

MEMORANDUM

NATIONAL SECURITY COUNCIL

ACTION

February 19, 1974

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MEMORANDUM FOR SECRETARY KISSINGER

FROM: W. R. Smyser

SUBJECT: The Islands of Asia

*Study requested
re: Spratly
18 Mar. B*

This memorandum responds to two requests from you. Your first request, issued at a WSAG meeting, was for a CIA study of the likelihood of conflict over some islands in the China Sea. That study is attached (Tab B) and will be drawn upon in the first part of this discussion. Your second request, which you wrote on an earlier memorandum I sent you (Tab C), was for a paper on the subject of Asian concerns about islands in the China Sea.

This memorandum also sketches some U.S. policy considerations, which are on the difficult side. It leads to a request for better information on legal claims to the islands and on our position (Tab A).

THE ISLANDS IN QUESTION

Conflicting claims to the off-shore islands of Asia arise because the long and uneven histories of the states in the area led to periodic changes in political control, because the age of colonial occupation coincided with the period when many claims might have been finalized, and because several nations are still divided. Claims and counter-claims to at least seven groups of islands in the East and South China Seas could produce conflicts involving the U.S. or its allies:

1. The Spratly Islands (see fold-out map at Tab D). These islands are sprinkled over an area 500 miles long and 200 miles wide between Borneo, Vietnam, and the Philippines. They are claimed by the People's Republic of China, the

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Republic of China, the Philippines and South Vietnam. We understand that the Philippines occupy the islands of Nanshan, Thitu, Loaita, West York and Northeast Cay, generally in the northern part of the island group. The ROC maintains a garrison of marines on Itu Aba, right in the center of the island group. South Vietnam has long occupied one island, called Namyt, and has recently also occupied Sand Cay, Sin Cowe, Spratly and Amboyna, all in the southwest part; it was also planning to occupy Northeast Cay but nobody is certain if it tried to do so.

2. The Paracel Islands (on map at Tab D). This island group is claimed by both Chinas and by South Vietnam. North Vietnam has not made a claim. It is now occupied by Communist Chinese forces who expelled the South Vietnamese several weeks ago.

3. The Macclesfield Bank (on map at Tab D). This is a submerged atoll about 75 miles long and 30 miles wide, almost in the middle of the South China Sea. It is claimed by both Chinas. The Philippines may have a claim, but they have not formalized it. A similar situation prevails in the Scarborough Shoal (not shown on map), a submerged reef southeast of the Macclesfield Bank.

4. The Pratas Reef (on map at Tab D). Pratas is a coral reef southeast of Hong Kong, about 13 miles in diameter with one main island at its edge. Both Chinas claim it, but the ROC has occupied it and has built an airfield with a 6,000-foot concrete runway on the main island.

5. The Senkaku Islands (see fold-out map at Tab E). These islands, northeast of Taiwan and west of Okinawa, are small and rocky with no inhabitants except occasional visiting fishermen. The islands are claimed by both Chinas and by Japan, with the Japanese claim strengthened by the reversion of Okinawa in 1972.

6. The West Coast Korean Islands (on map at Tab E). These five islands form an extended crescent pattern just off the southwest coast of North Korea. They are claimed by both Koreas. Under the terms of the 1953 Armistice, they are controlled by the United Nations Command (UNC) and are lightly garrisoned by South Korea, which plans a heavier garrison. The inhabitants are farmers and fishermen.

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7. The Take Shima Islands (on map at Tab E). This is a group of small islands in the Sea of Japan, halfway between South Korea and Japan. They are unsuitable for civilian settlement, but are occupied by a small South Korean garrison.

CURRENT IMPORTANCE

The disputes over all these islands, long based on political and security considerations, have now intensified for two reasons:

-- Oil. Virtually every one of the disputed islands or island groups lies near and perhaps on top of an area where oil may be found and where exploration is either going on or contemplated. This is particularly true of the Paracels, the Spratlys, the Senkakus, and Take Shima. The Chinese already have an oil rig on one of their long-held islands in the Paracels. Philippine military occupation of some of the Spratlys coincided with growing oil company interest in that area two to three years ago. Several oil companies have made studies showing a good likelihood of oil in the Senkaku area. South Korea has recently signed an agreement with Japan for oil exploration in the Sea of Japan near Take Shima. South Korea has also granted concessions to oil companies in the Yellow Sea south of the West Coast Islands. The South Vietnamese have granted some exploration rights in the off-shore areas between South Vietnam and the Spratlys, though most of their exploration area lies south of Vietnam.

-- The Law of the Sea Conference. Nobody knows what will emerge from that conference, and that uncertainty breeds some urgency to act. If the more extreme proposals for a 200-mile wide sovereign area off all coasts and islands are accepted, as now seems unlikely, the PRC could gain sovereignty over almost all the South China Sea and, in effect, close the Malacca Straits, if it held the Paracels, Macclesfield Bank, and the Spratlys. Even if only the patrimonial concept is adopted, Peking could gain access over most of the area's resources. Other states have conflicting ambitions. Even if none of these far-reaching proposals are adopted, simple calculation of median lines or of continental shelf areas argues that everybody should grab

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as much as they can while the grabbing is good and while the rules are being written. This is true not only in the South China Sea but in all the other island areas. Islands have become more important than they ever seemed before, since they may give claim to so many other things.

ATTITUDES OF DIFFERENT STATES

People's Republic of China

The Chinese want to get control over all the islands they claim, but they want to get it without generating undue tension and alarm that could lead to greater Russian opportunities in the area or that could weaken some of the links that China has recently established with its neighbors and with the United States.

The Chinese crowded the South Vietnamese on the Paracels, setting up a situation in which the South Vietnamese would and did appear to be the provocative party. They may now intend to create a similar situation in the Spratlys, and they have formally denounced South Vietnamese occupation of some of those islands.

Under the terms of the Shanghai Communique, the Chinese are restrained from direct attack on Republic of China forces which occupy at least one island in the Spratlys as well as some other islands elsewhere. If they attack Philippine forces, they could provoke an American reaction and considerable alarm throughout all Southeast Asia. They are also constrained by the size of a potential Spratly operation. Taking and holding those islands would require a major military effort, at a distance of 600 miles from Hainan with a supply line subject to Vietnamese air and naval attacks.

The CIA memorandum (Tab B) concludes that the Chinese are likely to avoid a military clash over the Spratlys and are highly unlikely to attack the Pratas Reef or the Senkakus. The Chinese decision to release all South Vietnamese captured in the Paracels bears out this analysis that Peking does not now want a major crisis.

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The Republic of China

Taipei has taken steps to avoid provoking either the South Vietnamese or the Philippines over the Spratlys, and would clearly feel extended and uncomfortable if Communist Chinese forces began operations there. Nonetheless, it is continuing naval patrols in the Spratlys, and it has stated its determination to fight over Pratas Reef, which lies closer to Taiwan and is less subject to conflicting international claims. Taipei also continues to assert rights over continental shelf resources.

Japan

Tokyo has been deeply disturbed by the implications of the Chinese military action in the Paracels. It fears for the Senkakus and also for the future of the oil concession areas that it wishes to develop on or near the Chinese continental shelf. The Japanese are also worried about our attitude. They have wondered internally whether the Chinese would have acted in the Paracels if they had not been sure of American restraint. They have come to us at various levels to get our support for their claim to the Senkakus, citing the Okinawa reversion treaty.

The Philippines

The Philippine Government has sought indications of American intent even more than the Japanese. Mr. Romulo has spoken to Ambassador Sullivan several times, once comparing the Chinese move into the Paracels with the "Nazi movement into the Rhineland." He has not formally invoked our bilateral defense treaty but has asked for consultations that could ultimately force discussion of our attitude on the applicability of that treaty to Manila's island claims and to the forces it maintains there.

The Philippine Government is not only concerned about Peking, however. It has also protested to Taipei and Saigon about their conflicting claims to the Spratlys. To buttress its claim to at least some of the Spratlys, it has asserted that the Spratly Islands that it occupies constitute a new and separate grouping discovered and explored after World War II by a Philippine adventurer who gave them the name of "Freedomland." Being new, the islands allegedly become "res nullius" and not subject to historical claims by China and others.

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South Vietnam

South Vietnam has island disputes with a number of states. Its claims conflict with Cambodia's in the Gulf of Thailand and with several other states in the South China Sea. Because of this, the South Vietnamese regard any challenge to their islands anywhere as an extremely serious matter. Moreover, since the discovery and development of oil could revolutionize South Vietnamese relations with many countries, even including the United States, Saigon is determined. It has, nonetheless, shown a readiness to discuss its claims with competitors.

The South Vietnamese quickly learned that we were not behind them on the islands issue and they have tended to act unilaterally. Their occupation of several Spratly islands reflects President Thieu's judgment that China will not attack such a distant target and his feeling that he has gained a strong nationalist issue no matter what the outcome. He has used that issue to embarrass Hanoi and the "PRG," who obviously do not want to offend China.

Indonesia

The Indonesians have stated that China owns the Paracels and the Spratlys. They do not want to get into an argument with Peking over this issue at this time, when general relations are slowly improving. They have asked our views, but without such urgency as Manila or Tokyo. They think the International Court of Justice should resolve the conflicting claims.

Other ASEAN

Thailand, Malaysia and Singapore have generally remained silent. They have some sympathy for the South Vietnamese but they want to improve relations with China and do not want this to become an issue with Peking. Malaysia, whose possessions in Borneo are only 100 miles from the Spratlys, has expressed some concern about the extension of China into Southeast Asia.

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The Koreans

The West Coast Islands dispute is near becoming a vital issue for both Koreas. South Korea has made firm statements asserting its control and has moved to expand its garrison. North Korea has begun a political challenge to UNC control of the islands, probably intending to demand them for its own if and when the UNC is dissolved. It has stepped up naval patrols around them. For both countries, oil rights as well as naval control in the Yellow Sea could be at stake, but the dispute over these islands is primarily political. North Korea's immediate objective is probably to increase pressure for early termination of the UNC.

LIKELY SITES FOR CRISES

Though all the islands are in dispute, not all are likely to become a focal point for crisis in the next year or two. Foremost candidates for attention are:

-- The Korean West Coast Islands. It is difficult to believe that North Korea, having voiced its legal claims to the waters around these islands, will not challenge South Korea for them at some point in 1974 or 1975. One can hope that the challenge will only be legal and diplomatic rather than military. Even if no such challenge is issued, there is great danger of incidents between the two Koreas. Both are exercising their claimed rights with some restraint but their forces in that area are in such proximity and in such uncertain positions that they are almost compelled to interact and very probably to overreact.

-- The Spratlys. The greatest likelihood of incidents and even of major military engagements over these islands arises out of the conflicting claims of Peking and Saigon. If the Chinese try to take even some of the Spratlys, the South Vietnamese will be sure to fight. They will undoubtedly give a better -- and longer -- account of themselves than in the Paracels. There is also the danger that our three allies may stumble into mutual confrontation over these islands, though to date they have all been very careful to avoid that.

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-- The Paracels. If the South Vietnamese challenge Chinese occupation of the Paracels, which seems unlikely, another battle could develop that the Chinese would probably win. Without such challenge, there is still some risk of incidents.

-- The Senkakus and the oil areas. It is also possible, though less likely, that a crisis could flare up if western oil rigs begin moving into the concession areas northeast of the Senkakus in the East China Sea. But all parties to such a potential dispute are acting with considerable restraint.

PROBLEMS FOR US

All the states involved in these disputes are faced with difficult decisions complicated by uncertainties about the results of oil drilling and of discussions on the law of the sea. All want to defend their interests firmly and even vigorously without appearing aggressive. Our situation is different, since we have no direct interests though some concern about the outcome and the process by which it is reached.

The principal problem for the United States arises out of certain complexities of the Nixon Doctrine. That doctrine has enabled us to reduce our forces under the cover provided by a more active diplomacy that has promoted restraint by those who might have tried to profit from our withdrawals. Nonetheless, we have stated that we would honor our commitments even while we have tried to create a diplomatic framework in which they were less likely to be challenged. The islands problem strikes us at our weakest point. It makes states less inclined to show restraint. It also compels us to deal with situations in which our commitments are not clear because of legal uncertainties, but in which at least some allies will ask us to live up to them. If we fail to live up to them, even for the legitimate reason that we do not know whose claim is valid, some may argue that this indicates a lessened determination in cases where our obligation is categorical.

A special dichotomy exists between our assertion that others must be more self-reliant and our natural tendency to urge restraint upon our allies. We are asking them to protect their interests themselves

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at the same time that we are restraining them from actions that they may regard as imperative. We have faced this issue already in the Spratlys and the Korean islands. The result in both cases has been the same although our internal justification has been different. We have let our allies proceed pretty much as they wished even though we feared that their actions would appear provocative and even though we have admonished them. This may have to be our general stand. It enables us to maintain some distance from potential crises and better preserve alliance ties. It enables our allies to protect their interests and to help forestall changes in the balance of power. But it does increase the likelihood of confrontations.

Some of our friends may not let us have our way on this. Manila and Tokyo are moving toward direct demands for an expression of our intent. Fortunately, they seem less likely to become involved in military confrontations in the near future unless Chinese forces challenge Philippine claims to the Spratlys. The Vietnamese, thinking correctly that we do not want to give them full support, have taken the attitude that we should stay out. The Koreans have tried to get our diplomatic support and to keep us involved politically, but have been more independent in their military thinking. A clear statement of U.S. readiness to support Japan and the Philippines in disputed areas cannot help but jaundice Vietnamese attitudes since we are not supporting them, just as our reluctance to become involved in the latter's quarrels has raised doubts in Tokyo and Manila.

We ultimately need to consider the geopolitical implications of what might happen as well as our current dilemmas. An Asia in which China controls all the islands that it now claims will look very different from the Asia we think about today. The preliminary attitudes of some of our friends suggest that it could be an Asia in which we will once again be drawn into the kinds of difficult involvements that the President and you have striven to reduce, or -- paradoxically -- in which our friends will feel greater compulsions for unilateral actions.

As this suggests, the outcome of the islands issue, and the form in which it is resolved, could have major impact in Asia. But each particular problem is different, and it is hard to see the forest for the trees.

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Our policy dilemmas could be difficult if crises erupt, and even if they do not. We will need to decide where and where not to commit ourselves, where and where not to call for arbitration or other forms of peaceful settlement, and what role -- if any -- to play as the situations in these islands evolve. We also need to decide whether to take initiatives to forestall crises or to let situations heat up to create pressures for resolution.

THE LEGAL PROBLEMS

We cannot now sort out all the complications or even identify them. It seems premature to suggest a NSSM, since few policy issues are clear-cut and we will need to retain great flexibility. I believe, however, that we should at least have a clearer understanding of our own legal position, and that is where we should start. At Tab A is a memorandum to the Deputy Secretary of State requesting a legal study.

Recommendation

That you sign the attached memorandum to the Deputy Secretary of State.

Approve _____

Disapprove _____

Coordination: Richard H. Solomon
Donald Stukel

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