimants. Joint and cooperative development of potential oil, gas, and marine resources available in the Spratlys can be pursued – accompanied by a “freeze” of sovereignty issues, as proposed by some conflict management advisers. They

agree that – like most international treaties in other conflict situations – UNCLOS cannot be effectively applied in territorial disputes. As a fallback, they point to one of its provisions that in the end “countries with overlapping claims must resolve their claims by good faith negotiation.”

In principle, both the Philippines and China agree that the conflict should be settled diplomatically. Hostilities with China will impact more on the remittance-dependent Philippines which has 150,000 OFWs in Hong Kong plus another 8,000 in mainland China. The Aquino administration is also actively seeking Chinese investments in about 80 long-term projects including finance, energy, transport, and infrastructures.

### Policy assessment

Officially, the Philippine government's dealings with other countries are supposed to promote economic development and protect the rights of overseas Filipino workers. Internally, however, its foreign relations are torn between meeting this objective and an intractable belief that the country's national interests are best enhanced by its special ties with the U.S. With respect particularly to the Spratlys, government policy makers are ill-informed in presuming that the country's territorial claims even if guided by economic objectives must be pursued under the protection of the U.S. The spontaneous choice of invoking the MDP and the purchase of modern arms vis-à-vis allegations of Chinese aggression reveals unseen hands –

both within the Aquino cabinet and the military institutions – are exerting yet again a strong influence in determining the country's foreign policy track when negotiation should be the priority. The only winners in a war scenario are arms suppliers – and these are aplenty in the U.S. They are not just lurking – they have the capability to provoke profit-oriented wars.

Hence, isn't it likely that the territorial dispute is being used once more to justify huge budgets for the AFP modernization, the purchase of military supplies, and uphold the 1999 Visiting Forces Agreement (VFA) with the U.S. the termination of which is being sought in Congress? Is this not therefore playing into the hands of war hawks in the U.S. Pentagon to use America's numerous defense treaties with the Philippines and other countries in East Asia in increasing and realigning its security forces toward the strategic encirclement of China? Can't this actually be the bigger source of tension and conflict in the South China Sea?

The Spratlys territorial dispute is a long-term problem that warrants a long-term solution. Imperative at this point, however, is an assessment of government's handling of the issue, its relations with China, and a comprehensive review of Philippine-U.S. ties. This is the 21<sup>st</sup> century and surely the country's external relations should already mature. The first thing to do is to leave the 20<sup>th</sup> century politics of colonialism and neo-colonialism and begin to act more responsibly with a mature and independent foreign policy.

For reference:

Bobby M. Tuazon  
Director for Policy Studies  
Center for People Empowerment in Governance (CenPEG)  
3F CSWCD Bldg., Magsaysay Avenue  
University of the Philippines, Diliman, Quezon City  
Tel. +9299526; Fax No. 355-4022  
Email: [info@cenpeg.org](mailto:info@cenpeg.org), [cenpeg.info@gmail.com](mailto:cenpeg.info@gmail.com)  
[www.cenpeg.org](http://www.cenpeg.org), [www.eu-cenpeg.com](http://www.eu-cenpeg.com)