Lessons Of The China Incident

April 25, 2001

The incident in the China sea has made it clear to those who did not want to admit it that China isn't a strategic partner after all. Even Rep. Henry Hyde, chairman of the House International Relations Committee, said on Meet the Press that it's clear that China is an "adversary" and "not a strategic partner." Other labels range from competitor to hostile antagonist or even potential enemy. Ordinary Americans who refused to buy Chinese-made goods from K-Mart realize this even if the politicians don't.

Just imagine how differently events would have unfolded if our plane had been patrolling the English Channel or the Mediterranean. There would have been no armed entry to the downed and disabled plane, no hostages, no worries about whether our crew or plane would be allowed to come home.

Of course, the Chinese pilot was operating under military instruction to fly as close as he could and harass our plane. The Chinese do not allow hot-shot pilots to make their own decisions about creating an international incident.

It wasn't any accident. The video showed by Secretary of Defense Donald Rumsfeld proved that this was at least the second incident of close-flying harassment, and this time the Chinese pilot came in close enough to flash his e-mail address to the Americans.

Secretary of Defense Rumsfeld made it clear that the U.S. reconnaissance plane was "flying straight and level" on autopilot, "and it did not deviate from the straight and level path until it had been hit by the Chinese fighter aircraft." Since the U.S.plane was a slow flying propeller plane and the Chinese aircraft was a fast fighter jet, it's clear which plane had the greater speed and maneuverability to avoid a collision.

Rumsfeld said that the crew made some 25 to 30 attempts to send distress signals to alert Hainan Island that the U.S. plane would be forced to land. It is ridiculous to assert that the Chinese on Hainan Island were surprised at the "invasion" of their airspace because the U.S. plane was immediately greeted by armed troops.

Our EP-3E plane, clearly marked U.S. Navy, was flying a reconnaissance and surveillance mission in international airspace on a well-known path that we had used for decades. Many countries perform similar missions.

Under international agreements accepted by both China and the United States, China had no legal right to detain the crew or to search the U.S. plane that was forced to land on Hainan Island. The U.S. plane had the right to land under a principle called "force majeure" in order to deal with an incident beyond its control, such as damage from colliding with the Chinese plane.

Under the 1944 Chicago Convention on International Civil Aviation, China and the United States are parties which undertake to provide such measure of assistance to aircraft in distress in its territory as it may find practicable. There is a traditional right of safe harbor in distress that goes back to 19th century and even earlier maritime law.

Now that the U.S. crew has told us what really happened, it's clear that President George W. Bush bent over backwards to accommodate China's hurt feelings, more than the circumstances warranted. The

Chinese didn't deserve anything that they could construe as an apology, but since Bush's words got the crew back sooner rather than later, there's no point in second-guessing him.

The U.S. should cancel the purchase of 618,000 black berets for the U.S. Army, a contract that should never have been granted to China. Under the 60-year-old Berry Amendment, military uniforms must be made of 100 percent American components and produced in American factories, subject to waiver in emergency.

The pressing "emergency" in this case was that General Eric Shinseki set a deadline of June 14, the Army's 225th birthday, for almost every soldier to wear a black beret to symbolize the Army's transformation to a lighter, more agile force for the 21st century. The Army's birthday is hardly an emergency that justifies bypassing the law.

China's aggressive tailing of our surveillance planes was probably designed to make us stop our flights as well as arms sales to Taiwan. They miscalculated. It is more likely that George W. Bush will do the opposite: continue the flights and approve the sales of advanced missile destroyers equipped with the Aegis battle management system, diesel submarines, Patriot missile systems and surveillance aircraft.

Many members of Congress who voted for PNTR last year are having second thoughts now, and the ones who voted against PNTR have had their hands and their arguments emboldened.

While our crew was detained in China, Chinese President Jiang Zemin was on a state visit in South America. It didn't help his cause when he praised Cuba as "a shining pearl in the Caribbean Sea," and said the Chinese government "supports the just struggle of Cuba in maintaining state sovereignty and national independence and opposing against outside interference and threat."