

ARBITRATION UNDER ANNEX VII OF THE UNITED NATIONS
CONVENTION ON THE LAW OF THE SEA



REPUBLIC OF THE PHILIPPINES

v.

PEOPLE'S REPUBLIC OF CHINA

MEMORIAL OF THE PHILIPPINES

VOLUME IX
ANNEXES

30 MARCH 2014

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A SHORT HISTORY OF
CHINA
AND SOUTHEAST ASIA:
TRIBUTE, TRADE AND INFLUENCE

By Martin Stuart-Fox

DS 735
S78
2003
copy 1

First published in 2003

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Calligraphy by Anita Chang
Maps by Robert Cribb

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Allen & Unwin
83 Alexander Street
Crows Nest NSW 2065
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Email: info@allenandunwin.com
Web: www.allenandunwin.com

National Library of Australia
Cataloguing-in-Publication entry:

Stuart-Fox, Martin, 1939- .
A short history of China and Southeast Asia : tribute,
trade and influence.

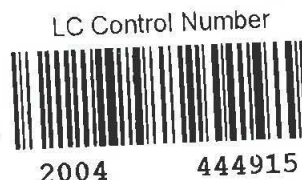
Bibliography.
Includes index.
ISBN 1 86448 954 5.

1. China – Foreign economic relations – Asia, Southeastern.
2. Asia, Southeastern – Foreign economic relations – China.
3. China – Foreign relations – Asia, Southeastern.
4. Asia, Southeastern – Foreign relations – China.
5. China – History – 1900- . I. Title.

382.951059

Set in 11/14 pt Goudy by Midland Typesetters, Maryborough, Victoria
Printed by South Wind Production (Singapore) Private Limited

10 9 8 7 6 5 4 3 2



had changed.³ This was thanks to the Mongols. Whereas the Tang and Song dynasties had, for the most part, relied upon the power of virtue (*de*) to convince barbarians to acknowledge Chinese suzerainty and superiority, the Yuan had relied much more on 'majesty' (*wei*), and military force, to extend the empire and subdue foreign powers. As barbarians themselves, the Mongols could claim little virtue, in Chinese eyes at least, and their loss of the mandate of Heaven only confirmed this. The Ming, by contrast, claimed great virtue; but they did not forget the lesson of the Yuan: where foreign relations were concerned, they saw 'no real contradiction' between virtue and force, providing the force was applied by a virtuous ruler.⁴

The tributary system

Under the Ming, imperial authority was extended to include all relations between Chinese and barbarians, including trade relations. Private overseas trade by Chinese merchants was prohibited and Chinese were forbidden to voyage abroad. The only officially sanctioned trade was by merchants from countries that acknowledged Chinese suzerainty, and then only when they accompanied actual tribute missions. Such trade attracted only a minimal 6 per cent tax, a clear indication that the dynasty did not count on trade as a major source of revenue. Three ports only were designated to receive tribute missions, depending on where they came from. The port for missions from Southeast Asia was Canton, though the envoys of some inland kingdoms arrived via Kunming.

The whole tributary system was also placed on a more formal footing. Regulations were issued specifying how tribute was to be offered and how frequently. 'Near countries' on China's borders, such as Vietnam, were required to send tribute every three years. 'Distant countries', which included all of Southeast Asia beyond Champa, were required to send tribute only 'infrequently'. Tribute did not need to be

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lavish, Hongwu told Vietnam, and should not be a burden: the intention was what counted. The symbolism of ritual submission took precedence over economic benefit.⁵

An elaborate ceremonial was put in place, based on historical precedent. Court officials greeted the envoys, and prepared them for the emperor's banquet at which a tributary memorial was presented, along with 'local produce', the more exotic the better. Envoys were instructed how to behave and when to kowtow. Less important banquets followed until it was time to leave the capital, escorted by an appropriate official. Even more revealing of the Chinese view of the world were the equally detailed instructions on how Chinese envoys were to be received by foreign courts, especially when bearing an imperial edict or seal of office for the investiture of the ruler as a Chinese vassal.

More Chinese envoys travelled abroad during the early Ming than at any other time in the history of relations between China and Southeast Asia. Five were despatched to Ayutthaya by Hongwu, for example, and nine by Yongle. They came to instruct as well as inform, to let Southeast Asian courts know exactly what was expected of them. Their demeanor was both superior and patronising, as was the message they carried. The ritual for the reception of Chinese envoys reflected in large part the ritual for the reception of tributary missions in China. Some Southeast Asian kingdoms went to great lengths to impress visiting Chinese envoys, for this was an opportunity for reciprocal demonstrations of royal power and wealth. Great reverence would be shown to an imperial edict or letter, but in Siam, for example, the envoy was led into the royal presence barefooted and was required to prostrate himself three times before the king. Even during the early Ming, however, more embassies were sent to China from Southeast Asia than were received from China. In fact, more missions were dispatched from Cambodia in the first fifty years of the Ming than were sent throughout the rest of the Angkor period (802–1431).

The new Ming restrictions applying to trade reduced both its volume and value. In response, Southeast Asian principalities and

some larger kingdoms attempted to increase trade by dispatching missions more frequently. Srivijaya, for example, sent six missions in the space of seven years, while Siam and Cambodia also markedly increased the number of tribute missions. Some private merchants attempted to disguise trade in the form of bogus official missions, but Ming officials applied strict criteria for verifying the authenticity of embassies and issued warnings against such ventures.

Southeast Asian rulers were not averse to the official trade regime imposed by the Ming, for it reduced competition from private traders. Private Chinese merchants, by contrast, especially those from coastal Fujian who had been engaged in free trade with the Nanyang over the previous two centuries, were most unhappy, and immediately set about circumventing the new restrictions. Many resorted to smuggling, which increased dramatically, encouraging piracy in its wake. Others sought to cooperate closely with official tributary missions, even going so far, as in Ayutthaya, as effectively to manage tributary trade to the joint benefit of both court and merchants. In a few cases ethnic Chinese actually led official missions (from Java in the 1430s and 1440s, and from Siam in 1478 and 1481).⁶

Despite the increase in smuggling and in the frequency of tribute missions, the total volume of trade between Southeast Asia and China declined in the last decades of the fourteenth century. This had a serious impact, especially on smaller Malay trading settlements, and indirectly provoked political disturbances. Thus attempts by south Sumatran ports, such as Malayu, to gain Chinese recognition as independent polities, indirectly provoked their conquest by Javanese Majapahit. Another effect was to increase the resident Chinese population in Southeast Asia, as merchants feared reprisals if they returned to China. Some merchant families in China fled abroad for fear of prosecution or persecution. In order to maintain their commercial buying networks, Chinese merchant communities in Southeast Asia redirected trade towards the muslim West, while waiting for the situation in China to ameliorate.

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Chinese foreign policy under the Ming, as reflected in the new regulations on tribute and trade, obviously cannot be understood purely in economic or commercial terms. The first Ming emperor was not interested in generating wealth through tribute or trade. But he was interested in reimposing a Chinese world order, in which China was universally accorded supreme status as the Middle Kingdom, and all countries acknowledged the power of the emperor's virtue. Limitations on foreign travel and trade were designed to impose imperial control over all Chinese, and to minimise contacts between Chinese and non-Chinese that might cause friction. Stipulations on tribute were designed to place foreign relations on a formal footing, regulated by prescribed ritual (*li*).

It should be noted that because China stood at the centre of the world, and because the emperor enjoyed the mandate of Heaven, any friction that arose in foreign relations was necessarily due to the failure of vassal kingdoms to act in accordance with Chinese expectations. In such cases punishment might be necessary—always because China had been provoked, and always to restore the peace that China desired—on China's terms. Given the Chinese conceptions of hierarchy and harmony, it was always possible to justify aggressive policies in high moral terms when it was in China's interest to do so. An example of this self-serving approach from Hongwu's reign was the reimposition of Chinese domination over the non-Chinese people of Yunnan, who in the later Yuan period had regained much of their former independence.

Ming expansionism

There were good reasons for Ming concern that the southern frontier should remain peaceful. Unlike the Yuan, the Ming again faced a hostile coalition of Mongols and Turks on the grasslands to the north and west. Hongwu did not want any unrest in the south, either in Yunnan or in Vietnam. In 1380, the decision was taken to reincorporate

Yunnan into the empire, on the pretext that the presence in Kunming of a Mongol prince posed a threat to the dynasty. A force of almost a quarter of a million men took first Kunming, then Dali, but it was another three years before the region was declared 'pacified', and then only after considerable loss of life. Principalities ruled by non-Chinese were overthrown in both Yunnan and Guizhou and either made to acknowledge Chinese suzerainty through payment of an annual tribute, or brought under direct Chinese administration. In 1388, the first of three invasions was launched against the Tai principality of Luchuan, southwest of Dali, an area never previously claimed by any Chinese dynasty. The independence of Vietnam was not threatened during Hongwu's reign, though it was required, as a Chinese vassal state, to supply rice to Ming forces in Guizhou.

The Chinese invasion and conquest of Dali extended the southern frontier of the empire, while Chinese migration into the region reinforced Chinese control. Yet these actions were rationalised not in strategic or security terms, but as punishment for refusing to acknowledge Chinese suzerainty and for 'obstructing culture'.⁷ Emperor Hongwu's proclamation that he had no intention of attacking small barbarian countries in Southeast Asia had proved hollow for the Tai principalities on China's southern frontier, for a pretext had easily been found that they were 'causing trouble'.

Hongwu and his Confucian court did not see themselves as pursuing an aggressive foreign policy. Instead, they saw foreign relations as flowing naturally from a reassertion of Chinese rule within the Middle Kingdom, which brought with it restoration of the cosmological basis of the Chinese world order. The barbarian Yuan had been defeated because, lacking virtue (*de*), they had lost the mandate to rule. The *de* of the new dynasty could not be taken for granted, however. Its real and practical proof lay in acknowledgment of China's superior status at the summit of the hierarchy of powers through homage and tribute, and in the universal extension of peace and harmony beyond China's frontiers—if necessary through the use of force.⁸

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The second great Ming emperor, Yongle (reigned 1402–1424), only succeeded in gaining the throne after three years of civil war, as a usurper at the expense of his nephew. This may have been why he was determined to enhance his own status as emperor by bringing all the known world within the Chinese world order, with himself at the centre. Modelling himself on the great conquering emperors of the past, Han Wudi and Tang Taizong, Yongle embarked upon a series of maritime expeditions and military campaigns to extend Chinese influence throughout the Nanyang and into Central Asia.

Yongle's attention was attracted to the Nanyang in part because the conquests of Timur (Tamerlane), the last of the great Mongol conquerors, had severed trade routes to the west through Central Asia. This forced the new emperor to reassess his predecessor's policy towards seaborne trade. But in 1405, Timur died and the empire he had created split apart. The Mongols and Tartars were still both powerful forces, but their disunity provided Yongle with an opportunity to play one off against the other, and so neutralise the Mongol threat to north China. Between 1410 and 1424, Yongle personally led five great, ultimately futile military campaigns deep into the grasslands. To mount these campaigns he moved the Ming capital from Nanjing to Beijing, a mere 60 kilometres from the Great Wall, where it has remained ever since (but for brief interludes). Thus within his own reign did Yongle's attention shift from the sea to the steppes; and there the attention of his successors remained focused.

Yongle's first priority, however, was to project Chinese power south. The Chinese hold on Yunnan was reinforced and extended. Beyond lay a ring of tributary kingdoms designated as 'pacification superintendencies' whose responsibility was to keep the peace along China's frontiers. These included the the Tai principalities of Luchuan and Cheli (Sipsong Phan Na), the Lao kingdom of Lan Xang, the kingdom of Lan Na in northern Thailand, and the kingdom of Ava in Burma, all of whose rulers were designated 'pacification

superintendents', with the status of Chinese ministers. All conducted their official relations with China via Yunnan.

None of these 'pacification superintendencies' had ever been administratively part of China. But there was one area that once had been part of the empire, and that was, of course, Vietnam. The Ming attempt to reimpose Chinese rule over Vietnam coincided with its projection of naval power into the Nanyang and beyond, and clearly formed part of a concerted policy both to expand the empire and to strengthen and extend Chinese influence.

In 1400 a powerful Vietnamese mandarin named Ho Quy Ly took advantage of the political turmoil in China to replace the child emperor of Vietnam, last of the Tran dynasty, with his own son and to proclaim a new dynasty. Once the Yongle Emperor's victory was assured, tribute was sent to the new Son of Heaven, who graciously recognised the new Vietnamese dynasty. However, in response to appeals by supplicants claiming to be members of the Tran royal family, Yongle saw an opportunity to reassert Chinese control over Vietnam, and seized it.

The pretexts given for the Ming invasion of Vietnam in 1406 focused on the crimes committed by Ho Quy Ly and the need to punish them in order to protect the Vietnamese people. Forgotten were the reassurances of Hongwu that Vietnam need not fear Chinese attack. As always, aggressive Chinese action was given moral justification by placing all the blame on Vietnam. Twenty crimes were listed, the most serious of which were that the Vietnamese had murdered the legitimate Tran ruler and his family, and assassinated the Chinese-backed Tran pretender; that they had deceived the Chinese about the Ho usurpation; that they had insulted China by sending a criminal as an envoy; that they had encroached on Chinese territory; and that they had attacked Champa, a vassal of China, and annexed some of its territory.⁹ In other words, Ho Quy Ly had disrupted the peace and order that China desired to maintain on its southern frontier. All Yongle intended in invading Vietnam, so he claimed, was to restore

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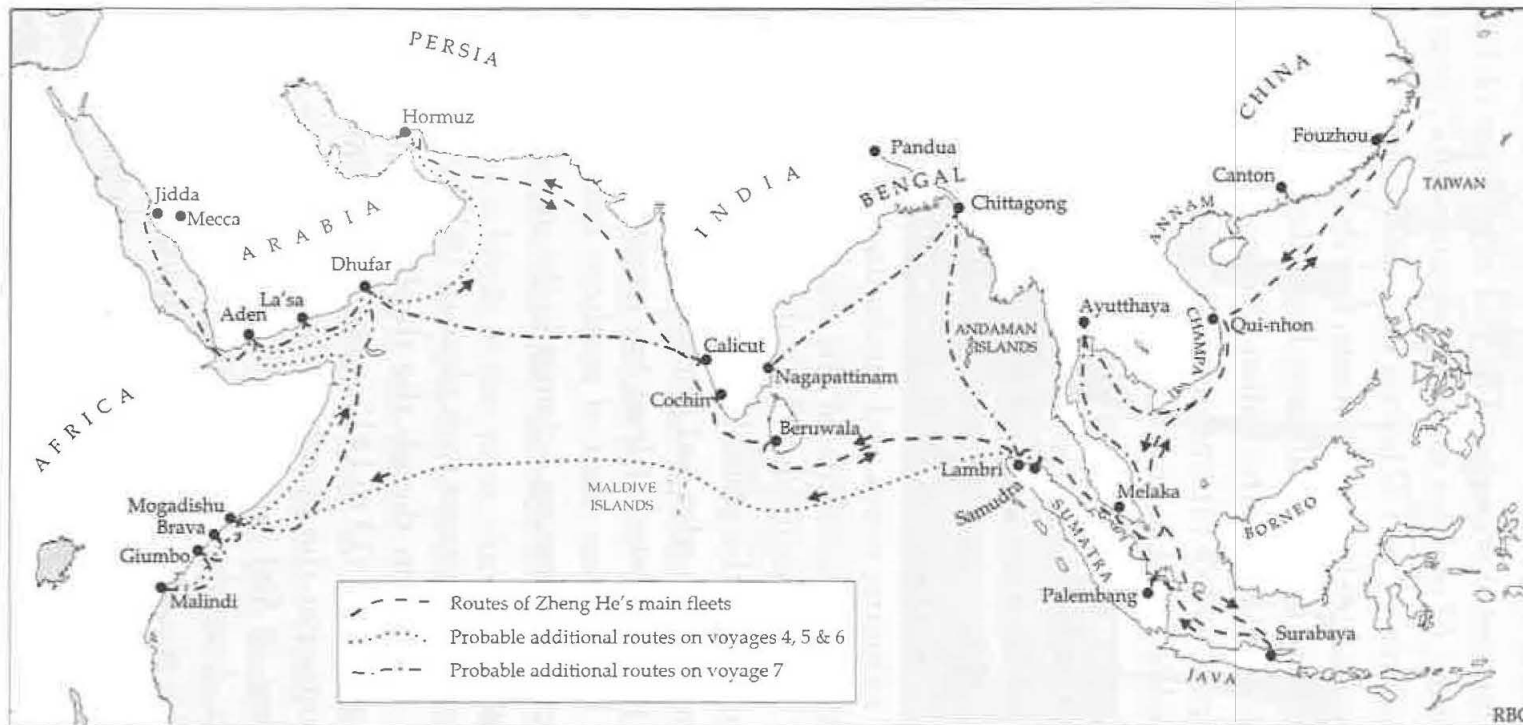
the legitimate Tran dynasty and so restore harmony and well-being to the country and the region. Despite assuring the Vietnamese that they were all his children, the force that Yongle dispatched carried out a massive slaughter. Vietnamese resistance was fierce and tens of thousands were killed before the Vietnamese capital was taken and Ho Quy Ly captured.¹⁰

The Ming hardly had the intention of restoring independent Tran rule, for Vietnam was immediately incorporated into the Chinese empire as a province under the old name of Jiao-zhi, with all the paraphernalia of Chinese administration soon in place. The justification for this was that Vietnam had previously been a province of China. During its four centuries of independence China had 'been engaged with many things' and so had been prevented from reasserting control.¹¹ An annual tribute was imposed of silk, lacquerwork, aromatic woods and kingfisher feathers, and taxes levied. Private overseas trade was banned, as elsewhere in the empire, and the Vietnamese economy was subordinated to that of China.

The annexation of Vietnam constituted the second major southern extension of Chinese power south, after Yunnan. Had it been successful, the shape of relations between China and Southeast Asia would today be very different. As it was, however, the 'peaceful south' (Annam) was never pacified. Vietnamese resistance continued, waiting only for the right political circumstances to expel the invaders. In the meantime, the Yongle Emperor turned from the land to the sea as a means of projecting Chinese power.

The Ming voyages

Between 1405 and 1433, a remarkable series of seven great maritime expeditions were mounted, all but the last on the orders of the Yongle Emperor. Apart from materially contributing to the prestige and prosperity of the Middle Kingdom, the impact of these voyages was felt for



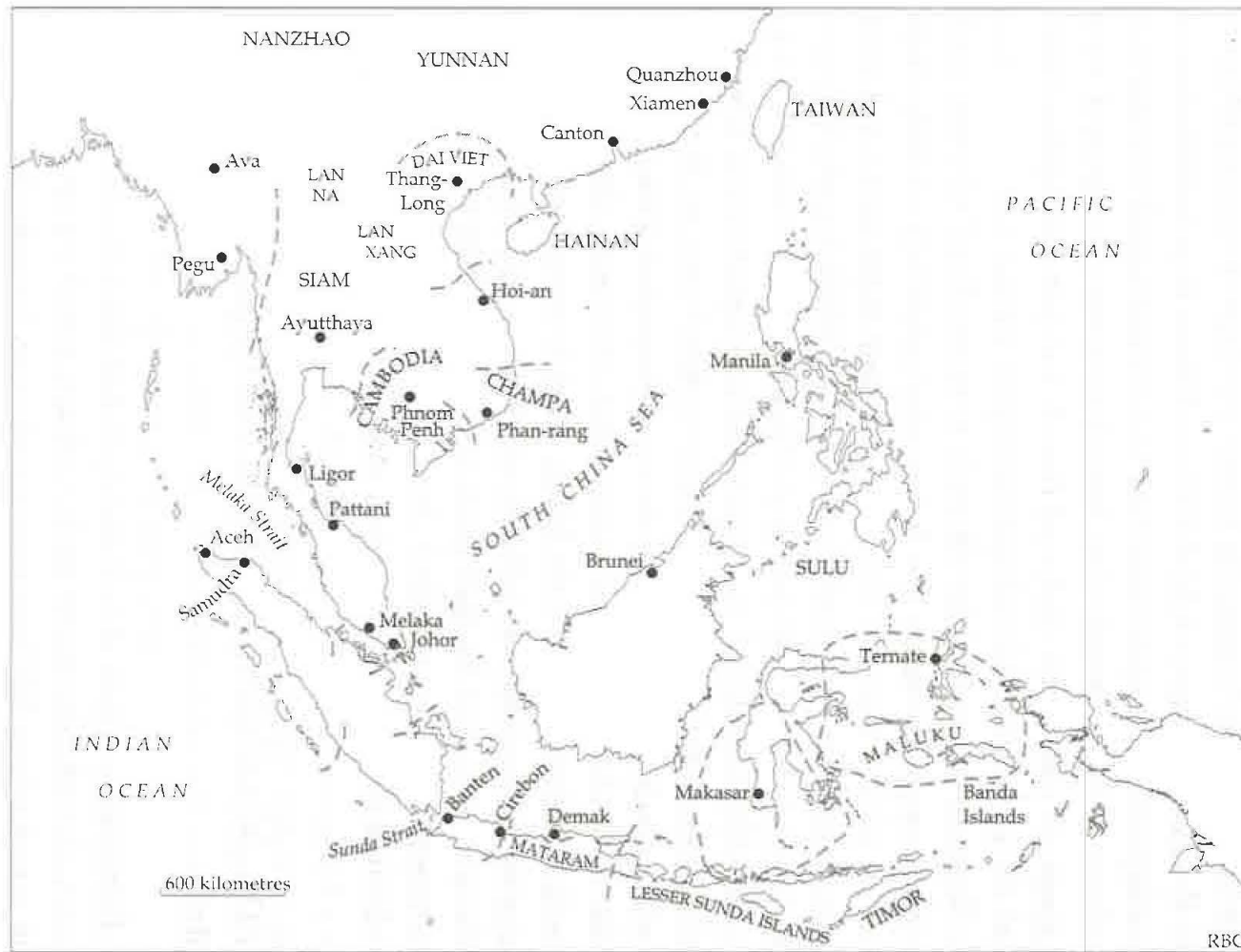
Zheng He's voyages, early fifteenth century CE.

civilisation, and by so doing were failing to fulfil their duty to the emperor. At no time were these communities used as a means of exerting Chinese influence on Southeast Asian rulers, even though in places they performed politically sensitive tasks, such as tax collection. From the point of view of local rulers, Chinese were tolerated along with other semi-permanent merchant communities, and were not seen as a threat to the political order. Indeed they were encouraged, for it was above all the China trade and how this was organised that determined the prosperity of Southeast Asian port cities.⁵

Towards the end of the fifteenth century, illegal Chinese trade increased, especially along the Fujian coast, to which officials, eager for exotic goods, turned a blind eye. Chinese ships sailed to Luzon, Brunei, Ayutthaya, the north Java coast and Melaka, while coastal trade continued with Vietnam and Champa. Ming attempts to suppress this illegal trade led merchants to band together and arm their vessels. Smugglers thus became pirates in official eyes, no better than, and often confused with, the Japanese pirates (*wako*) who plagued the China coast. In retaliation, China first restricted, then in 1560 banned, all direct trade with Japan. Sophisticated trade networks developed in response to official suppression, in which Chinese, Southeast Asian, and by then early European traders were involved. The 'pirate' problem persisted, however, until the Ming legalised private trade in 1567, after which it quickly disappeared.

China, Southeast Asia, the Portuguese, and the Dutch

The Portuguese capture of Melaka in 1511 did little to change trading patterns, though Chinese as well as Malay vessels at first tended to avoid a port where Muslims were unwelcome. In time, however, the Portuguese presence, particularly the activities of private Portuguese merchants, began to stimulate a competitive demand for Southeast



Political and trading centres, early seventeenth century CE.

Asian products, most importantly spices. The Portuguese were not slow to realise that enticing profits were to be made from trading directly with China. The first Portuguese vessel to reach the coast of China arrived in 1517 and was allowed to proceed to Canton, while a second soon after sailed north to Fujian. The meeting of Ming bureaucracy and Iberian arrogance led almost inevitably to misunderstanding and conflict, however. For the Ming, the newcomers were as difficult to deal with as the Japanese, for like the Japanese they indulged in both insolent behaviour and piracy. From 1521 to 1554, by imperial order, trade with the Portuguese was banned.

After the ban was lifted, the Portuguese were permitted, in 1557, to establish a trading outpost at Macau, for which they paid an annual rent. Attempts to send an official embassy to Beijing were, however, unsuccessful and not until a new dynasty was in power was a European mission received at the Chinese court. Under the Ming, all official contacts with merchants and envoys from the Nanyang, among whom Europeans were numbered, were dealt with at Canton. After the Portuguese, Spanish envoys arrived from Manila in 1575, followed by the Dutch in 1604, though neither obtained permission to trade, thanks in large part to Portuguese machinations. The profitable trade that sprang up between China and the Philippines thus remained entirely in the hands of Chinese merchants from Fujian.

The Portuguese seizure of Melaka posed something of a challenge to the Ming in their official dealings with Southeast Asia, for the deposed ruler immediately appealed to China for assistance in driving out the invaders and re-establishing the ruling dynasty. But if the sultan was expecting China to dispatch another powerful fleet, he was disappointed. Late Ming China had neither the means nor the will to enforce its own world order, even for the sake of a loyal tributary. Melaka was far from Beijing, and Ming attention was focused on the northern grasslands.

In their relations with tributaries in Southeast Asia, the later Ming relied more on words of high principle than on deeds of

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intervention. Aggression by one tributary against another was frowned upon, for that destroyed the peace and harmony the Chinese world order was supposed to uphold. By the time a tributary kingdom appealed for protection in the face of invasion, however, it was usually too late to prevent it. Faced with a *fait accompli*, the Chinese bureaucracy could do little more than investigate the situation, a process that might take so long that the crisis resolved itself. It was, of course, in China's interest to prevent the rise of an expansionist power that might pose a security threat to the Middle Kingdom, but it was immaterial whether some Tai principality, such as Chiang Mai, was tributary to Ayutthaya or Burma—so long as the victor maintained properly respectful relations with China.

As for Southeast Asian rulers, they seem to have seen appeal to China as a last resort. The second half of the sixteenth century was a period of conflict and struggle throughout much of mainland Southeast Asia. By 1547, King Tabinshwehti, founder of the Toungu dynasty, succeeded in unifying Burma after two centuries of division. Buoyed by his success, Tabinshwehti proclaimed himself a *chakravartin* or world conqueror, one whose karma predestined him to be a universal ruler, at least of the Buddhist Theravada world. His pretensions were challenged, however, by both King Chakkraphat of Ayutthaya and by King Xetthathirat of Lan Xang, both of whom made similar claims. When the Siamese became embroiled in a succession dispute, Tabinshwehti took the opportunity to invade southern Thailand, while a Cambodian force pillaged and plundered further east. Yet none of the four Siamese tribute missions sent between 1554 and 1560 appealed for Chinese assistance or arbitration.

Conflict continued throughout the turbulent second half of the sixteenth century, but the Ming took no initiative to arbitrate an end to the fighting. No envoys were dispatched to Pegu to demand restraint on the part of the Burmese. Nor did the Tai kingdoms, mostly on the receiving end of Burmese aggression, appeal to China to intervene. Even reports reaching Beijing from Yunnan that Burma had

'annexed' a number of small Tai principalities formerly tributary to China failed to provoke a response.

Succession disputes were another source of civil conflict and social disorder. These particularly interested the Chinese, for it was Chinese policy to endorse only legitimate lines of succession. Usurpers were not tolerated, for their actions went against the moral law of Heaven. Yet it was often easier to endorse a properly submissive usurper who appeared to have a good hold on power than to restore a discredited legitimate line. When, in 1541, the Vietnamese usurper, Mac Dang Dung, offered not only his abject submission, but also five mountainous frontier districts in response to a threatened Chinese invasion in support of the deposed—but in Chinese eyes still legitimate—Le dynasty, the deal was graciously accepted.

The period from the 1580s to the fall of Beijing to the Manchus in 1644 was one of decadence, rebellion and final collapse of the Ming dynasty. The court fell under the control of powerful eunuchs who took no interest in relations with Southeast Asia. Apart from regular embassies from Vietnam and Champa, tribute missions from other polities (Cambodia, Siam, Java) were irregular. The last embassy from Burma arrived in 1567 and from the Philippines (Luzon) in 1576. Yet this was a crucial period in Southeast Asia, for it saw the arrival and consolidation of power of the Dutch East India Company (VOC), followed later by the English and French.

The first Dutch vessels to reach Southeast Asia arrived on the Java coast in 1596. In 1602 the Dutch East India Company obtained a monopoly on all Dutch trade with Asia, and set about excluding its European rivals. First the Portuguese were driven out of the Maluku islands (1605), then the English were excluded from the Banda islands (1623). This left the principal spice (cloves, nutmeg and mace) producing region of Indonesia entirely in Dutch hands. In 1640 the Dutch drove the Portuguese from Sri Lanka and, the following year, they took Melaka, leaving East Timor as the only Portuguese toehold in the Nanyang.

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As in the case of the Portuguese, early Dutch contacts with China moved rapidly from mutual incomprehension, to frustration, to armed conflict. After Dutch requests to trade were refused (1604, 1607), force was used. A Dutch flotilla first unsuccessfully attacked Macau in 1622, then was driven from the Pescadores islands, and finally established a fort on Taiwan. From there the Dutch opened regular trading relations with Japan, though the China trade continued to elude them.

If China took little interest in these developments, wracked as it was by internal rebellion, Southeast Asian rulers and their courts certainly did. It did not take regional political elites long to realise that Europeans were greedy and ruthless in their pursuit of trade; that they were prepared to intervene in local politics; and that their superior military technology was a two-edged benefit—it could be used by Southeast Asian rulers, and it could be used against them. With the arrival of the Dutch, something else was evident: there were different kinds of Europeans, and they did not like each other. One kind could therefore be played off against another.

In both Burma and Cambodia in the first half of the seventeenth century, Portuguese and Spanish freebooters attempted unsuccessfully to seize political power. With its capital at Batavia, the VOC established a maritime commercial empire capable of bringing political pressure to bear throughout the Indonesian archipelago. European mercenaries served in both the Burmese and Siamese armies, while European arms merchants plied their trade to anyone who would buy. When civil war broke out in 1627 between the Trinh in the north and the Nguyen in the south of Vietnam, the Dutch supported and sold arms to the north, while the Portuguese did the same for the south.

Arms and precious metals were about the only European goods of value in regional trade. European manufactured goods, including woollen cloth and linen, were not in demand. Arms were mostly purchased by ruling elites, while silver and gold were in high demand from Asian merchants. Silver, in particular, fuelled European trade with

China, almost all of it from the Americas. As the price for silver in China was substantially higher than in Europe, vast amounts flowed around the world to meet the insatiable demand for Chinese silk, porcelain, and tea. The famous Acapulco galleon that arrived twice yearly in Manila directly from Mexico brought silver to exchange for Chinese products transported there by Chinese merchants.

As the lucrative galleon trade attracted more and more Chinese, their numbers at Manila rose rapidly. Even though the Chinese presence depended entirely on the continued flow of Spanish silver, the outnumbered Spanish saw the Chinese as a threat. In 1603, fearing an uprising, the Spanish turned on the Chinese community and in an appalling massacre killed as many as 23 000. In the aftermath of this tragic event, two things became apparent. The first was that the Ming government would, or could, do nothing to protect Chinese settlers in Southeast Asia. The second was that Europeans had become dependent on the Chinese, not just as middlemen importing food and other consumer goods, but also artisans and labourers, whose industry was essential for the economic life of European-administered ports. The Spanish authorities were forced to re-admit Chinese settlers, though they no longer permitted Chinese to live within the walls of the Spanish town. Within a few years the Chinese population of Manila again numbered several thousand. Five more pogroms occurred in the seventeenth and eighteenth centuries, and yet each time the Chinese returned, lured by the prospects of profit and a more comfortable life.

The Qing

In 1644 Beijing fell to the Manchus, a sinicised confederation of warrior tribes from the northeastern steppes of Manchuria, who had already proclaimed their Qing ('pure') dynasty eight years before. The turmoil that accompanied the change of dynasty spilled over into

Challenges to the Chinese world order

Apart from the Russians, only two eighteenth-century European missions were received at the Qing court before the famous embassy of Lord Macartney arrived in 1793. Both were from Portugal—one in 1727, the other in 1753. Neither dented the tributary system, even though each established a small precedent. On the first, the ambassador succeeded in presenting his credentials in person, rather than through the intermediary of Chinese officials. On the second, protests that this was not a tributary mission were apparently acknowledged, but not recorded. This was not an accidental omission. Chinese bureaucrats regularly wrote reports that envoys had performed exactly as Chinese protocol demanded, even when they had not. They even redrafted correspondence from foreign rulers that did not sound sufficiently submissive. This preserved Chinese convictions about their place in the world, but at the expense of distorting what the world was really like.

The Macartney embassy provided the first official contact between a British king and a Chinese emperor. By the second half of the eighteenth century, Dutch power had declined and Britain was the rising hegemonic European power. Of these developments the Qing court seems to have been largely unaware. In the meantime, however, European knowledge of China had improved, mainly through the writings of Jesuits serving at the Qing court. At any rate, the Macartney mission was the first to attempt to impress upon the Chinese that it represented not a tributary barbarian kingdom, but an empire of equivalent standing and status as that of the Qing. Lord Macartney insisted in handing over his letter from George III to the emperor in person, and refused to perform the kowtow as demeaning both to himself and to his king and country.

Even so, the Qing court managed to preserve the Chinese world order. Lord Macartney was allowed to present his letter on one knee,

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in the rather informal setting of a great tent in the grounds of the summer palace at Chengde. Ceremonial protocol had been breached, but not at the centre of the Chinese world in Beijing. Despite the breach, the Macartney embassy was described as a tributary mission, both on the banners accompanying it and in the official Qing records. All attempts by Macartney to enter into meaningful negotiations were blocked. In his first edict addressed to George III, the Qianlong emperor commended the 'respectful humility' of the British monarch, but rejected as 'utterly unreasonable' the request for a British representative to be resident in Beijing. Qianlong continued:

Our dynasty's majestic virtue has penetrated into every country under Heaven, and Kings of nations have offered their costly tribute by land and sea. As your Ambassador can see for himself, we possess all things. I set no value on objects strange or ingenious, and have no use for your country's manufactures . . .¹¹

Qianlong's second edict, rejecting any liberalisation of trade, made the point that the Chinese capital was 'the hub and centre about which all quarters of the globe revolve', and so was hardly the place for the conduct of trade. All private trade would continue to be conducted at Canton; no new ports would be opened; and no 'British barbarian merchants' would be permitted to establish a 'factory' on Chinese soil.¹²

Here the matter rested. The Chinese world order remained intact, at least as far as the court was concerned. A Dutch mission following hard on the heels of Macartney was the last time a European envoy kowtowed before a Chinese emperor. In 1816, a second British embassy was summarily dismissed when it became clear that the envoy, Lord Amherst, would refuse to conform to Chinese ceremonial—at a time when Britain, following victory in the Napoleonic wars, was the most powerful imperial power in the world.

In the following years, European nations strengthened their grip on the Nanyang. Singapore was founded as a British settlement in 1819, after the return of Batavia to the Dutch. Five years later, the First Anglo–Burmese war gave Britain control of the Arakan and Tenasserim coasts of Burma, in addition to the Straits Settlements in Malaya. At the same time, direct Dutch rule in Java was extended and reinforced, interrupted only by the Java War of 1825–1830, the last great paroxysm of traditional Javanese resistance. Elsewhere in the archipelago, the Dutch increasingly made their presence felt. South-east Asian and Chinese maritime trading networks continued to operate, but increasingly the region was drawn into an expanding global economy dominated by European powers, from which China still remained largely insulated.

The First Opium War of 1839–42 should have shaken Chinese complacency to the core. Ostensibly a response to Chinese attempts to curtail the lucrative British opium trade, it was also the outcome of mounting misunderstanding, anger and frustration on both sides. The lesson drawn by the Qing court, however, had more to do with the disgraceful behaviour of Western barbarians than with what the impunity with which British warships could bombard Chinese ports revealed about the weakness of Chinese naval defences.

Other countries saw the implications more clearly. European nations benefited from the opening up of four more port cities for international trade (in addition to Canton) along the China coast, but were jealous of the concession in 1842 of the island of Hong Kong to Britain. These ‘treaty ports’ extended rather than replaced the ‘Canton system’. France and America quickly signed similar treaties, followed by other Western powers. To each China magnanimously and impartially extended the same privileges as she had to Britain (the most-favoured-nation provision). Not until territorial concessions were later sought were China’s sovereignty and territorial integrity seriously threatened.

In the early 1850s, a series of anti-dynastic rebellions broke out in China that were only put down with great difficulty and with

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Chang-feng Dai, "Dong-sha Atoll in the South China Sea: Past, Present and Future", *Islands of the World VIII International Conference* (1-7 Nov. 2004)

ISLANDS of the WORLD VIII International Conference
“Changing Islands – Changing Worlds”
1-7 November 2004, Kinmen Island (*Quemoy*), Taiwan

Dong-sha Atoll in the South China Sea: Past, Present and Future

Chang-feng Dai

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ABSTRACT

Dongsha Atoll, or Pratas Island, is the northernmost atoll in the South China Sea at 20°35′-47′N and 116°41′-55′E. The atoll is about 28 km wide in diameter and covers an area of about 600 km². The atoll was surveyed in June 1994 and a total of 137 species of corals with approximately 80% coral cover and 369 species of fish in 62 families were recorded. The atoll has been intensively fished during the past decade. In 2001, a total of 7976 boats were fishing around and within the atoll with a peak in March and April. These vessels fish with gill nets, long lines, purse seines, and destructive practices such as dynamite and cyanide. The effect of fishing was devastating as revealed in a survey in April 1998. At one reef site, there were 45 species of corals and 118 species of fish recorded in 1994, but only 3 corals and 32 fishes in 1998. Over 90% of the reef and its inhabitants were killed and replaced by filamentous algae or macroalgae. The food web was virtually collapsed with only low trophic level fish such as algivores and planktivores present. A survey in October 2001 showed that thick beds of dead corals covered all the substrate with no trace of live ones between 1-7 m depth in the lagoon. However, at 10 m depth, about 25% of the substrate was covered by live corals, mostly *Echinopora* spp., fungiids, and poritids. A total of 107 species of corals were recorded and most of them were newly-recruited small colonies. To facilitate the restoration and recovery of reef ecosystems and to protect the marine resources, the government of Taiwan ROC has designated Dongsha Atoll as a marine national park in March 2004. The future and effective management of the Dongsha Marine National Park rely on a comprehensive understanding of the reef ecosystem, enact an exclusive law for MPAs, enforcement of the law, and regional cooperation of resources management.

Key words: Dongsha Atoll, South China Sea, Pratas Island, Marine Park, Marine Protected Area

Introduction

Dongsha Atoll ($20^{\circ}40' -43' \text{ N}$, $116^{\circ}42' -44' \text{ E}$) is the largest and first to be developed atoll in the South China Sea. The atoll is at the mid-point between Taiwan and Hainan Island of mainland China. It is about 340 km southeast of Hong Kong, 260 km south of Shantou on the Chinese mainland, and 850 km southwest of Taipei, Taiwan (Fig. 1). The atoll is about 28 km in diameter and covers an area of about 600 km². Dongsha Island, an island built by coral debris, is located on the west end of the atoll. The island is 2,860 m from east to west and 865 m from north to south with an area of about 1.74 km².

In Chinese, Dongsha Atoll is known as Moon Island because it shapes like the moon. It is also known as Pratas Island to the western world because a British sailor Pratas discovered and reported this island in 1866. However, Dongsha Island became part of ancient China's territory around the time of the Chin and Han Dynasties (approximately 600 B.C.), and the Chinese fisherman visited this island frequently from the Ming Dynasty (about 1380 A.D.) on. This island was occupied by Japanese before and during the World War II and returned to Republic of China in 1946. The island now falls within the jurisdiction of Kaohsiung City, and the Coast Guards Administration of Taiwan is stationed on the island. After 50 years of construction and development, Dongsha Island has become a fortified castle defending the southern frontier of the Republic of China.

Dongsha Island is of strategic importance because it controls the gateway to Taiwan Strait and Bashi Channel, and thus controls the transportation between East and SE Asia. Dongsha Reefs are the major reefs in the northern South China Sea, thus the main breeding and nursery grounds for numerous marine organisms. Reef areas around Dongsha Atoll have traditionally been recognized as an important fishing ground for fishermen from China, Hong Kong, Taiwan, and even Vietnam.

The Environmental Setting

Geologically, Dongsha Atoll is a part of Dongsha Reefs that covers an area about 150 km long from east to west and 30 km wide from north to south. The whole reef is situated on Dongsha Terrace in the northern South China Sea, with its base at about 1500 m below sea level (Xie 1981). Formation of the reef possibly started in early Tertiary, and the reef is still growing recently.

Dongsha Island is short of soil. Its surface is covered by white sand (i.e., weathered shells and coral); the middle layer is phosphate, in the form of guano; the lower layer is limestone base. Dongsha Island is flat, with no high mountains or valleys. The highest point is only 7.8 m above sea level. Reef limestone outcrops are distributed all over the island, but they do not constitute too great an obstacle to transportation. The island has a subtropical climate, and is influenced by the northeast monsoon in winter. The annual average temperature is 25°C. The rainy season is in summer and the average temperature is 28.5°C. It rains less in winter when the average temperature is 20°C.

Annex 278

Paul Arthur van Dyke, *Canton Trade: Life and Enterprise on the China Coast, 1700-1845* (2005)

The Canton Trade

Life and Enterprise on the China Coast, 1700–1845

PAUL A. VAN DYKE



Published in conjunction with



澳門特別行政區政府文化局

INSTITUTO CULTURAL do Governo da R.A.E. de Macau

香港大學出版社



HONG KONG UNIVERSITY PRESS

Hong Kong University Press
14/F Hing Wai Centre
7 Tin Wan Praya Road
Aberdeen
Hong Kong



© Hong Kong University Press 2005

ISBN 962 209 749 9

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Hong Kong University Press gratefully acknowledges the grant from the Cultural Affairs Bureau of the Macao Special Administrative Region Government which made possible the sections of colour plates.

Secure On-line Ordering
<http://www.hkupress.org>

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library.

LC Control Number



2007 320458

Printed and bound by United League Graphic and Company Ltd., in Hong Kong, China

C H A P T E R E I G H T

MACAO TRADE, JUNK TRADE, CAPITAL MARKET AND COMMISSION MERCHANTS

IT HAS BEEN SHOWN IN past studies that Macao was in many ways an extension of the Canton market.¹ Chinese and Portuguese documents that have survived from the eighteenth century show how the two ports were operating closely with each other on administrative levels.² But owing to a lack of historical data, little has been said of market influences. With information that has recently emerged from European archives, we can now begin to show more clearly the relationship governing these cities. Because Macao was so closely connected with the junk trade, capital market and commission merchants, we will deal with all of these aspects in this chapter.

In many respects, the entire delta from Macao to Canton operated as one huge market with many variables within it. On one level, the Macao trade, junk trade and foreign trade were independent of each other with different sets of regulations governing them. But when we look at the capital market, commission merchants and inputs and outputs of each, the distinctions between them disappear and they become one. All parts were intricately dependent on each other and would cease to operate effectively without the inputs from the others.

THE MACAO TRADE

Macao had a significant impact on the environment in Canton, because much of the trade there was a direct extension of the market upriver.³ When the Portuguese ships arrived in Macao, Chinese merchants from Canton came downriver to buy their goods. In the last chapter, we saw how Chetqua came to Macao to purchase Portuguese cargos and other *Hong* merchants were doing the same.

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Merchants often assigned one of their sons or partners to take care of the Macao side of things, while other partners in the *hongs* were assigned to the junk trade or to the Chinese interior to order goods and make purchases. Other partners in the houses would then take care of the foreign trade. These were the four parts to all of the major *hongs*: Macao trade, junk trade, interior trade and foreign trade.

Macao maintained a separate set of standards that gave it an advantage in some products. Reduced duties, favourable exchange rates and the use of different units of measurement compensated for the cost of transporting the merchandise to and from Canton. In fact, if the city had not had these advantages, the trade would simply be diverted upriver. It was not until smuggling depots began to appear in the delta that other places could compete with the advantages in Macao.

The Dutch were constantly monitoring the price of coarse and fine goods going into Macao. The units of measurement for those products varied from 150 to 100 catties per picul, respectively, whereas the same products might all be measured at 100 catties per picul in Canton. The exchange rate for silver in Macao was also different from Canton, which gave money an advantage there. The different standards in Macao kept downward pressure on prices. In the mid-1760s, the Dutch found prices 'from all wares' to be 52 percent lower in Macao (but the different units need to be considered).⁴

Since the late-1680s, Macao had its own customhouse and Hoppo who supervised and taxed the trade.⁵ In the 1760s, the duties charged to Portuguese ships were 6 percent less than those paid by ships that went to Whampoa. The preferential treatment gave them an advantage over their European competitors. The Canton junks and Spanish vessels from Manila also enjoyed the same preferential rate, so the Portuguese were not without competition.⁶

As a result of these benefits, the Dutch found it to be more advantageous to channel some of their tin and pepper through Macao. They hired Portuguese ships to carry the product from Batavia rather than send them on company ships. Pepper cost only 0.04 taels per picul to be secretly shipped upriver so there was much smuggling of that product through Macao.⁷

The Hoppo eventually became aware of some of the effects that Macao was having on Canton and tried to equalise the two markets. In the early 1780s, changes were legislated that aimed to put Macao ships on the same footing with those at Whampoa. By this time, there were also Armenian ships operating out of Macao and some Portuguese ships were freighted by Chinese so the trade was not all necessarily 'Portuguese'.⁸ After the changes were made, foreigners in both places were to 'pay the same duties', which continued until Macao became a free port in 1836.

It is not certain how extensive the changes were or if the higher duties affected the flow of goods between the two cities. Some items were, in fact, already on an equal footing, so the changes did not affect all products. Macao continued to have a more favourable exchange rate on silver and different units of measurement, so these initiatives probably did not 'equalise' the two ports as was hoped.⁹

Portuguese supercargoes regularly went upriver to Canton while their ships were lying at Macao. They bought or consigned their export cargoes with the Chinese merchants and had the goods shipped downriver.¹⁰ Neither the imports nor the exports were double taxed in Macao or Canton, so the only additional fees were the transport costs up and downriver.

In 1772, for example, the Dutch bought the Portuguese ship *S. Simão* to replace the *Rynsburgh*, which sank off the South China coast.¹¹ The *S. Simão* was re-manned and re-outfitted according to VOC standards and then renamed the *Herstelder*. The fact that the ship was registered in Macao caused much confusion between the customhouses as to where the port fees and duties were to be paid. The Hoppo in Macao understandably did not want to lose the revenues from the ship. He complained to the Hoppo and governor-general in Canton that once the ship left the port there would be only ten Portuguese ships remaining, which he felt represented too great a reduction in duties.

Officials in Canton did not want to cause trouble with Macao, but neither did they want to arouse the suspicions of officials in Beijing. They were apprehensive that the court might view this transfer of the *Herstelder* from one port to another as an attempt to divert funds from the emperor into local hands. After several weeks of correspondence and much consternation between Macao and Canton, it was decided that the ship should go to Whampoa. Macao had lost out, and the *Herstelder's* port fees and duties were paid at Canton.¹² As far as junks in the delta were concerned, they were allowed shelter in Macao's inner harbour, but operated out of Canton.

THE JUNK TRADE

The junk cargos made up a significant proportion of the overall volume of trade in Canton. There are 37 ocean-going junks listed in the foreign records as frequenting the port in the 1760s, but not all were based there. The Swedish and Dutch records show that in the 1760s and early 1770s, there were probably from 27 to 35 junks operating each year out of Canton.

Plate 12 shows the names of 28 of these junks, which the Swedes recorded in 1768. They operated out of five different factories, and we know from other sources

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Pakjuta Khemakorn, *Sustainable Management of Pelagic Fisheries in the South China Sea Region* (2006)

Sustainable Management of Pelagic Fisheries in the South China Sea Region

by

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New York, November 2006

Sustainable Management of Pelagic Fisheries in the South China Sea Region

Abstract

The South China Sea (SCS) is one of the most important and abundant commercial fisheries areas in the world. Fisheries play a critical role in the food security and the economies of the States in the SCS region. Many of the pelagic fish stocks in this area are straddling fish stocks. In principle, no single State owns these common pool resources, which renders fisheries management in the region very difficult. The fishing capacity in the SCS is in excess, and the fishery resources are in a severe state of overexploitation. Thus, it is imperative for the pelagic fish stocks in the SCS to be managed at a regional level. However, disputes over fisheries resources in the region have made it more difficult to jointly manage such resources in a sustainable manner. The paper examines the geo-political situation in the SCS region, analyses the pelagic fisheries profile and sustainable management of pelagic fisheries in the area, as well as proposes solutions to achieve the sustainable management of such fisheries in the SCS region. It is maintained that fisheries management in the SCS region must focus on both the dynamics of the fisheries resources and address issues relating to other aspects of fisheries management including the resolution of delimitation problems. The conservation and management approaches under the Law of the Sea Convention, and other related international instruments, also play a significant role towards the sustainable management of pelagic fisheries in the SCS region.

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Stein Tønnesson, "The South China Sea in the Age of European Decline", *Modern Asian Studies*, Vol. 40, No. 1
(Feb. 2006)

The South China Sea in the Age of European Decline

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The history of the disputed Paracel and Spratly Islands in the period 1930–56 will be analysed here within a context of regional political and strategic developments. The focus will be on how French and British authorities estimated the economic and strategic value of the two island groups in various periods. The Paracels and Spratlys are studied the way one would examine the pawns in a game of chess. In themselves they are unimportant, but in certain situations they gain significance, and mediocre players may pay inordinate attention to their protection. There is also the faint possibility that a pawn can be changed into a queen, for instance if oil is discovered. In order to understand the constellations that push simple pawns into the limelight, they must be seen in relation to the general balance of forces on the chessboard, and the strategies of all players.

It does not form any part of this article's purpose to evaluate which state today has the better historical claim to the two island groups. Examples of such evaluations will be cited, but only as historical occurrences, not in order to support or refute them. This is a work of history, not law.

Historical Background

If the eighteenth century was 'the Chinese century' in the South China Sea (Blussé), then the nineteenth century was 'the European century'.¹ The South China Sea then came to be dominated by the British and

¹ It is often thought that the European domination of the South China Sea developed incrementally from the arrival of the Portuguese and Spaniards in the 16th century. This was not the case. The Portuguese and Spaniards tapped into local trade, and met stiff competition from the Muslim sultanates. In most of the 17th century regional trade was controlled by the Dutch East India Company, but towards the end of that century, when Japan forbade the export of silver, and the Dutch were forced

French navies, who made a common cause in subduing China and opening it up to European trade and missionary activities. Britain obtained its lease on Hong Kong after the Opium War in 1842. By the mid-1880s, France had established the French Indochinese Union as one of the ‘pearls’ of its empire, and in 1898 France acquired a lease to the territory of Kouang-tchéou-wan (around the current city Zhanjiang, which the French called Fort Bayard). However, by the end of the nineteenth century, Japan and the United States appeared as rival powers in the South China Sea. Japan acquired Taiwan from China in 1895, and the United States conquered the Philippines from Spain in 1898. The Dutch navy also continued to play a role, with bases in the ports of the Netherlands Indies (Indonesia). A condominium at sea emerged between these five naval powers.

European trade in the region continued to rise until 1929, which marked the apex of European strength. With the world depression, Europe’s influence started its decline. Meanwhile, Chiang Kai-shek’s Guomindang was defeating or winning over one Chinese warlord after the other, thus creating a government with a legitimate claim to represent China as a whole. Militarist forces were gaining ascendancy in Japanese politics. Nationalist and communist movements in French Indochina were launching revolts. And the Far Eastern trade lost much of its value to France and Britain. The French economic historian Jacques Marseille has spoken of a ‘divorce’ in 1930 between the modern sectors of French capitalism and French colonialism.² After 1930 French financial capital showed little interest in the colonies which became protected zones for the most backward sectors of French industry (such as textiles). A period of European decline had set in which, for France, would last until its withdrawal from Vietnam in 1956 (not 1954!), and for Britain until the decision of 1965 to withdraw from east of Suez.

During the period of rising European power, neither Britain nor France had shown much interest in two uninhabited groups of minor islands which on European maps were marked as ‘the Paracels’ and ‘the Spratlys’—or just ‘Dangerous Grounds’. They were mainly seen as obstacles to shipping, and when they were surveyed, the main purpose

to leave Taiwan, Chinese junk trade expanded, and European influence diminished. To some extent, therefore, the ‘opening up of China’ by the British and French in the 19th century represented a European *return*. Leonard Blussé, ‘Chinese Century: The Eighteenth Century in the China Sea Region’, *Archipel*, 58 (1999): 107–28.

² Jacques Marseille, *Empire colonial et capitalisme français. Histoire d’un divorce* (Paris, Albin Michel, 1984).

was to help ships avoid them. Businessmen from several nations had explored the possibility of extracting guano from these islets, which were known for a fabulous bird life. The British colony of Labuan (an island north of Borneo that Britain acquired from Brunei in 1846) had in 1877 issued a license for a group of businessmen to plant the British flag on Spratly Island and the nearby Amboyna Cay, and to use them for commercial purposes. Nothing, however, had come out of this, except for an expedition ending in a murder case.³ In the 1920s, Japanese businessmen produced phosphates from guano in other parts of the Spratly area (Itu Aba) and the Paracels, but these activities were not just commercially motivated. The Japanese navy sponsored commercial activities as a means to penetrate Europe-dominated waters.

It is not necessarily a coincidence that the French navy should assert a French claim to the Spratlys and to the Paracels just as France was facing the threat from what one might call ‘creeping Japanese assertiveness’.

French Annexation, 1930–37

In the 1910s–20s, the French Ministry of Colonies and the Ministry of Foreign Affairs more or less agreed that the Paracel Islands were under Chinese sovereignty, and that France should not try to claim them either on behalf of itself or Annam. Therefore France did not protest in 1921 when the government of Guangdong province declared the Paracels to be under the administration of Hainan Island.⁴ Five years

³ Properly speaking it was not a murder case since the killer was not the one put on trial. The white businessmen working the guano on Amboyna Cay got into a dispute with their Chinese ‘coolies’, who complained of too little food. They attacked their employers (the latter reported), who then shot two of them dead. Two of the surviving coolies were sentenced to two years of prison with hard labour for their part in the attack. The verdict was pronounced by a court led by the Acting British Consul General in Labuan, assisted by a jury ‘composed principally of Chinamen’. After this episode, the businessmen seem to have lost interest in the guano. Apparently they also forgot to plant the British flag. See documents attached to C. Howard Smith (Foreign Office) to the Under Secretary of State, Colonial Office, 21.11.31, and draft memorandum to the Law Officers of the Crown, Colonial Office (CO) 273/573/23, Public Record Office (PRO), London, and Acting Consul General Labuan to FO, No. 4, 30.10.79, T 161/622, PRO.

⁴ Note pour Monsieur le Jurisconsulte du Département (M. Naggiar) a.s. de la souveraineté sur les Iles Paracels, 6.5.30 (archivée le 7.6.30), page 74, dos. 215 sous-dos. Chine, série Asie 1944–1955, Ministère des Affaires Étrangères (MAE), Paris.

later, in 1926, France refused an application from a French company to exploit guano in the Paracels. It also refused a similar application from a Japanese company. By 1926, however, China was divided into a number of warring states that had little capacity for looking after such peripheral interests as the Paracels. Actually, the Japanese had proceeded with their guano project, without authorisation from either France or China.⁵ By 1930, however, the French authorities in Annam (the central part of today's Vietnam, which formed a separate French protectorate within the Indochinese Union) started to actively push for a French claim on behalf of the protected state, based on the fact that Emperor Gia Long had officially taken possession of the islands in 1816, and that Emperor Minh Mang had sent a mission to erect a marker and build a pagoda there in 1835. The French Foreign Ministry was sceptical, in view of the fact that Annam had done little to uphold its claim, but concluded that it might be worth a try. If France could establish and maintain a presence in the islands, the claim would of course be strengthened.

A few years earlier, the government of the French colony Cochinchina (the southern part of today's Vietnam) had developed an interest in the Spratlys. On 23 March 1925, the Governor apparently decided, without much publicity, that Spratly Island would be under the administration of the province of Baria (later Bac Ria) in Cochinchina.⁶ As a directly administered French colony Cochinchina was a part of the French Indochinese Union, but not under the nominal authority of the Annamese emperor in Hue. In December 1927, the Japanese Consul in Hanoi (the capital of French Indochina) asked French authorities about the legal status of the reefs and islands situated off the Philippine island of Palawan (the Spratlys). This prompted the French Ministry of Foreign Affairs to prepare a study of the question in 1928. By then, France had started to fear that Japan might have designs on these islands. Two years later, on 13 April 1930, the commander of the French warship *Malicieuse* took formal possession, on behalf of France, of Spratly Island 'and the

⁵ Lettre du Capitaine de Corvette Le Corré à René Pléven (député de l'Assemblée Nationale), joint à Pléven à Bidault (Ministre des Affaires Etrangères), 31.1.47, dos. 214, sous-série (s.-s.) Chine, fonds Asie-Océanie (AO) 1944-1955, MAE.

⁶ A Foreign Ministry study in 1946 said this had happened in 1929. Note du Service Juridique de MAE (first draft called 'Note pour la Direction d'Asie-Océanie à l'attention de M. M. de Boissezon et Salade'), Paris 6.8.46, signé Noël Henry, dos. 213, s.-s. Chine, AO 1944-1955, MAE.

islets depending on it'.⁷ Afterwards, the French crew reported to have rescued four marooned Chinese from starvation.⁸ The *Malicieuse* acted on instructions, dated 12 October 1929, from the Governor General of Indochina in Hanoi, who thought (at least he later claimed so) that he acted in consonance with the wishes of the Ministry of Foreign Affairs. Contrary instructions from Paris reached the Governor General three days after the event. Once the Quai d'Orsay learned what had happened, it told the Governor General that it was surprised.⁹ However, as happened often in French colonial history, the government accepted and defended what its local agents had done. It now started to prepare legal arguments for French possession of the Spratlys.

From a legal perspective the claim, as described in the French press at the time, was somewhat innovative in that France did not at first, as was customary, claim a specific number of named islands. Instead, France considered the whole area between the degrees of Longitude 111 and 117 East, and Latitude 7 and 12 North, to belong to France.¹⁰ The concept was probably modelled after the Spanish–American treaty of December 1898, which had defined 'the archipelago known as the Philippine islands' as comprehending the islands lying within an area defined by a set of specifically defined geographic coordinates.¹¹ France sought to avoid any overlap between the area it claimed in the Spratlys and the area defined by the treaty of 1898 as belonging to the Philippines. The precise content of the French claim in 1930 was known only through press accounts; there was no proper declaration of annexation.

⁷ '... Aujourd'hui treize Avril mil neuf cent trente, jour de la fête du dimanche des Rameaux, j'ai pris possession au nom de la FRANCE de l'île SPRATLY située par 8, 39 Nord et III, 55 Greenwich et des îlots qui en dépendent. En signe de quoi, j'ai fait hisser sur l'île SPRATLY le pavillon français et je l'ai fait saluer d'une salve de 21 coups de canon. DELATTRE, Lieutenant de Vaisseau, Commandant [signature]...' Document signé par le commandant et l'équipage de la Canonnière 'Malicieuse'. Photocopie dans 'Note historique 842 sur Iles Spratleys et Paracelse', Carton 26, MAE.

⁸ Foreign Office (FO) draft memorandum to the Law Officers of the Crown, November 1931, Colonial Office (CO) 273/573/23, PRO, also in Treasury (T) 161/622.

⁹ Gouverneur Général Robin (Hanoi) au Président du Conseil (Paris), no. 2210, 31.12.30, sous-dos. 9, dos. 'Iles Spratley', Note historique 842, *op. cit.*

¹⁰ See map in CO 273/573/23, PRO.

¹¹ Extract from *The Washington Post* 6.1.1899, printed for the use of the British Foreign Office, March 1900, CO 273/573/23, PRO.

Apparently, the French occupation had been undertaken without knowledge of the British claim to two islands within the area. Spratly Island itself had been ‘discovered’ by the British whaler *Cyrus* in 1843 (and named after its captain); it had been surveyed by the *HMS Rifleman* in 1863, and as mentioned, Labuan had issued a license to three businessmen to exploit guano on Spratly Island and Amboyna Cay in 1877. On this occasion the businessmen had even been authorised to plant the British flag, and since then the two islands had been listed as British possessions in official British documents. A new license had been given to the Central Borneo Company in 1889 after the islands had been visited by a British ship who found no trace of actual exploitation by the former licensees. However, the Central Borneo Company also failed to exploit the guano.

In 1930, when learning about the French occupation, the British Consul General in Saigon asked the Governor of Cochinchina for an explanation, and afterwards reported to London that the French seemed to have made a mistake; apparently they had been unaware of the British claim.¹² A drawn out but silent dispute followed between Britain and France, generating a number of legal studies in London and Paris. The reason why the dispute was not made public may partly be that the Foreign Office did not want to disturb Franco-British relations in a region where the French navy and territories served as highly desirable buffers against threats to British possessions. Key Foreign Office officials also felt that Britain’s own claim was weak in law and not really worth pursuing. The reasons they cited were that the British licensees had not really utilised the islands, and that Britain had never effectively administered them.¹³ On the other hand, the Foreign Office did not want to give up the British claim since it might be pursued in the future, if France should forfeit its claim. Therefore, while not officially protesting the French claim, Britain also did not recognise it. By contrast, the Japanese Ministry of Foreign Affairs officially protested the French annexation, and prepared its own claim to Spratly Island, based on its possession of Taiwan. Chiang

¹² Two messages from Consul-General Saigon to FO, 23.4.30, T 161/622, PRO, and CO 273/565/12, PRO. See also Geoffrey Marston. ‘Abandonment of territorial claims: the cases of Bouvet and Spratly Islands’, *British Yearbook of International Law* (1986): 337–56 (at p. 344), who refers to FO 371/14916, folder 407.

¹³ Another reason for the caution of the Foreign Office was that if Britain were to pursue its claim legally, it would have to employ arguments which could be used by other states in relation to other disputed islands, where Britain had much stronger stakes.

Kai-shek's Chinese government, or the government of Guangdong province, was also later said to have protested the French occupation, but the French Foreign Ministry did not register any such protest.¹⁴

Not everyone in London was happy about the pro-French stance of the Foreign Office. The Colonial Office accepted it, the Treasury too, and the Governors of Hong Kong and the Straits Settlements did not display any particular interest in the issue,¹⁵ but the Admiralty and the Air Ministry thought differently. They argued that Britain should push its own claim, since the Spratly Islands could have a strategic value as a refuelling station for seaplanes, and possibly as an area of naval manoeuvres.¹⁶ The idea seems to have been that the British navy should be able to lure hostile naval forces into the shallow waters of

¹⁴ 'L'occupation française ne donna lieu à aucune réclamation des Etats ci-après, qui pouvaient avoir des intérêts ou des droits à faire valoir: Philippines; Pays-Bas; Chine; Etats-Unis. Le Gouvernement britannique demanda des explications: celles-ci fournies, il s'en déclara satisfait (Avril 1930). Seul le Gouvernement japonais protesta...' Note du Service Juridique de MAE (first draft called 'Note pour la Direction d'Asie-Océanie (à l'attention de M. M. de Boissezon et Salade)', Paris 6.8.46, signé Noël Henry, dos. 213, s.-s. Chine, AO 1944-1955, MAE. A later French study said there had been 'une certaine émotion' in Chinese circles in Guangzhou and above all Hainan after the French annexation of the Spratly islands in 1933, but no official protests. Note sur les éléments d'échange possibles en vue d'un règlement de l'affaire des Paracels, Paris 'Juin 1947', MAE Asie-Océanie, marquée RB/GM, dos. 215, s.-s. Chine, AO 1944-1955, MAE. However, according to British intelligence, the Chinese minister in Paris 'was ordered to lodge protests with the French Ministry of Foreign Affairs' on 26 July 1933, the day following the French announcement of annexation. 'Data regarding ownership of the following island...', OIR intelligence memorandum No. 3436.50A, 15.4.47, FO 371/144419, PRO.

¹⁵ Governor of Hong Kong (W. Peel) to Lord Passfield, 19.9.30, T 161/622, PRO. Deputy of the Officer Administering the Government of the Straits Settlements (M. B. Shelley) to Lord Passfield (Colonial Office), 21.1.31, T 161/622, PRO. The Singapore government had asked the opinion of Mr. A. G. Colina, formerly Vanscolina, a long-standing resident of Labuan who had once been secretary of the Central Borneo Company. He stated that about nine years ago his attention had been drawn to the possibility of profitably working the guano deposits said to exist on Spratly Island and Amboyna Cay. However, 'I was never able to spare the time to visit them nor could I gather very much reliable information about them. I did, however, learn from Native sources that no safe anchorage for ships could be obtained in the vicinity and that it was unsafe to approach the island in rough weather. This information, which decided me against the venture, was subsequently confirmed by a Norwegian ship-master whose name I now forget. As far as I am aware, the neighbouring waters have never been properly surveyed and I very much doubt if it would be possible to charter a merchant vessel to visit the islands'.

¹⁶ '... the importance of this island from a Naval aspect is that it lies on the strategic route between Singapore and Hong Kong amongst a group of islands about half-way between these two places. The location of possible refuelling bases for light forces in the China Sea is at present receiving attention; and although the utility at the present time of this particular island for naval purposes may be doubtful, it

the Spratly area, and utilise Britain's superior charts and navigational aptitude to outfox them. In response to these military objections, the Foreign Office decided, on 21 November 1931, to refer the matter to the Law Officers of the Crown, who in July 1932 came up with a report more or less confirming the Foreign Office view:

In our opinion His Majesty's claim to sovereignty over Spratley Island and Amboyna Cay in April 1930 was of so doubtful a nature that it could only be laid before the Permanent Court of International Justice with a faint prospect of success. It is now well settled in general that an inchoate title to sovereignty may be acquired either by discovery or by reason of circumstances having an effect similar to discovery, but that the inchoate title thus acquired must be perfected within a reasonable time by an open and continuous exercise of sovereignty, of which the most common form is occupation in fact.¹⁷

The Admiralty did not change its mind,¹⁸ but an interdepartmental meeting decided, in July 1932, to refrain from pushing the British claim.

In the following year, the French government, in response to a British request for the (non-existing) text of the French official annexation, decided to publish such a proclamation in the *Journal Officiel* of 26 July 1933. The French concept of possession was now modified to make the French claim more compatible with customary international law. France no longer claimed an area defined by geographic coordinates, but instead claimed sovereignty to six named islands: Spratly, Amboyna Cay, Itu Aba, Les Deux Iles, Loaita, and Thitu.¹⁹

is undesirable that the French should establish themselves in the area'. Alex Flint (Admiralty) to Under Secretary of State, Foreign Office, 27.8.30, T 161/622, PRO. Copy of the letter (M.02633/30) also in CO 273/565/12, PRO.

¹⁷ Law Officers to Sir John Simon, W 8733/178/17, 29.7.32, T 161/622, PRO. See also Marston, *op. cit.*, p. 349.

¹⁸ The Admiralty argued, on the basis of a number of records, that '... the discovery of these islands and reefs was made by British ships in every case and that the original as well as the later survey work in this dangerous area has been entirely carried out by British ships'. The Admiralty to the Under Secretary of State, FO, 23.2.33, CO 273/589/4, PRO. The Maritime Institute of Malaysia would 64 years later publish a book-length documentation of this survey: David Hancox and Victor Prescott, *Secret hydrographic surveys in the Spratly Islands* (Kuala Lumpur: MIMA, 1997).

¹⁹ Other European names for Spratly Island are Storm Island and Ile de la Tempête. Amboyna Cay has been referred to as P. Kecil Amboyna in Malaysia. Itu Aba, which is a part of the Tizard Bank and Reefs, is called Taiping Dao in Chinese and Dao Ba Binh or Dao Thai Binh in Vietnamese. What the French call Les Deux Iles is called North Danger Reef in English. Loaita is Nanyue Dao in Chinese. Thitu Island has later been referred to as Pagasa Island by the Philippines and Zhongye Dao by China. In Zhenhua Han, *History and Geography Studies on the South China Sea Islands*,

Evicted by Japan, 1937–45

Already in October 1936, before the Japanese invasion of China, the French and the British admiralities worried that Japan might intend to occupy Hainan Island, and use it together with Taiwan to challenge Europe's and the United States' naval hegemony in the South China Sea.²⁰ Chiang Kai-shek also warned Britain of this eventuality,²¹ which would prejudice the security of Hong Kong and of French Indochina. France also worried that Japan might try to establish a military presence in the Paracels. An Anglo-Chinese project for establishing a base in the Paracels had come to nothing, so now the French started secretly preparing a move to pre-empt a Japanese occupation.²² A French warship visited the Paracels in February 1937, and a report was written which stated that these islands had no commercial value, but could serve as a stepping stone (*jalon*) for Japanese southward expansion. The proximity of the Paracels to the coast of Annam made a Japanese presence intolerable. It was therefore proposed to set up a lighthouse, and to study the question further.²³

With the outbreak of the Sino-Japanese war in 1937, the strategic situation became precarious from the French and British points of view. Taiwan, which had been Japanese since 1895, served as a base area for the war against Chiang Kai-shek's Chinese government, and the Japanese navy displayed a keen interest in preventing the shipping of supplies from Europe's Asian colonies to ports under the control of the Guomindang. In September 1937, the news that Japan had occupied Pratas Island west of Taiwan, increased French and British anxieties.²⁴

On 2 July 1937, the British Air Ministry had also reported a Japanese presence on Spratly Island and Itu Aba, the two largest islands in

there is a comprehensive list of what various Chinese sources have had to say about the numbers and names of islands occupied by France in the 1930s.

²⁰ Minute by D. of P. (S. H. Phillips), 6.10.36, ADM 116/3916, PRO.

²¹ British Embassy Nanking (H. M. Knatchbull-Hugessen) to Anthony Eden, 9.10.36, ADM 116/3916, PRO.

²² Le Ministre des Affaires Etrangères au Ministre des Colonies, No. 1584, 19.12.36, photocopie dans Note historique 842 sur Iles Spratleys et Paracelse, Carton 26, MAE.

²³ Le Vice-Amiral Esteva, Commandant en Chef FNEO, au Ministre de la Marine, no. 19 EM2, signé à bord Lamotte-Picquet, 16.3.37, 1BB4 74, Service Historique de la Marine (SHM), Paris.

²⁴ Admiralty (J. Lawson) to Foreign Office, no. M. 03656/37, 8.9.37, ADM 116/3916, PRO.

the Spratly area. This caused considerable worry. After the Foreign Office had waived the British claim in favour of the French in 1932, the French had, in the view of London's military analysts, failed in their duty to protect these islands against Japanese incursions. Holland was also deeply worried by these developments, since Japan had come to rely entirely on provisions of oil from the Netherlands Indies.²⁵ The British Admiralty and Air Ministry therefore developed a proposal to ask the French for a lease of either Itu Aba or Thitu, in order to construct a British airfield.²⁶ The French considered these islands to be the only possible landing sites in the whole group, since all the others, including Spratly, were 'submerged during the monsoon'.²⁷ It would be tricky to lease Itu Aba to the British, however, since France would then first have to evict a recently established Taiwanese fishing settlement (Japanese nationals). In 1938, the French and Japanese quarrelled diplomatically about the French occupation and the Japanese settlement in Itu Aba. The French took a long time to consider the British request, and before anything could be done about it, the news came that Japan had also occupied Spratly Island, which was closer to Indochina. Since there were no French forces on Spratly Island at the time, the Japanese did not meet any resistance. The British were furious, and on 19 February 1938, the Foreign Office asked the British Embassy in Paris to convey to the French government that if they did not intend to maintain their claim, 'we should wish to revive ours'.²⁸ At an Interdepartmental Meeting held in London on 30 March 1938 it was decided, subject to the opinion of the Committee of Imperial Defence, (a) that it was essential to prevent the establishment of Japanese air or submarine bases in the Spratly islands; (b) that it was extremely desirable to exclude Japanese nationals altogether; and (c) that in case the French Government were not ready to take action to exclude the Japanese without a promise of support from His Majesty's Government, it would be necessary to discover from the Committee of Imperial Defence exactly how

²⁵ British Secretary of State in British Delegation Geneva to Foreign Office, no. 34 (reporting a conversation with the Dutch PM), 15.9.37, ADM 116/3916, PRO.

²⁶ Minute with unknown signature, 28.10.37, CO 273/63572, PRO. See also Marston, *op. cit.*, p. 352.

²⁷ According to a statement made by M. Hoppenot to the British ambassador in Paris: French Ambassador Paris (Sir E. Phipps) to FO, no. 251, 28.2.38, copy in CO 273/635/2, PRO.

²⁸ Anthony Eden to French Ambassador Paris (Sir E. Phipps), no. 40, 19.2.38, Copy in CO 273/635/2, PRO. See also Marston, *op. cit.*, p. 352.

much support it would be possible to promise them. Immediately after the meeting, the Foreign Office asked the military authorities how much they would be willing to do to defend the French in the Spratlys. The Foreign Office also prepared itself for discussing the matter with Australia, New Zealand, the Netherlands and the USA.²⁹ France demanded that the fishing settlement in Itu Aba comply with French regulations, but Japan refused. Britain urged France to occupy the islands 'with natives from Indo-China', and sent the survey ship *H.M.S. Herald* to the area in April 1938, to look for a suitable place to construct an airfield.³⁰ In June 1938, French Indochina charged a colonial official with the task of setting up a meteorological mission in Itu Aba.³¹

At this time France worried deeply about Japanese designs on Hainan, and suggested to Britain that they should ask China to neutralise the Chinese island and place it under temporary Anglo-French control.³² In the same month, France sent a mission to the Paracels with instructions to establish lighthouses and a typhoon warning station, and leave behind a detachment of 'Annamite police' at Woody and Pattle Islands. Their official task would be to combat piracy. The French had informed Chinese authorities about this move, and assured them that the action should in no way be regarded as prejudging the question of sovereignty. It was meant to prevent Japan from utilising the islands, a shared Sino-French concern. However, Japan had already established a military presence on Woody Island in January 1938, and on Lincoln Island in April,³³ so when the French forces arrived, they were met by two Japanese warships. The Japanese made no difficulty about allowing the French to land, and the ships' commanders exchanged courtesy visits. The French then proceeded

²⁹ 'Islands in the South China Seas', note from the Foreign Office, 27.4.38, CO 273/646/5, PRO.

³⁰ Minute signed E. M. Gent, 31.3.38, CO 273/646/5; 'Islands in the South China Seas', note from the FO, 27.4.38, CO 273/646/5, both in PRO.

³¹ Le Chef du Réseau Météorologique Sud au Chef du Service Météorologique de l'Indochine à Phu-Lien, Saigon 3.6.38, pièce annexe à Le Directeur P. I. du Service Météorologique de l'Indochine à l'Amiral Commandant les Forces Maritimes en Extrême Orient, no. 51/MET/D-60/ceuf, Saigon 28.8.51, dos. Iles Spratley, UU-Sup 12, SHM.

³² Foreign Office to British Embassy Tokyo (Sir R. Craigie), no. 435, 25.6.38, and no. 449, 1.7.38, ADM 116/3916, PRO. See also Minute by S. H. Phillips (Admiralty), 6.7.38, same folder.

³³ Bulletin de Renseignements sur l'extrême-Orient et le Pacifique no. 13 du 2ème Bureau de l'Etat-Major des Forces Expeditionnaires Françaises en Extrême-Orient, 1.8.45, TT A 276, SHM.

to hoist the French flag, whereupon the Japanese Senior Naval Officer politely pointed out that the islands were Japanese and had been Japanese for the last sixty years.³⁴ The French and Japanese now both maintained a presence in the Paracels. The French kept garrisons in Woody and Pattle Islands. On Woody Island, there was also a heavy Japanese presence (150 men), but on Pattle Islands the French and ‘Annamites’ were alone. In June 1939, the two islands received the visit of the new French naval commander for the Far East, Admiral Jean Decoux who in the following year became French Governor General in Indochina.³⁵ The French and Japanese in Woody Island never seem to have fought each other.

In February 1939, Japanese crack forces made the anticipated landing on Hainan island,³⁶ and quickly overcame local resistance. This was followed up in the following month with a declaration claiming Japanese sovereignty to the Spratly islands. Japan informed the British and French authorities in March 1939 that it had incorporated the ‘Sinnan islands’, i.e., all islands between 7 and 12 North latitude and 111 and 117 East longitude (the same area claimed by France) under the Government-General of Taiwan (Formosa).³⁷ This time Britain protested loudly and at once. In an oral statement to a Japanese representative, the Foreign Office declared that Britain had never formally abandoned its own claim.³⁸ Then the Foreign Office

³⁴ R. G. Howe (FO) to the Secretary of the Admiralty, no. 1526, 11.7.38 and no. 1560, 14.7.38, ADM 1/9951, PRO.

³⁵ *Compte rendu mensuel d’activité* no. 4 (mois d’Avril 1939) des Forces Navales en Extrême-Orient, signé bord ‘Lamotte-Picquet’, Saigon 5.5.39 par le Vice-Amiral Le Bigot, Commandant en Chef les Forces Navales en Extrême-Orient, et *Compte rendu mensuel d’activité* no. 5 (mois de Mai 1939) des Forces Navales en Extrême-Orient, signé bord ‘Lamotte-Picquet’, Saigon 6.6.39 par le Vice-Amiral d’Escadre Decoux, Commandant en Chef les Forces Navales en Extrême-Orient, 1BB4 75, SHM. Decoux would succeed General Catroux as Governor General of French Indochina in June 1940.

³⁶ Tokyo (Craigie) to Foreign Office, no. 124, 10.2.39, ADM 116/3916, PRO.

³⁷ The Japanese Ministry of Foreign Affairs made the announcement: ‘Spratly Islands are a group of small reefs lying in South China Sea off the coast of French Indo China. These reefs have long been ownerless. However in 1917 the Japanese began before Nationals of any country to embark upon economic development of the reefs which has continued ever since by investing a considerable amount of capital and erecting various permanent establishments. ... in order to eliminate such inconveniences and disadvantages have decided to place the reefs under the jurisdiction of Governor General Taiwan...’ In an aide mémoire of 31.3.39 to the British government, the islands were called the ‘Sinnan Islands’ and said to be half way between Saigon and Palawan. Craigie (Tokyo) to FO, no. 316, 31.3.39, FO 371/23543, PRO. See also Marston, *op. cit.*, p. 353.

³⁸ FO to Craigie (Tokyo), no. 169, 1.4.39, FO 371/23543, PRO.

had second thoughts.³⁹ On 6 April 1939, when being asked about the matter in the House of Commons the Parliamentary Under-Secretary of State for Foreign Affairs referred only to the French claim, not the British. Anthony Wedgwood Benn asked if ‘this island’ did not also have strategic meaning for Britain itself, but the Foreign Minister just answered: ‘Obviously this island is of great strategical importance’.⁴⁰ When Britain, four days later, sent a diplomatic note to the Japanese Minister of Foreign Affairs, it did not refer to either the British or French claim, but merely stated that the Japanese claim lacked any legal foundation, and would ‘complicate still further the situation in the Far East’.⁴¹ France, on its part, delivered a strongly worded protest to the Japanese Minister of Foreign Affairs.

At this time, Japanese–Taiwanese and Franco-Indochinese settlements lived side by side on Itu Aba and Spratly Island, just as on Woody Island in the Paracels. On Spratly Island, a French retired master mariner led a small group of Indochinese turtle fishermen. He had a wireless receiving and transmitting set. At the same time there were about eight Japanese who worked, according to the British consul in the French colony, ‘with the help of natives’, at collecting and shipping guano. As the Island was known to be only 8 feet high, 500 yards long and 300 yards broad, the humorous Consul remarked that ‘the alleged annexation can hardly be said to be inspired by the need for vital space’.⁴² Regardless of British humour, the Japanese presence in the Spratlys did cause anxiety, and not just in Britain and France. The Americans and the Dutch were worried as well.⁴³

³⁹ Ronald and Howe minutes in FO 371/23543, PRO.

⁴⁰ ‘The question of a protest is a matter which primarily concerns the French Government’. Newspaper clipping (perhaps from *The Times*), 6.4.39 in FO 371/23543, PRO.

⁴¹ Marston, *op. cit.*, p. 354.

⁴² British Consulate-General Saigon (H. G. Walsh) to FO, no. 24, 1.4.39, FO 371/23543, PRO.

⁴³ The United States protested in Tokyo. The Dutch were speculating that the Spratly Islands might represent more economic value than the British and French had thought, and that the Japanese had a greater awareness of the island group’s economic opportunities. Minute of conversation with the Netherlands Minister, signed in the Foreign Office by R. S. Howe, 3.4.39, FO 371/23543, PRO. In May 1939, Mr. Lovink, the Netherlands East Indies’ Adviser for Far Eastern affairs advanced a theory, in conversation with a British representative, that the fact the area had been chartered as ‘dangerous for navigation’ had deterred other countries than Japan from making a thorough exploration: ‘The central Japanese figure concerned in the Storm Islands group is one Sueji Hirata of Takao, Formosa and the Paracels Islands, who has been interested in the Storm Islands area since 1933. This man seems to be an adventurer of

surrender, the successful Vietnamese 'August Revolution' led the Viet Minh league to power in Hanoi, Hue and Saigon. A new Democratic Republic was proclaimed, with Ho Chi Minh as president. Similar events in Indonesia led to Sukarno's proclamation of independence, but in the British possessions in Malaya and north Borneo, there were no comparable revolts.⁵⁸

European Resurgence, 1945–49

Whereas the years 1930–1945 form a period of European decline and Japanese ascendancy in the area around the South China Sea, the first five years after the Japanese surrender were marked by European *return and reform*. The United States, as an extra-European power, was now the prevailing naval power in the region. It ruled Japan, retained bases, influence and economic hegemony in the Philippines, and was the main supporting power for Chiang Kai-shek's Chinese government. In most of Southeast Asia, however, it practised a hands-off policy, allowing the British, Dutch and French to re-establish colonial rule, often with American weapons. The three European powers were at this time engaged in an active effort to re-establish local prestige, and to thoroughly reform their imperial institutions. As in the past, their navies were prime instruments in demonstrating power.

After the Japanese capitulation, of course, the Allies gave priority to reoccupying the main, inhabited areas, and had no time to pay attention to the minuscule Paracel and Spratly Islands. In China, Chiang Kai-shek rushed to seize control of the territories abandoned by Japan, while a British naval force sailed at full speed up through the South China Sea to get in his way and reinstate British rule of Hong Kong. In the Philippines, the USA fulfilled its promise to grant independence, while securing a treaty on the lease of military bases. Britain reoccupied Singapore, Malaya and north Borneo, and the Southeast Asia Command of Admiral Lord Louis Mountbatten took responsibility for reoccupying the Netherlands Indies and French Indochina. Meanwhile, France and Holland were asking the United States for material support to equip and transport the forces needed

⁵⁸ See Stein Tønnesson, 'Filling the power vacuum: 1945 in French Indochina, the Netherlands East Indies and British Malaya', in Hans Antlöv and Stein Tønnesson (eds), *Imperial Policy and Southeast Asian Nationalism* (London: Curzon Press, 1995), pp. 110–43.

to reinstate colonial rule. By September–October the first Dutch and French forces arrived in Jakarta and Saigon, and were helped by the British to reinstate control. In Northern Indochina, where Ho Chi Minh had established his Democratic Republic of Vietnam, a huge Chinese (Guomindang) army undertook the role of Allied occupying force, and of receiving the Japanese surrender. The stage had been set for the Indonesian and Indochinese resistance wars, or wars of liberation.

Under these circumstances, who found time to think about the Spratlys and the Paracels? The answer is Generalissimo Chiang Kai-shek, France's new High Commissioner in Indochina, Admiral Georges Thierry d'Argenlieu, and parts of the Philippine press. It took about a year from the conclusion of the Pacific War, but towards the end of 1946 both the Chinese and the French made moves to demonstrate their rival sovereignty claims in the two island groups, and parts of the press in the Philippines took an active interest in the question of the archipelago to the west of Palawan, as part of the domain of the former Sulu sultanate. The new independent Philippines was a newcomer to the scramble for the Spratlys. As a colonial power, the USA had never had designs on these islands, but had respected the parameters established in its 1898 treaty with Spain. In July 1946, Philippine Vice-President Quirino, who had eagerly tried to convince the USA to occupy the Spratlys on behalf of the Philippines already in 1938, stated at a press conference that the Philippines would claim the island group west of Palawan as essential to its security. The French Consul in Manila reported that the Philippine press was so eagerly demanding an active Spratly policy that the government had decided to undertake a study. However, although the US Navy had itself displayed an active interest in the Spratlys, it did not seem to encourage the Philippines to assert itself in this island group.⁵⁹ Not all Filipinos were enthusiastic. A humorous report, published in the Philippine press at the time, listed all the claims to this 'group of barren coral reefs', and remarked: 'Presumably the birds roosting on the Spratlys don't care who owns them'.⁶⁰ In August 1947, the French consul in Manila met Quirino, now foreign minister, and told him the island group he wanted west

⁵⁹ M. G. Willoquet, Consul Général Manille à MAE, no. 217 AS, 18.7.46, dos. 213, s.-s. Chine, AO 1944–1955, MAE. For US disinterest, see also Francis Lacoste, Chargé d'affaires aux Etats-Unis à Bidault (MAE), no. 450/AS, 21.2.47, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

⁶⁰ AP News Report, written by James D. White and published in the *Philippine Liberty News*, 6.8.46, clipping in dos. 213, s.-s. Chine, AO 1944–1955, MAE.

of Palawan was the same island group (the Spratlys) that France had declared to be under French sovereignty in 1933. The French Consul reported that he had never seen anyone so surprised as Quirino when learning this news. He apparently had thought that the French were claiming islands further west, and that his islands were positioned between the area claimed by France and the Philippines proper. The French consul thought that after this encounter, the affair would be put to rest and filed by the Philippine authorities.⁶¹ Quirino, however, did not quite give up. In May 1950 he held another press conference, saying the Philippines would not push its claim as long as Chiang Kai-shek maintained control, but if there were a danger of Chinese communist occupation, the Philippines would assert its rights.⁶² A French report said the Philippine government had rejected a proposal from the Ministry of War to occupy the Spratlys, but that Quirino was harbouring the idea of buying the Spratlys from Chiang Kai-shek for money.⁶³

Despite the Philippine interest, the main quarrel in 1946–49 was between France and China, and they disputed both the Spratlys and the Paracels. A Shanghai journal claimed in January 1947 that the Chinese flag had been hoisted on Woody Island in the Paracels already in December 1945 by a meteorological mission from Taiwan. One wonders if this could be the former Japanese-Taiwanese settlement changing colours.⁶⁴ The Franco-Annamese settlement, as noted, had been forced to leave the Paracels after the 9 March 1945 Japanese coup against the French in Indochina. However, when the French frigate *Escarmouche* surveyed the Paracels one year later, in May 1946, it did not find any inhabitants, either Chinese or Indochinese,

⁶¹ M. G. Willoquet (Manille) à Sivan (Nankin) par voie de MAE (Paris), 18.8.47, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

⁶² On 17th May 1950, at a Press conference, President Quirino stressed the strategic importance of the Spratley Islands to the Philippines, but added that ‘as long as Nationalist China is holding them, there is no necessity for the Philippines to seize control’. He also asserted that during 1946, when he was Foreign Secretary, he had asked the US State Department for assistance in acquiring a foothold in these islands, but that no action had been taken. C.O.S. (50) 273, 27.7.50, p. 5, Dominions Office (DO) 35/2827, PRO.

⁶³ Colin (Manille) à MAE, no. 61, 22.5.50, dos. 215, s.-s. Chine, AO 1944–1955, MAE.

⁶⁴ On 29 January 1947, the Shanghai newspaper *Ta Kung Pao* claimed that ‘le drapeau chinois a été arboré sur l’île Boisée le 12 décembre 1945 lors “d’une prise de possession par le service météorologique de Formose”’. J. Baeyens, Consul Général de France à Changhai à Meyrier, Ambassadeur de France en Chine, 29.1.47, dos. 214, s.-s. Chine, AO 1944–1955, MAE.

only a few fishermen collecting turtles.⁶⁵ Two months earlier, on 6 March 1946, France had signed an accord with the Democratic Republic of Vietnam, recognising it as a 'free state'. Later that month, High Commissioner d'Argenlieu had tried to impress President Ho Chi Minh by receiving him pompously on board one of his ships off the Indochinese coast. Now d'Argenlieu wanted to establish a naval mission in the Paracels. He asked Paris to confirm that this island group, as well as the Spratlys, were under French sovereignty. The main value of the Paracels would be as an advance post to be used for meteorological purposes, he said, but in the future its phosphates might also be exploitable.⁶⁶ Since d'Argenlieu and the French government were busy negotiating with Ho Chi Minh's Vietnamese government while at the same time seeking to persuade Chiang Kai-shek to end the Chinese occupation of northern Indochina, the French did not immediately take action in the South China Sea. Meanwhile, Chiang Kai-shek's government was making its own plans, and in August 1946, the French ambassador to Nanjing reported that China intended to occupy the Spratlys (for which he used the Japanese name *Shinangunto*).⁶⁷ Shortly afterwards, the French foreign ministry came up with its reply to the request from d'Argenlieu concerning the Spratlys and the Paracels.

The Spratlys were said to be of virtually no economic value, but with strategic interest due to the development of seaplanes. A clear distinction was made between the Spratlys, as French territory attached to the directly ruled French colony Cochinchina, and the Paracels, as Annamese territory under French protection. Although the Spratlys had no doubt been *res nullius* when France took possession of them in the 1920s–30s, and French sovereignty to them could not be contested, it would be desirable to reaffirm French sovereignty through naval reconnaissance, replacement of markers, establishment of a garrison and official pronouncements. This should not wait for the peace treaty with Japan since France had never accepted the Japanese

⁶⁵ Le Haut Commissaire pour l'Indochine (Haussaire) à MAE, no. 106 & 107, 3.2.46 et Haussaire Indo Saïgon à EMGSN Paris, no. 5454, 3.6.46, dos. 214, s.-s. Chine, AO 1944–1955, MAE.

⁶⁶ D'Argenlieu (Saïgon) à MAE, no. 829 F; d'Argenlieu à Juin, Chef d'Etat-Major Général de la Défense Nationale, no. 194 EMP/3, 11.6.46, dos. 214, s.-s. Chine, AO 1944–1955, MAE.

⁶⁷ Meyrier (Ambafrance Nankin) à MAE Paris, 5.8.46, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

claim.⁶⁸ The French Foreign Ministry wanted instructions to be sent to d'Argenlieu to take proper measures to reaffirm the French claim, but warned its ambassador in Nanjing against any initiative that could engender a Spratly quarrel with China. Since the Chinese had not protested in 1933, China could not contest French sovereignty.⁶⁹ In the following month, the French ship *Chevreuil* visited the Spratly islands, and found them uninhabited. It erected a cement marker on Itu Aba on 5 October 1946.⁷⁰

The Foreign Ministry found that eight features in the Paracels were 'real islands'. The Hue court had created a company in the eighteenth century to exploit these islands, and Emperor Gia Long had claimed them on behalf of 'Annam' in 1816. In the years 1909–37 the group had been contested between China and France (acting on behalf of Annam), and in 1938 France had occupied the Paracels in agreement with China, with the understanding that this was a measure undertaken to prevent Japanese expansion, and that it would not prejudice the sovereignty question. The study found that the nineteenth-century Annamese claim formed a historical basis for making a modern claim, but to satisfy modern principles, effective occupation would be needed, under some publicity. The problem, in the view of the French Foreign Ministry, was that since France claimed the Paracels on behalf of Annam, the government of Vietnam ought to be involved in the occupation, but to consult Ho Chi Minh's government was 'inconvenient'.⁷¹ From October to

⁶⁸ Note du Service Juridique de MAE (first draft called 'Note pour la Direction d'Asie-Océanie (à l'attention de M. M. de Boissezon et Salade)', Paris 6.8.46, signé Noël Henry, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

⁶⁹ Chauvel (MAE) au Secrétaire Général de Cominindo, no. 628 AS, 21.9.46; Chauvel (MAE) à Meyrier (Ambafrance Nankin), no. 382 AS, 21.9.46; tous les deux dans dos. 213, s.-s. Chine, AO 1944–1955, MAE.

⁷⁰ Lettre de C. C. Hiribarren, 2ème Bureau Forces Maritimes d'Extrême Orient à un Colonel et à Hunter, Saigon 19.5.49, dos. Iles Spratley, UU-Sup 12, SHM.

⁷¹ 'Etant donné l'accord du 6 mars 1946 entre la France et le Viet-Nam, on doit se demander si l'Annam doit être associé, d'une manière ou d'une autre, à la réoccupation des Paracels. Une consultation préalable du Gouvernement vietnamien aurait de nombreux inconvénients pratiques; par ailleurs il n'est pas possible de hisser le drapeau annamite sans la participation de représentants de ce gouvernement. L'accord du 6 mars 1946 ayant seulement reconnu au Viet Nam des droits de souveraineté intérieure, son statut extérieur étant laissé en suspens, la situation n'a pas changé. C'est à la France qu'il appartient de faire valoir, pour le compte de l'Annam, les droits de celui-ci au dehors. Nous sommes donc fondés à procéder à une réoccupation des Paracels pour le compte de l'Annam. Il va de soi que, s'il y a une réaction de la part de celui-ci, il sera possible, après coup, de l'associer à l'opération en fonction du statut extérieur qui lui sera reconnu'. Note du Service Juridique (MAE)

December the relationship between Ho Chi Minh's government and the French Fourth Republic entered a period of crisis, and war broke out on 19 December 1946.⁷² An inter-ministerial meeting in Paris on 17 October decided to instruct d'Argenlieu to establish a meteorological station in the Paracels in order to mark the reoccupation of the archipelago.⁷³ The Minister of Overseas France instructed d'Argenlieu on 22 October to both establish a meteorological station and a garrison of local militiamen on behalf of 'Annam', but without involving the Vietnamese government.⁷⁴ Amidst the Franco-Vietnamese crisis d'Argenlieu does not seem to have found time to carry out this instruction. Thus China got to the Paracels first. The French ambassador to Nanjing warned that this might happen on 23 November, but this was the very date when the supreme commander of the French forces in Indochina decided to teach the Vietnamese a lesson and engage his naval forces in bombarding the port city Haiphong, the event that precipitated the outbreak of war one month later. The French sent a reconnaissance plane to the Paracels on 25 November, but did not detect any Chinese presence. The French Foreign Ministry instructed d'Argenlieu on 28 November to occupy the Paracels without delay.⁷⁵ D'Argenlieu, however, further postponed the operation, citing weather conditions and practical problems as the

sur la 'souveraineté française sur les Paracels', Paris 6.9.46, dos. 214, s.-s. Chine, AO 1944-1955, MAE. The note is printed as appendix 43 in Monique Chemillier-Gendreau, *La souveraineté sur les archipels Paracels et Spratleys* (Paris: l'Harmattan, 1996). For an interesting cover letter from the Foreign Ministry to the Interministerial Committee for Indochina, see Le Ministre des Affaires Etrangères (signé Chauvel) au Secrétaire Général du Comité de l'Indochine, 13.9.46, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁷² For detailed studies of the crisis, see Philippe Devillers, *Paris-Saigon-Hanoi* (Paris: Galliard/Julliard, 1988) and Stein Tønnesson, *1946: Déclenchement de la guerre d'Indochine* (Paris: l'Harmattan, 1987).

⁷³ Compte rendu de la réunion du Comité Consultatif pour l'Indochine du 17.10.46, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁷⁴ '...la réoccupation, qui devra faire l'objet de publicité, s'effectuera pour le compte de l'Annam sans que le Viet-Nam y soit associé'. Le Ministre de la France d'Outre Mer (Moutet) au Haut Commissaire de France en Indochine (d'Argenlieu), 22.10.46, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁷⁵ '...En présence des intentions manifestées par la Chine de réaffirmer sa souveraineté sur ces îles, il devient très important que notre pays puisse invoquer une priorité de réoccupation. Je vous serais donc reconnaissant de rappeler cette question à l'Amiral d'Argenlieu en lui demandant de détacher sans retard quelques éléments militaires dans l'archipel des Paracels'. Le Ministre des Affaires Etrangères au Ministre de la France d'Outre-Mer, no. 3176/AS, 28.11.46, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

reason.⁷⁶ Meanwhile, the Chinese arrived. The Chinese press was full of reports at this time about a southern expedition to reaffirm Chinese sovereignty to Pratas (Dongsha), the Paracels (Xisha) and the Spratlys (Nansha).⁷⁷

On 4 January 1947, while war was raging on the streets of Hanoi between French and Vietnamese troops, a Chinese detachment landed on Woody Island.⁷⁸ A spokesman for the Chinese Foreign Ministry declared at a press conference a few days later, that the Chinese government had taken back the Paracel Islands, which had never ceased to belong to China.⁷⁹ And on 10 January, a French reconnaissance plane confirmed the presence of some twenty men waiving Chinese flags on Woody Island.⁸⁰ France protested formally to the Chinese government and in this protest, quite interestingly, claimed that France was upholding sovereignty to the Paracels on behalf of 'Viet Nam',⁸¹ thus using the new national name for the nation that France was in principle 'protecting' and in practice fighting. The name 'Vietnam' was anathema to d'Argenlieu, who insisted on calling the country 'Annam' and its dominant ethnic group 'Annamites'.

On 13 January, d'Argenlieu finally decided to take action. He sent a naval ship, the *Tonkinois*, to the Paracels, and instructed it to occupy both Pattle and Woody Island, in case there were only fishermen and no regular Chinese detachment there.⁸² When arriving at Woody Island

⁷⁶ 'La saison de la mousson augmente notablement la durée traversée 380 N (...) Rang-Paracels et rend accostage embarcations sur les récifs très délicat et parfois impossible ...'. Télégramme Haussaire Saigon à MAE et Défense Nationale, no. 298 à 302, 12.12.46, dos. 214, s.-s. Chine, AO, MAE.

⁷⁷ New Taiwan Monthly quoted in R. Heydon (Australia House) to C. R. Price (Commonwealth Relations Office), 27.1.48, DO 35/2827, PRO. Excerpt in English of *China Mail* 19.12.46 and French translations from *Kung Sheung Jih Pao*, 24.12.46, and from *Sing Tao Jih Pao*, 8.1.47, all in dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁷⁸ Le Capitaine de Frégate Gilly, Attaché Naval près l'Ambassade de France en Chine à l'EMGDN, 26.1.47, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁷⁹ AFP reports in dos. 214, s.-s. Chine, AO 1944-1955, MAE. An extract of the Central News Agency Bulletin about the Foreign Ministry spokesman's statement of 8.1.47 can also be found in FO 371/63462, PRO.

⁸⁰ Note pour le Haut Commissaire a.s. des Iles Paracels, Saigon 3.2.47, signé par le Conseiller Diplomatique au Haut Commissaire (Royère), dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁸¹ The French Foreign Ministry referred to 'les droits souverains que nous exerçons au nom du Viet Nam sur les Iles Paracels'. Le Ministre des Affaires Etrangères à Haussaire Saigon et Ambafrance Nankin, 11.1.47, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

⁸² Haut Commissaire Saigon à EMGDN Paris, no. de circ. 36 EMHC, 13.1.47, dos. 214, s.-s. Chine, AO 1944-1955, MAE.

on 17 January, the *Tonkinois* found a detachment of 3 Chinese officers and 60 men. Acting in accordance with d'Argenlieu's instructions, the French commander offered the Chinese to transport them to Indochina. He even tried to bribe them into it, and—at a distance—fired some shots in the air.⁸³ The Chinese commander radioed Nanjing about a French ultimatum. In Nanjing there was an uproar, and the French government worried that the incident could provoke a new Chinese intervention in Indochina, in support of Ho Chi Minh (the Chinese occupation forces had withdrawn from northern Indochina earlier in the year).⁸⁴ A diplomatic row ensued, and in the end France backed out. The *Tonkinois* sailed away from Woody Island and left a garrison just on Pattle Island. A pattern had thus been established which would last until 1974 (with an interruption of Chinese occupation 1950–55): Chinese troops held Woody Island in the Amphitrite Group, while French-directed Vietnamese forces held Pattle Island in the Crescent Group.⁸⁵ The Chinese occupants were in regular contact with Hainanese fishermen who occupied temporary settlements on the other Paracel islands, while the Franco-Vietnamese garrison did not have rival fishermen to help them carry out their mission. Vietnam's fishermen had only small fishing boats and would not normally go thus far out to sea. Many of them moreover were ethnic Chinese.

We will not here go into the details of the Sino-French incident on Woody Island in January 1947, or its ramifications (shortly after the incident the French government decided to replace d'Argenlieu as High Commissioner).⁸⁶ This might warrant a special study, but we must briefly examine the French Foreign Ministry's attempt to

⁸³ Haussaire Saigon à MAE, no. 50057, 20.1.47, dos. 214, s.-s. Chine, AO 1944–1955, MAE. Haussaire Saigon à MAE, no. 50057–60, 20.1.47; Note pour le Haut Commissaire a.s. des Iles Paracels, Saigon 3.2.47, signé par le Conseiller Diplomatique au Haut Commissaire (Royère), tous les deux dans dos. 214, s.-s. Chine, AO 1944–1955, MAE.

⁸⁴ MAE à Haussaire Saigon (signé Chauvel), expédié 19.1.47 14h20, dos. 214, s.-s. Chine, AO 1944–1955, MAE. Meyrier (Nankin) à MAE, no. 111 à 115, 21.1.47, dos. 214, s.-s. Chine, AO 1944–1955, MAE.

⁸⁵ On 15 October 1950, troops from the French Foreign Legion were replaced by a purely Vietnamese detachment. Le Capitaine de Vaisseau Brachet à Haussaire, no. 3/EM2 26S, Saigon 23.1.51, dos. P01, UU-sup 02, SHM. A few years later, however, the Legionnaires were back.

⁸⁶ See Stein Tønnesson, 'The Paracels: The «Other» south China Sea Dispute', *Asian Perspective*, 26, 4 (2002): 145–69, p. 151. The government first reprimanded d'Argenlieu: 'Action du Tonkinois aux Paracels aurait pu provoquer grave incident diplomatique. Gouvernement ne peut que regretter que notre installation sur archipel ait pas été faite fin octobre, ainsi que je vous l'avais demandé. Estime également fâcheux que des instructions aient été données concernant une opération qui dépassait

resolve the dispute over the Paracels. What it did was to propose to China that the dispute be sent to arbitration, a suggestion which had already been made in 1937. France now even promised to withdraw from Pattle Island if China accepted arbitration.⁸⁷ Documents were prepared in Paris to serve as a basis for the French argumentation in case China should accept. These documents are open to interpretation. My reading of them is that the French Foreign Ministry more or less expected the decision to go against its claim on behalf of Annam.⁸⁸ One report mentioned the possibility of a bargain where France gave up Annam's claim to the Paracels if China in return abandoned its claim to the Spratlys. However, such a bargain would not, from the French point of view, be attractive, the report argued, since the Spratlys represented much less interest than the Paracels.⁸⁹ Today, with the prospect of finding oil and the possibility that the Spratly Islands might have a right to their own Economic Zones, this seems strange, but at the time the Spratlys were clearly even less valuable than the Paracels. D'Argenlieu's successor as High Commissioner in Indochina, who rapidly identified himself with the local interest, did not agree with the French Foreign Ministry's policy of abandonment. He argued that the Paracels were needed for meteorological purposes, and that France should not abandon the Annamese claim without first consulting legitimate representatives of Vietnam. His chief-of-staff argued in the same direction, emphasising the strategic location of the Paracels at the entry to the Gulf of Tonkin and right outside the strategic base at Cam Ranh Bay.⁹⁰

manifestement cadre reconnaissance navale sans prendre accord Affaires Etrangères et mon Département'. Cominindo Paris à Haussaire Indo Saïgon, signé Moutet, no. de circ. 169 D, 24.1.47, dos. 214, s.-s. Chine, AO 1944-1955, MAE. French governmental circles had already lost confidence in the Gaullist admiral d'Argenlieu because of his handling of the conflict with Vietnam. The Woody Island incident may have been the factor triggering the government's decision to revoke him.

⁸⁷ MAE (signé Baudet) à Ambafrance Nankin (Meyrier), no. 160-161, 12.2.47, dos. 214, s.-s. Chine, AO 1944-1955, MAE. Note d'audience, MAE Secrétariat Général, Paris 10.3.47, dos. 215, s.-s. Chine, AO 1944-1955, MAE.

⁸⁸ '... il convient de rappeler que sur ce dernier terrain notre position a toujours été considérée comme assez incertaine', a French Foreign Ministry study said. It emphasised that Chinese authorities had manifested their claim to the Paracels on several occasions between 1909 and 1931 while France had not made any representations concerning Annam's claim before 1931. Note pour le Secrétaire Général a.s. Iles Paracels, MAE Asie-Océanie, marquée RB/MP, 18.3.47, dos. 215, s.-s. Chine, AO 1944-1955, MAE.

⁸⁹ *ibid.*

⁹⁰ Le Conseiller de la République, Haut-Commissaire de France pour l'Indochine à MAE, signé (à sa main) Bollaert, no. 4320, Saïgon 2.6.47; Pièce jointe à Haut

In some of the French documents one sees a realisation that the Annamese claim to the Paracels was far from solid, and between the lines one reads a feeling that perhaps it might be preferable to let China win the case. A Chinese victory of this kind could perhaps increase its trust in the workings of international law. However, Chiang Kai-shek's government does not seem to have had any confidence that the International Court of Law in the Hague would ever reach a decision in favour of a non-European nation in dispute with a European power. Thus China refused to go for arbitration.⁹¹ At the time, China may also not have seen an urgent need to resolve the dispute. The Guomindang may have preferred to pursue a policy of aggressive maritime irredentism, as part of its effort to regain some of its rapidly waning national legitimacy. In May 1947 the legislative body of the Republic of China urged the government to recover all of the Paracels from France, if necessary by force, and in addition asked the government to clearly 'delimit our territory'. This resolution probably forms the background for the issuing of the famous map with the u-shaped line consisting of eleven dots (later reduced to nine) around virtually the whole of the South China Sea.⁹² With irredentism often follows exaggerated expectations. By 1947 oil had not yet entered the picture, so guano had to serve the purpose. In June 1947, after an expedition to the Paracels, a Chinese professor claimed that they contained enough guano to produce fertiliser for the whole of south China.⁹³

The dispute between China and France over the Paracels remained unresolved in 1949, when the Generalissimo established his government in Taiwan. In May of the following year, after having lost Hainan, he withdrew his forces from Woody Island. It then seems to have remained unoccupied until December 1955, when a PRC

Commissaire à MAE et EMGDN, no. 839/EMP, signé P.O. le Colonel Le Puloch, Chef de l'Etat-Major Particulier, 14.6.47, tous deux dans dos. 215, s.-s. Chine, AO 1944-1955, MAE.

⁹¹ 'Affaire des Paracels', note du Ministère des Affaires Etrangères, marquée RB/MP Asie-Océanie, 21.3.47, dos. 215, s.-s. Chine, AO 1944-1955, MAE.

⁹² For the history and status of this map, see Peter Kien-hong Yu, 'The Chinese 'U-shaped Line' and its Importance in Viewing the South China Sea Strategic Zone', *Defence & Foreign Affairs: Strategic Policy* (April 1999): 16; and Zou Keyuan, 'The Chinese Traditional Maritime Boundary Line in the South China Sea and Its Legal Consequences for the Resolution of the Dispute over the Spratly Islands', *The International Journal of Marine and Coastal Law*, 14, 1 (1999): 27-55.

⁹³ *United Press*, Hongkong 4.6.47, dos. 215, s.-s. Chine, AO 1944-1955, MAE.

detachment set up camp there.⁹⁴ During this whole period, a French-directed Vietnamese force occupied Pattle Island, but for fear of complications, it did not utilise the vacuum created in Woody Island when Chiang Kai-shek's troops left. Both Woody and other islands continued to be used on a seasonal basis by Hainanese fishermen.⁹⁵

The years 1948 and 1949 did not bring major new developments in the South China Sea. The French Indochinese meteorology service received weather reports in this period from Spratly Island. Since these reports came through Manila, the French concluded that the US Navy must have established some kind of presence on the island, at least during certain periods.⁹⁶

Decline in Cold War, 1950–56

Whereas the years from 1945–49, at least the first half of the period, were characterised by European resurgence in Southeast Asia, the years 1950–56 formed a new period of European decline. The United

⁹⁴ A French intelligence report from late June 1950, just after the North Korean invasion of South Korea, said the PRC had postponed the occupation of the Paracels till after the successful conquest of Taiwan. A later report said the occupation of the Paracels had been delayed further by the Chinese intervention in Korea. SDECE no. 3707 AB/LB, date Information Agent 27.6.50 (valeur B/3); SDECE no. 5017/AB/LB (valeur X/4), date inf. Agent: 26.5.51, fiche enregistrée 8.6.51, tous deux dans dos. P01, UU-sup 02, SHM. In May 1955, a visiting French ship found a group of Hainanese fishermen on Woody Island, who did not have identity papers, and did not seem to do much fishing. In mid-December 1955, another French ship (the *Dumont d'Urville*) detected a far more important Chinese presence, and this was confirmed through aerial reconnaissance on 30 December 1955. Note d'Information, signée par le Vice-Amiral Jozan, Commandant les Forces Maritimes d'Extrême-Orient, No. 3/EM2, Saigon 7.1.56, dos. 'Activités des forces maritimes...', UU-Sup. 32, SHM. Thus the PRC's occupation of Woody Island seems to have advanced gradually, and December 1955 may be as close as we can get to dating it. A British report in the following year said the PRC had occupied Woody island in December 1955: Briefing prepared for internal use in the FO, 1956, FC1082/4, FO 371/120937, PRO.

⁹⁵ In December 1950, the Vietnamese garrison at Pattle Island sent a small junk to Robert island, in the Crescent Group close to Pattle Island, where they arrested six Chinese 'fishermen' who said they were partisans of Mao Zedong. The Vietnamese thought they were not real fishermen, but had some kind of mission. They had been constructing houses and a tower on Robert island, and communicated with Woody Island in the Amphitrite Group. Compte-Rendu du S/Lieutenant Nguyen Kim Khanh, Officier de renseignements du Bataillon 'Vo Tanh', signé Faifoo 16.1.51, dos. P01, UU-sup 02, SHM.

⁹⁶ Le Directeur P. I. du Service Météorologique de l'Indochine à l'Amiral Commandant les Forces Maritimes en Extrême Orient, no. 51/MET/D-60/ceuf, Saigon 28.8.51, dos. Iles Spratley, UU-Sup 12, SHM.

States, the new Chinese People's Republic and a number of newly independent states and insurgent movements now became East Asia's main players. Holland had been forced by the United States to grant full sovereignty to Indonesia on 30 December 1949, keeping only West New Guinea (until 1969). Britain held on to Hong Kong, North Borneo and Singapore, and waged effective counter-insurgency warfare in Malaya, but the cost of the Malayan Emergency severely reduced the economic value of the only significant dollar-earner in the British Empire. France suffered its first disastrous defeat against Chinese-supported Vietminh forces in October 1950, scored some military successes in 1952–53, but then suffered the terminal disaster at Dien Bien Phu in May 1954. After the Geneva conference had divided Vietnam in two, and France had been obliged to leave the northern part, the new southern leader Ngo Dinh Diem decided to put an end to the whole French presence. Thus, by 1956 the French army and navy had to close up their business, and leave their strategic base at Cam Ranh Bay. In the same year, of course, France and Britain suffered their dreadful defeat in Suez, after the United States had turned against them. The two powers lost control of the prime waterway between the home country and their Asian bases.

Several East Asian developments precipitated the European decline. The unification of the Chinese mainland under communist control brought significant change in the regional balance of forces. It stimulated not only the struggle of the Vietminh against France, but also communist-led insurgencies in other Southeast Asian countries. For some time the Korean War shifted attention to Northeast Asia, but the war in Korea also stimulated widespread fears of a Third World War, led the US Navy to 'save' Taiwan from invasion, and brought new attention to the strategic role of the Spratlys and the Paracels. Another significant factor was the foreign policy of the newly independent Philippines, where influential circles tried to build a case for establishing a 'Freedomland' (Kalaya'an) in the eastern half of the Spratly area. And in Vietnam two rival, internationally recognised states emerged as players on the international scene. In January 1950, Ho Chi Minh's Democratic Republic of Vietnam was recognised by China, the Soviet Union and other socialist countries. In the following month, a rival Vietnamese government under former Emperor Bao Dai, which had been set up under French auspices, was recognised by the major Western powers. Thus both China and Vietnam had two rival regimes, and the nominal independence of Bao Dai's state forced France to tackle the question of whether the Paracels and Spratlys

should be left to Vietnam, or controlled directly by France. All of these factors formed part of the background for the peace conference at San Francisco, which led to the signing of a peace treaty with Japan on 8 September 1951. An additional factor which started to play a role in the 1950–56 period, but would only become significant later, was the discovery of oil in the shallow waters north of Borneo.⁹⁷ We shall now look at the effects of these regional developments on the dispute over the Spratlys and the Paracels, and examine how the decision-makers in Britain and France estimated their economic and strategic value.

The fall of the Chinese mainland to the communist forces, their subsequent invasion of Hainan in April 1950, and the outbreak of war in Korea in June 1950 led to renewed discussion among the European powers about the strategic value of the Spratly and Paracel islands. In 1949, the commander of the French navy in the Far East wanted to utilise China's temporary weakness to ameliorate the French position both in the Paracels and Spratlys, but the French Foreign Ministry issued stern orders to avoid any incidents with Chiang Kai-shek's forces, since this could stir up nationalistic and anti-French emotions.⁹⁸ The result was that France followed a cautious approach and did not occupy any new features in 1949–50.

Britain was also under pressure to take action. A letter from a British citizen was received in the Foreign Office in November 1949 expressing worries that Britain was not doing enough to bolster the position of non-communist powers in the South China Sea. The letter-writer saw a risk that the Paracels and Spratlys would eventually fall to communist forces. The Foreign Office was asked by Sir William Slim to reply. This prompted an interesting minute by R. S. Milward, who did not share the letter-writer's concern:

The islands are normally uninhabited and of little economic value. Strategically they were found before the war to be generally unsuitable as

⁹⁷ A third factor was the first United Nations Conference on the Law of the Sea (UNCLOS 1), leading to the 1958 Geneva Conventions on the Territorial Waters and Contiguous Zone, the High Seas, and the Continental Shelf. This factor will not be discussed here since it goes beyond the time limit we have set in 1956, and mainly concerns developments after the French withdrawal from Indochina.

⁹⁸ Le Vice-Amiral Ortoli, Commandant les Forces Maritimes d'Extrême Orient à Secrétaire d'Etat Chargé de la Marine, no. 36 EM2, Saigon 6.7.49; Le Secrétaire d'Etat Chargé de la Marine au Vice-Amiral, Commandant les Forces Maritimes d'Extrême-Orient, no. 419 EMG/2, signé Deramond, Paris le 4.6.50; tous deux dans dos. P01, UU-sup 02, SHM.

bases although one lagoon offered a good stretch of smooth water for slying boats or float-planes. None seemed capable of being used by land-planes except at prohibitive cost; as posts for the observation of ship or aircraft movements they have potential value but are extremely vulnerable. No power has hitherto exercised consistent or resolute sovereignty over the islands for any length of time.

Milward could not find evidence that possession of the Spratlys and Paracels had represented an advantage for Japan during the war, and thought it was 'of little importance to prevent them from falling into hostile hands, at least until some naval and air power is able to fill the present vacuum in that corner of the world'. Since the Chinese Communists were particularly weak in air and sea power, Milward found fears of Chinese expansionism here 'groundless'.⁹⁹

In May 1950, Chiang Kai-shek withdrew not only the garrison in Woody Island, but on Itu Aba in the Spratlys as well. The meteorology service in Indochina noted that weather reports from the two islands ceased on 4 and 5 May respectively.¹⁰⁰ The withdrawal of the Chinese nationalist presence prompted much speculation in the media and intelligence circles that Chinese communist forces would soon arrive, and even that Russian submarine bases were to be constructed.¹⁰¹ It would, however, take until 1955 before a regular PRC presence could be confirmed in the Paracels, and until 1987–88 before the Chinese Navy took possession of any features in the Spratly area.

After the Chinese occupation of Hainan, Australia was among the many who worried about Chinese expansionism. In this connection

⁹⁹ Letter from John H. Lodge to Sir William Slim, 17.11.49, and minute by R. S. Milward, 30.12.49, FO 371/76038, PRO. These documents were not declassified by the PRO until 1 January 2000.

¹⁰⁰ Le Directeur P. I. du Service Météorologie de l'Indochine au Capitaine de Corvette Delmas, COMAR, signé Duhamel, Saigon 15.4.53, dos. P01, UU-sup 02, SHM. On 5 May the radio reports ceased from 'Nansha'. This is assumed to be Itu Aba.

¹⁰¹ There were even rumours that General Lin Biao (a devoted landlubber) had personally inspected the Paracels. SDECE no. 3425 CB/LB, date Information Agent 10.6.50 (valeur C/2), dos. P01, UU-sup 02, SHM. The rumours were also heard by the Vietminh leaders, who were pleased to see a prospect of using the Chinese-occupied Paracels as a relay station for the provision of arms to the battlefield in central and southern Vietnam. Le Van Hien, *Nhat ky cua mot bo truong*, volume II, p. 236 (entry for 14 May 1950). (I would like to thank Dr. Christopher E. Goscha for providing this information.) In the following year, a French intelligence report—but of uncertain quality (C/5)—said that Lincoln island in the Paracels was being used as 'relai à mi-chemin de l'itinéraire utilisé pour l'expédition clandestine d'armes entre l'île d'Hainan et les Communistes Vietminh d'Indochine'. SDECE no. 6531 XYZ/MB, 27.8.51, dos. P01, UU-sup 02, SHM.

Canberra informally asked the United Kingdom if it might be prepared to seek trusteeship for Spratly and the neighbouring islands. The main argument was that although they had little commercial value, these islands had a ‘certain strategic value’. They could:

... provide anchorages, sea plane facilities, and meteorological stations. Their strategic value was last considered by the United Kingdom Chiefs-of-Staff in 1938. Their conclusions then were that as these Islands lay on the direct route and almost half way between Hong Kong and Singapore, and were only about 450 miles from Saigon, it would be folly for ourselves or the French to accept the establishment on them by any unfriendly power of an air station, or a naval defence refuelling base for submarines and small craft.

The Australian request provoked an illuminating debate in British governmental circles about the strategic value of the Spratlys, and the conclusion was that it was negligible.¹⁰² The Admiralty and the British Chiefs of Staff had changed their view since the 1930s. They now advised the Foreign Office that the strategic value of the islands was questionable. In war, an enemy in occupation of the Spratly Islands could develop only ‘a minor threat’ to the sea routes from Singapore to Hong Kong and the Philippines. Possible airstrips in the Spratlys could only be used if the enemy had control of sea communications, and no foreseeable enemy had such control: ‘So long as the Allies have peaceful relations with China, little strategic harm could come from a Communist occupation of the Spratleys, although strategic facilities in the islands could then be developed unchecked. In war, however, we feel that, with our superior naval strength, it would be a fairly simple matter to evict the Chinese from the islands and to destroy any installations there’.¹⁰³

¹⁰² J. P. Quinn (Australia House) to M. R. Metcalf (Commonwealth Relations Office), 21.6.50; Unsigned minute to Ross (Dominions Office), 23.6.50; Minutes by Mr. Huijsman (Colonial Office), undated but between 29.6 and 6.7.50, and by W. G. Wilson, 6.7.50; N. B. J. Huijsman (Colonial Office) to R. Ross (Commonwealth Relations Office), 17.7.50; M. C. James (Commonwealth Relations Office) to Captain M. E. Butler-Bowden (Ministry of Defence), 21.7.50; J.P. (50) 104 (Final), entitled ‘Strategic Importance of the Spratley Islands’, and dated 25.8.50; J.P. (50) 104 (Final), entitled ‘Strategic Importance of the Spratley Islands’, 25.8.50; Excerpts from J.P. (50) 104 (Final), entitled ‘Strategic Importance of the Spratley Islands’, 25.8.50, attached to Secretary COS Committee to J. C. Morgan (Colonial Office), 26.9.50; Commonwealth Relations Office to J. P. Quinn, 24.10.50, all in CO 537/5723, some also in FO 371/82022 and DO 35/2827, PRO. See also Marston, *op. cit.*, p. 355.

¹⁰³ Excerpts from J.P. (50) 104 (Final), *op. cit.*

Therefore the British answer to Australia, conveyed at the height of the Korean War (but before the Chinese intervention in Korea), was entirely negative. Britain did not:

...consider these Islands to be of sufficient strategic importance to the democratic powers to warrant the United Kingdom Government taking any action (such as applying for trusteeship) which might cause a deterioration in our relations with Communist China at the present critical stage in Far Eastern affairs. We do not ourselves rate the possible occupation of the Islands by the People's Government of China in peace-time as more than a minor 'cold war' reverse, nor do we consider that even enemy occupation in war would be a serious strategic threat as long as the democratic powers retained control of the South China sea.

The British analysts agreed with Australia House that the only possible value of the Spratlys was strategic. From that point of view they saw no reason to deny ownership of the islands to France, although they did not wish their ownership to go to Japan, the Philippines, Nationalist China 'or, particularly, the Central People's Government of China'.¹⁰⁴ Influential officials in the Colonial Office and the Foreign Office agreed that the best solution would be to encourage the French to effectively occupy the islands.¹⁰⁵ Here there was continuity. Just as before the Second World War, London would prefer to see France waste its troops and francs on a matter of negligible importance rather than committing valuable British pounds and prestige.¹⁰⁶ Apparently, London did not see any reason to fear that the French sovereignty claims could be taken over by an unfriendly, independent Vietnam.

As mentioned, France had recognised Vietnam as a 'free state' in an agreement signed with Ho Chi Minh on 6 March 1946. France refused, however, to grant full independence and also would not accept the inclusion of southern Vietnam (the French colony Cochinchina) in

¹⁰⁴ Commonwealth Relations Office to J. P. Quinn, 24.10.50, *op. cit.*

¹⁰⁵ They may have talked Australia into doing the job of encouraging France. In the run-up to the South Francisco peace conference, Australia informed France that it might support the French Union's claim to the Paracels, on the provision that French Union forces occupy them effectively. *Etats Associés à Haussaire Indo Saigon*, no. 60, 13.1.51, dos. 215, s.-s. Chine, AO 1944-1955, MAE.

¹⁰⁶ 'It is conceivable that we might be able to induce the French to occupy the Nansha Islands with Viet-nam troops and fishermen, but in view of their commitments elsewhere it is unlikely that they would consent. If they did so they might be unable to maintain themselves in the islands'. Minute by R. S. Milward 17.4.51 concerning Admiral Fisher (Singapore) to Sterndale-Bennett (Singapore), 27.3.51, Cheke (Singapore) to Scott (FO) 30.3.51, and Scott to Cheke, 11.5.51, FO 371/92075, PRO.

Ho Chi Minh's republic. The war that broke out between France and the Democratic Republic in December 1946 lasted until June 1954. In 1948–49, France negotiated an agreement with former emperor Bao Dai, who had lived in exile since 1946, to establish an alternative, first autonomous, then nominally independent state, with Saigon as capital. In these negotiations, France conceded to Bao Dai what it had refused to concede to Ho Chi Minh: the inclusion of Cochinchina in Vietnam. France abandoned all its sovereign rights in Cochinchina by a treaty which was ratified by the French National Assembly in early February 1950. Then the USA, Great Britain and some other Western countries were ready to recognise Bao Dai's state. The Franco-Vietnamese treaty had been preceded by an exchange of letters in March 1949, where the Paracels, but not the Spratlys, were mentioned as part of Vietnam.¹⁰⁷ This allowed some French decision-makers to argue that the Spratlys had been attached to Cochinchina in the 1920s only administratively, that they were not integral parts of Cochinchina, and thus would remain French territory.¹⁰⁸

France was considering in 1949 to send a naval mission to Itu Aba and Spratly Island, and the commander of the French Navy in the Far East asked Paris for permission to use force to expel any occupants from other countries.¹⁰⁹ As always, the Ministry of Foreign Affairs pleaded caution. Before sending ships, the navy should ascertain through aerial reconnaissance that the islands in question were not militarily occupied.¹¹⁰ Firm instructions were issued to this effect. Paris was not apparently aware that the French reconnaissance seaplanes (Catilinas) could not go as far as the Spratlys. Thus nothing was done. After hearing reports that Itu Aba might still be under occupation by Chinese nationalist troops, it seems that France in the

¹⁰⁷ Under pressure from nationalist Vietnamese politicians, the French High Commissioner said in April 1949 that he had personally assured His Majesty Bao Dai that he considered the Paracels to be dependencies of the Crown of Annam. Fiche sur la situation juridique des Paracels, Forces Maritimes d'Extrême Orient, 2ème Bureau, Saigon 16.9.54, dos. P01, UU-Sup 2, SHM.

¹⁰⁸ Fiche a/s de l'Île de Itu-Aba, Commissariat Général de France en Indochine, non signée, non datée (sans doute 1953), dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹⁰⁹ Se Secrétaire d'Etat chargé de la Marine au Ministre de la Défense Nationale, no. 567 EMG/2, signé P.O. Le Contre-Amiral Deramond, 20.7.49, dos. 215, s/s. Chine, AO 1944–1955, MAE.

¹¹⁰ Note pour le Ministre, 30.7.49, dos. 213, s.-s. Chine, AO 1944–1955, MAE. Le Ministre de la Défense Nationale (signé Ramadier) au Secrétaire d'Etat chargé de la Marine, no. 372 DN/FA.OM, 2.9.49, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

end decided to visit only Spratly island, not Itu Aba.¹¹¹ The aerial reconnaissance did not take place until August 1951.¹¹² The crew saw no signs of activity in the Spratlys. Still France did not move.

As early as May 1950, however, the French High Commissioner had started to worry that the Philippines might send forces to the Spratly Islands to forestall a communist annexation. He thus asked the French embassy in Manila to brief him on the Philippines' intentions, so the French and Vietnamese governments could defend the rights of France and Vietnam.¹¹³ Thus he considered both France and Vietnam to have rights in the Spratlys. This was not the view of the French Foreign Ministry. A long memo of the same month concluded that the claim to the Spratlys, in contrast to the Paracels, was made in the name of *France alone*, based on the principle of 'first occupation'. No mention was made of the fact that the Spratlys had been administratively attached to Cochinchina.¹¹⁴

France had always recognised that the claim to the Paracels was made on behalf of Annam (from 1948–49 always called 'Vietnam'). As mentioned earlier, France had in 1947 tried to persuade China to send the dispute to arbitration, and was preparing for the eventuality that China could win. By 1950, the legal advisor in the French Foreign Ministry no longer felt the matter could go to the International Court of Justice, since the Soviet, Yugoslavian, Polish and Chinese judges would be inclined to take a less than impartial approach. Thus he concluded that the dispute over sovereignty to the Paracels should be left unresolved until the 'governmental dualism' in Vietnam and China had been resolved.¹¹⁵ The French government also did not

¹¹¹ Fiche a/s de l'Île de Itu-Aba, Commissariat Général de France en Indochine, non signée, non datée (sans doute 1953), dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹¹² Fiche sur Îles Spratley, Forces Maritimes d'Extrême orient, 2^{ème} Bureau, datée Saigon 16.8.54, dos. Îles Spratley, UU-Sup 12, SHM.

¹¹³ 'Afin de me permettre, le cas échéant, de demander aux Gouvernements Français et Vietnamien de réaffirmer officiellement les droits de la France et du Vietnam sur cet archipel, je vous serais reconnaissant de bien vouloir me faire parvenir toutes informations qu'il vous aura été possible de recueillir sur les intentions réelles du Gouvernement philippin à ce sujet'. Télégramme de Pignon (Haut Commissaire Saigon) à MAE pour Manille, no. 322, 21.5.50, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹¹⁴ 'A la différence de la revendication sur les Paracels, à l'occasion de laquelle la France agit au nom du Viet-Nam, notre revendication sur les Spratly est faite au nom de la France seule, sur la base du principe du 'premier occupant'. Note a.s. Îles Spratly, MAE Asie-Océanie, 24.5.50, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹¹⁵ Note pour la Direction d'Asie, A. S. des Paracels, 25.5.50, appendix 11 in Chemillier-Gendreau, *op. cit.*, p. 196.

feel that the dispute over the Paracels was a vital French interest, and instructed the High Commissioner, in June 1950, that in case the PRC landed forces on Pattle Island, the garrison in place should only offer 'polite' resistance and not resort to violence. Also, the High Commissioner should replace the French military garrison with a uniquely Vietnamese force.¹¹⁶ However, these instructions were changed six months later, after the French colonial army had suffered its grievous defeat against Chinese-supported Vietminh forces at Cao Bang, and China had intervened in Korea. Then the garrison in the Paracels was told to resist at all cost any attempt to invade.¹¹⁷

The question of whether the Spratlys were French or Vietnamese was brought to the fore in May 1951, when a French businessman asked for permission to exploit the guano in these islands. France then had to make up its mind as to who should decide. The High Commissioner in Indochina, in his capacity as advisor to the Vietnamese government? The Vietnamese government itself? The Ministry of Associated States, which was responsible for relations with Vietnam, Cambodia and Laos? Or the Ministry of Overseas France, who was responsible for the French colonies in the Pacific, the Caribbean and Africa? The request was sent to the Minister for Associated States, Jean Letourneau. He forwarded it, however, to the Minister of Overseas France, arguing that the Spratlys had never been claimed or occupied by Annam, had only administratively been attached to the French colony Cochinchina, and should now be considered French territory, on a par with the French territories in the Pacific. The French Foreign Ministry supported this view.¹¹⁸ The Ministry of Overseas France seems to have enthusiastically supported the guano project, and the High Commissioner, when consulted, had nothing against issuing a licence. The exploration would, however,

¹¹⁶ Le Ministre de la Défense Nationale au Ministre de la France d'Outre-Mer, no. 401/DN/FA.OM, 6.6.50, dos. 215, s.-s. Chine, AO 1944-1955, MAE. The garrison in Pattle Island had also previously been instructed to be cautious and avoid violent conflict: Note pour le Général, Commandant les FTCVP, signé Le Général de Corps d'Armée Carpentier, Commandant en Chef les Forces Armées en Extrême-Orient, Saigon 6.2.50, dos. P01, UU-sup 02, SHM.

¹¹⁷ Consignes pour la garnison de l'île Pattle, signé Le Général de Brigade Lorillot, Commandant les Forces Terrestres du Centre Vietnam et des Plateaux, no. 2863/FTCV/3S, 29.12.50, dos. P01, UU-sup 02, SHM.

¹¹⁸ Jean Letourneau, Ministre d'Etat, chargé des relations avec les Etats associés au Ministre de la France d'Outre-mer, no. 02369/AP/4, 7.5.51 et le Ministre des Affaires Etrangères au Ministre d'Etat (Letourneau), no. 439 AS, 16.5.51, dos. 213, s.-s. Chine, AO 1944-1955, MAE.

have to be done at the businessman's own risk, he said. No military protection could be offered.¹¹⁹

Yet the Foreign Ministry was sceptical, citing the danger of creating difficulties with China. Another problem also turned up. The businessman in question was not based in Indochina, but the Philippines, and seemed to be associated with a Filipino businessman who was trying to encourage the Philippine government to support business activities in the Spratlys. Against this background, an interdepartmental meeting in Paris decided that the Ministry of Overseas France should refuse the concession, and a letter of refusal was drafted.¹²⁰ In the end the businessman abandoned the project.¹²¹

By September 1953, the French Foreign Ministry maintained the view that the Spratlys belonged to France, not Vietnam: 'These islands, French, were not attached to Vietnam in 1949, when the former colony of Cochinchina was ceded to this Associated State. They therefore depend on the Ministry of Overseas France'.¹²² In 1955, after the French forces had withdrawn from north Vietnam, a new French businessman applied for permission to exploit the Spratly guano. This time he was a good patriot: a reserve officer who had been awarded the Colonial Medal for past services, and solidly based in Saigon. The Ministries of Overseas France and of Foreign Affairs agreed that permission should be granted, but felt they could not issue a guarantee for future utilisation since the status of the Spratly islands might be changed in result of negotiations between France and Vietnam.¹²³ Now the Vietnamese government in Saigon entered the scene. Its Ministry

¹¹⁹ Haussaire à MAE, no. 796–797, Saigon 17.5.51, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹²⁰ Minutes from a meeting in the Ministry of Overseas France, 15.1.52, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹²¹ E. F. Mialhe, Président-Directeur de AMIBU Inc. Export Import à Jacques Roux, Direction Asie, Bordeaux 29.5.52, Ambafrance Tokio à MAE, no. 949/54, 13.5.52, dos. 213, s.-s. Chine, AO 1944–1955, MAE. Copie d'un télégramme de la Légation de France à Manile, 8.8.52, transmise à EMIFT/2ème Bureau 11.8.52, copie datée Saigon 23.8.52, dos. Iles Spratley, UU-Sup 12, SHM.

¹²² 'Ces îles, françaises, n'ont pas été rattachées au Vietnam lors de la cession à cet état associé de l'ancienne colonie de Cochinchine, en 1949. Elles dépendent, en conséquence, du Ministère d'outremer'. Note a/s des îles Spratley, signée J. R. [J. Roux], MAE, 8.9.53, dos. 213, s.-s. Chine, AO 1944–1955, MAE. See also Le Ministre des Affaires Etrangères au Ministre de la France d'Outre-Mer, no. 1989 AS, 27.11.53, même dos.

¹²³ M. Armand Vella au Ministre de la FOM, Paris 22.3.55; FOM à MAE, no. 124 AP/6, 9.5.55; FOM à MAE, signé Le Directeur des Affaires Politiques, 20.8.55; MAE à FOM, no. 1608 AS, 27.8.55, tous dans dos. 213, s.-s. Chine, AO 1944–1955, MAE.

of Public Works asked the French to assist them with transporting an economic expedition to the Spratlys. The Commander of the French forces recommended against the request. In 1949, when the island Poulo Condore had been ceded to Vietnam together with Cochinchina, the Spratlys had not been mentioned. They could therefore be retained by France, he argued.¹²⁴ The French Ministry of Associated States asked the opinion of the French Foreign Ministry, who prepared yet another 'note' claiming beyond doubt that the Spratlys belonged to the French Union, not Vietnam, citing several reasons. One of them was that the Democratic Republic of Vietnam had failed to protest when the People's Republic of China claimed the Spratlys as Chinese. The note ended by suggesting the construction of a French meteorological station in the Spratlys, and the Foreign Minister told the Minister of Associated States that French authorities should 'reserve, with all desirable clarity and firmness, the rights of France to the Spratly islands', while avoiding, if possible, to discuss the matter with the (South) Vietnamese authorities. If need be, the Vietnamese should be told that a public quarrel might serve the interests of certain foreign powers.¹²⁵ This was in July 1955.

In order to sort out the overall legal developments, we must again take a step back. The peace treaty signed with Japan in San Francisco on 8 September 1951 was ambiguous as far as the status of the two island groups is concerned. It stated that 'Japan renounces all rights, title and claim to the Spratly Islands and to the Paracel Islands', but did not say to whom Japan ceded its rights. None of the rival Chinese governments participated at the conference. Thus the Republic of China on Taiwan negotiated its own separate treaty with Japan in

¹²⁴ Le Général de Corps d'Armée P. Jacquot, Commissaire Général de France et Commandant en Chef en Indochine p.i. à Monsieur le Secrétaire d'Etat, Chargé des Relations avec les Etats Associés, no. 3958/SPD/AFG, Saigon 16.6.55, dos. 213, s.-s. Chine, AO 1944-1955, MAE.

¹²⁵ 'J'estime, en conséquence, qu'il conviendrait, le cas échéant, de réserver, avec toute la netteté et la fermeté désirables, les droits de la France sur les îles Spratley. Il m'apparaît cependant que nous n'aurions pas intérêt—notamment dans l'état actuel de nos relations avec l'Etat du Vietnam—à soulever nous-mêmes la question de souveraineté sur ces territoires. Je verrais, au contraire, des avantages à ce que le Général Jacquot, s'il lui semble que les autorités de Saïgon cherchent à évoquer le problème, s'efforce d'écarter pour le moment toute discussion, en faisant valoir, s'il en est besoin, qu'une controverse franco-vietnamienne à ce sujet aurait vraisemblablement pour résultat de raviver les prétentions de certaines puissances étrangères sur les îles Spratley'. Le Ministre des Affaires Etrangères au Secrétaire d'Etat, chargé des relations avec les Etats Associés, no. 406 AS, 16.7.55, dos. 213, s.-s. Chine, AO 1944-1955, MAE.

the following year. This treaty, which was signed on 29 April 1952, included a sentence that seemed to recognise Chinese sovereignty to both island groups.¹²⁶

In San Francisco, the Soviet Union and its allies supported the Chinese claim, and the failure of the conference to agree on this score formed part of the background for the refusal of the socialist camp to sign the peace treaty with Japan.¹²⁷ France and Bao Dai's Vietnam, who both signed the San Francisco treaty, of course defended their own claim(s) at the conference, but settled for ambiguity. One of the reasons why the peace conference did not seek to resolve the sovereignty issue is likely to have been the existence of the two rival non-present Chinese regimes, who both claimed the Spratlys and the Paracels. It was considered preferable to remain ambiguous rather than provoke hostile reactions in both Chinas. Yet the prospect of seeing the Paracels and the Spratlys under the control of a hostile communist government induced some countries, such as Australia, to adopt a hostile attitude to the Chinese claim in general, and to offer support to the French.¹²⁸ For the United States and several other participating states, it was difficult to accept any of these claims since one risked to favour the communists and the other was colonialist.¹²⁹ The issue was further complicated by the Philippines' attempt to play on Cold War sentiments to promote its own non-communist claim.

Cold War divisions had a significant role to play. However, another factor may also have affected the decision at San Francisco to remain ambiguous as to the sovereignty status of the Spratlys, although this was never mentioned: the still existing British claim. Britain was influential in San Francisco, and wanted to retain ambiguity in order

¹²⁶ For the issue of the South China Sea islands at the San Francisco peace conference and in the Sino-Japanese peace treaty, see Marwyn S. Samuels, *Contest for the South China Sea*, (New York: Methuen, 1982), pp. 77–81.

¹²⁷ For the expression of such support in Soviet newspapers, see: Chataigneau (Ambassadeur à Moscou) à MAE, 28.8.51, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

¹²⁸ Australia even hinted to France that it might recognise the claim of 'the French Union' to the Paracels. Padovani (Canberra) à MAE, no. 5, 8.1.51, dos. 215, s/s. Chine, AO 1944–1955, MAE.

¹²⁹ A news report issued by the mainland Chinese news agency *Xinhua*, two weeks before the peace treaty was signed, said the paragraph on the Spratlys and Paracels was being introduced at the last moment, as the result of a secret deal between the USA and France. Secretary of State John Foster Dulles offered the islands as 'pocket money' to France, *Xinhua* claimed, in return for French support to the peace treaty. French translation of *Xinhua* report, dated 23.8.51, quoted after *Kiai Fang Je Pao*, 24.8.51, appendix to Royère (Shanghai) to MAE, no. 256/AS, 8.9.51, dos. 213, s.-s. Chine, AO 1944–1955, MAE.

not to prejudice its old claim. In October 1947, the Foreign Office had already started to prepare the British agenda for San Francisco. It argued in an internal note that Japan should be compelled to renounce any claims or rights to the islands Spratly and Amboyna Cay. However, it would not be necessary to specify the names of those islands or decide to whom Japan would cede them. His Majesty's Government was not prepared to contest the French claim to sovereignty which it considered to be 'good in law', but it would also not go as far as to 'admit' the claim of France since Britain's own claim had not formally been abandoned.¹³⁰ Therefore it was best to leave the question of sovereignty undecided. This seems to have remained the British view. In 1949, in the same interesting memo quoted earlier, the Foreign Office's R. S. Milward specified what he saw as the British position:

It has already been agreed at the official level that the Peace Treaty terms offered to Japan should be so worded as to imply a renunciation of her claim to these islands; but this treaty will leave the sovereignty open to dispute between Britain, France and any other nations who choose in future to interest themselves in the islands, until the vacuum is filled and some claimant becomes able to exercise a more real and permanent sovereignty than has been possible hitherto.¹³¹

In the Sino-Japanese peace treaty of 29 April 1952, Japan 'renounced all right, title and claim to Taiwan (Formosa) and P'eng-hu (Pescadores) as well as the Spratly and the Paracel Islands'. The fact that the Spratly and Paracel islands were mentioned specifically in the Sino-Japanese treaty, together with Taiwan and the P'eng-hu islands, *seemed to* indicate that Japan ceded the two island groups to China.¹³² However, shortly after the treaty had been signed, France expressed misgivings in Tokyo. A meeting was held where representatives of the Japanese Foreign Ministry expressed a certain embarrassment. They

¹³⁰ Foreign Office Memorandum attached to F.E. (o) (47)69, 14.10.47, copy as appendix II in C.O.S. (50) 273, 27.7.50, p. 5; D. J. Cheke (Foreign Office) to C. R. Price (Commonwealth Relations Office), 10.10.47, both in DO 35/2827, PRO. See also Marston, *op. cit.*, p. 355. The note did not accurately render the British position from the 1930s. At that time neither the Foreign Office nor the Law Officers of the Crown stated that the French claim was 'good in law', only that Britain's own claim, if ever there had been a claim, was too weak to serve as a basis for refuting the French claim. A myth had been established in the Foreign Office that the French claim had been considered 'good in law', and this myth was repeated in several British documents over the following years.

¹³¹ Letter from John H. Lodge to Sir William Slim, 17.11.49, and minute by R. S. Milward, 30.12.49, FO 371/76038, PRO.

¹³² Samuels, *op. cit.*, p. 80.

admitted that the treaty text could give the impression that Japan had recognised the Chinese claim, although this was not the case. Taiwan had insisted strongly on including the Spratlys and Paracels in the same paragraph as Taiwan and the Pescadores, and in the end Japan had given in. However, in the view of the Japanese government, Japan had only confirmed the same renouncement it made at San Francisco and did in no way take position as to the legal status or future devolution of the two island groups. This, by the way, was also the case for Taiwan and the Pescadores. France was well satisfied by this answer, and first thought of asking Tokyo to issue a public statement. However, in order not to disturb their relations with Taiwan, France and Japan agreed to just exchange letters between themselves, with no publicity. The formal Japanese letter, dated 23 May 1952, read: 'I concur with your understanding that Article 2 of the Peace Treaty between Japan and the Republic of China signed on April 28, 1952, should not be construed as having any special significance or meaning other than that implied by Article 2, paragraph (f), of the Treaty of San Francisco'.¹³³ Thus, France could convince itself that in a subtle way it had nullified China's gain.

This happened at a time when the USA took over most of the funding of the French war in Indochina. In May 1950, a month before the outbreak of the Korean war, the United States had announced its intention to aid the French war effort in Indochina, and by 1952 the United States was bearing some 40 percent of the war cost.¹³⁴ France's dependence on US support continued to grow in the next two years, culminating in the failed effort to save the base at Dien Bien Phu in the spring of 1954. Meanwhile, US naval ships became frequent visitors in Indochina's ports. Under these circumstances, France could no longer fight its own colonial war, but had to portray it as a part of the free world's struggle to stem, or roll back, the communist tide. In order to achieve US support, France eagerly promoted the domino

¹³³ MAE à Ambafrance Tokio, no. 702-703, 6.5.52; Ambafrance Tokio à MAE, no. 949/54, 13.5.52; Ambafrance Tokio à MAE, no. 1007/1009, 21.5.52; MAE à Ambafrance Tokio, no. 807, 26.5.52; Ambafrance Tokio à MAE, no. 1071, 30.5.52, tous dans dos. 213, s.-s. Chine, AO 1944-1955, MAE. The quoted letter from the Japanese Foreign Minister, dated 28.5.52, is in Japanese with an English translation, is in sous-dos. 52, dos. 'Spratley', Note historique 842, vol. 26, MAE. See also Note pour le Secrétaire d'Etat, MAE Asie-Océanie, marquée PLG/GM, 14.5.52, dos. 215, même série, MAE. Research would be needed in the Japanese archives to find out what the Japanese attitude was to this exchange of letters.

¹³⁴ George C. Herring, *America's Longest War. The United States and Vietnam, 1950-1975* (New York: McGraw Hill, 1996, 3rd edition), p. 25.

theory. In this perspective, the Paracels and the Spratlys were a kind of mini-dominoes.

The French war effort, and also Bao Dai's client regime, profited from the inflow of American money during the height of the Korean war. In early 1953, the French ambassador to Tokyo reported that the US Commanders in the Far East were considering the war in Korea and Indochina as two fronts in the same overall war against China and its backer, the Soviet Union. The aim was to subject China to sufficient pressure to make it withdraw from its Korean adventure, stop supporting the rebels in Indochina, and break off from Moscow. He recommended that France utilise the fact that the Americans were thinking so aggressively to attract more American support for the effort in Indochina. The allied navies should be used to maintain a partial blockade of the Chinese coast. He wanted Paris, Washington and London to adopt a joint Asia policy.¹³⁵ The British were at this time contemplating the possibility of having to evacuate Hong Kong. In this connection they asked France if they could be permitted to use the Paracels as a preliminary anchorage for the fleet needed in the operation. French military authorities in Indochina were helpful in assembling hydrographical and other documentation for this purpose.¹³⁶ A French naval ship captain visited Pattle Island and wrote a sad report about the degeneration that had set in since responsibility for its protection had been left in the hands of the Vietnamese themselves. His description of Pattle Island can stand as a symbol of France's waning presence: 'Here dies . . . , slowly, a few vestiges, still beautiful, of French greatness, an esplanade and noble alleyways, well built edifices, a small paved port—all somewhat worrisome tokens of abandoned ambitions, but which will be silenced, little by little, by the blow of the monsoon'.¹³⁷ He visited Woody Island too, which he found deserted, but with vestiges of past Japanese activities.

¹³⁵ Dejean, ambassadeur de France à Tokyo à MAE, no. 53 à 69, 25.1.53, copie diffusée par le Haut-Commissariat de France en Indochine, dos. 'Activités diplomatiques en Asie . . .', UU-sup. 33, SHM.

¹³⁶ Le Contre Amiral Blanchard, Commandant la Marine en Indochine au Vice Amiral d'Escadre Commandant les Forces Maritimes d'Extrême Orient, no. 61 E.M.3, Saigon 28.2.53, dos. P01, UU-sup 02, SHM.

¹³⁷ '... il meurt aussi, lentement, quelques restes, encore beaux, de grandeur française, une esplanade et de nobles allées, des édifices bien construits, un petit port maçonné—témoins un peu gênants d'ambitions abandonnées, mais que taira, petit à petit, le souffle de la mousson'. Rapport du Capitaine de Corvette Aubertin, Commandant *l'Ingénieur en Chef Girod*, signé à bord 30.7.53, pièce jointe au Compte-Rendu de renseignements no. 18, 2ème Bureau, no. 56 E.M.2, Forces Maritimes d'Extrême Orient, Saigon 12.8.53, dos. P01, UU-sup 02, SHM.

The war scare in 1952–53 did not necessitate to evacuate Hong Kong. General MacArthur was replaced as commander in Korea, and the kind of moderation that Britain had advocated, prevailed at last both in Korea and Indochina. The Korean armistice more or less reconfirmed the pre-war border close to the 38th parallel. Then the planned peace conference for Korea in Geneva was turned into an Indochina conference instead, and shortly after the fall of Dien Bien Phu on 8 May 1954, Britain's Anthony Eden and France's Pierre Mendes-France made a deal with China and the Soviet Union, whereby Vietnam was partitioned along the 17th parallel. This did not mean that France withdrew from Vietnam, only from the north. The French stayed in the south for two more years, until South Vietnam's new prime minister Ngo Dinh Diem threw them out, and the French Far Eastern Navy held on to its strategic base in Cam Ranh Bay as long as possible.

After the Geneva agreement, the French Far Eastern navy even pushed for renewed assertiveness in the South China Sea. Apparently it wanted to compensate for the army's losses on land by solidifying its own position at sea. The loss of north Vietnam would open up the possibility of maritime communications between Vietnam and China. The French navy wanted to collect intelligence on the movement of Chinese and Vietnamese vessels. During the years 1952–54 the French had developed a good capacity for monitoring the radio communications of the Viet Minh and its Chinese helpers. They now wanted, in addition to using a specially equipped ship, to set up a listening post in the Paracels.¹³⁸ The navy also argued that France should once more visit and take possession of Spratly Island and Itu Aba. It had been a mistake not to do so in 1949. The navy also tried to convince Paris that Itu Aba was valuable: Its guano could be exploited, the Japanese had constructed a little port, an airfield could be built, and it had already served meteorological purposes in the past.¹³⁹ Not long after this, the application from the French businessman in Saigon (referred to above), for exploiting guano in the Spratlys, turned up.

However, France now had other priorities. The navy found it difficult to get qualified personnel for signal intelligence in the South China

¹³⁸ Vice-Amiral Jozan, Commandant les Forces Maritimes d'Extrême-Orient à Monsieur le Secrétaire d'Etat aux Forces Armées, no. 361/EM2, Saigon 13.10.54; Le Secrétaire d'Etat aux Forces Armées (Marine), signé P. A. Le Capitaine de Frégate Hello à Monsieur le Ministre des Etats Associés, no. 1789 EMG/2, 1.12.54, tous deux dos. 'Mission navale française . . .', UU-sup. 33, SHM.

¹³⁹ Fiche sur Iles Spratley, Forces Maritimes d'Extrême Orient, 2ème Bureau, datée Saigon 16.8.54, dos. Iles Spratley, UU-Sup 12, SHM.

Sea, since it was needed in the Mediterranean, where France faced a mounting revolt in Algeria.¹⁴⁰ This was difficult for the naval authorities to accept. The navy was first in and last out in Indochina. It had been in the vanguard of colonisation in the mid-nineteenth century; the first period in the history of French Indochina is generally referred to as ‘The Admirals’ (*Les Amiraux*). Now, in March 1955, Admiral Jozan, commander of the French naval forces in the Far East, was trying to save at least some of the work of his predecessors amidst the French decline. He insisted that France should hold on to its strategic base at Cam Ranh Bay, and not give it up to the South Vietnamese state. He also wanted to maintain an establishment in Poulo Condore (Con Dao), and to establish a French presence in the small island Bach Long Vi (in the middle of the Gulf of Tonkin), and he urged that France disregard earlier statements to the effect that the Paracels were Annamese, in order to establish a French garrison there. The development of radio-electric warfare and tele-guided weapons could make these islands into important strategic assets.¹⁴¹

These of course were dreams, but in the year before Suez, it was still possible for a French naval commander to express imaginings in the form of official proposals. He even realised a part of his dream. The warship *Commandant Robert Giraud* conducted a survey of ‘the French Spratly archipelago’ in May 1955, and an exercise in the use of new electronic devices was held in the Paracels.¹⁴² However, a far more resourceful competitor had emerged. A US military mission had been established in Vietnam during the latter phase of the Indochina War, who was dealing directly with the Vietnamese authorities. According to French intelligence, the Americans were planning to set up radio-electric aerial navigation stations at strategic locations, including the Paracels.¹⁴³ In November 1955, the French decided to send a

¹⁴⁰ L’Amiral Nomy, Chef d’Etat-Major Général de la Marine, signé P. O. Vice-Amiral Rebuffel, no. 1788 EMG2, 1.12.54, dos. ‘Mission navale française...’, UU-sup. 33, SHM.

¹⁴¹ Vice-Amiral Jozan, Commandant les Forces Maritimes d’Extrême Orient à Monsieur le Général d’Armée, Commissaire Général de France et Commandant en Chef en Indochine, no. 87 EM3, signé Jozan, Saigon 23.3.55, dos. P01, UU-Sup 2, SHM.

¹⁴² Note de Service no. 160/E/TS (très secret), signé Capitaine Pacallet, 28.4.55, dos. ‘Mission navale française...’, UU-sup. 33, SHM. Instruction pour le Capitaine de Frégate, Commandant le ‘Francis Garnier’, no. 15 EM/3, signé Capitaine de Vaisseau Hébrard, Chef d’EM, Forces Maritimes d’Extrême Orient, 3ème Bureau, 7.1.56, dos. P01, UU-Sup 2, SHM.

¹⁴³ Note de renseignements, no. 21 EM/0, Forces Maritimes d’Extrême Orient, Etat-Major, Saigon 18.10.55, dos. P01, UU-Sup 2, SHM.

mission to Woody Island in order to verify if it harboured any Chinese communist troops disguised as fishermen, and in December they prepared themselves for sending a commando, to prepare for the extraction of phosphates.¹⁴⁴ The real purpose was no doubt to establish a military presence, possibly in cooperation with US services, so when the Chinese People's Republic finally resolved to occupy Woody island in the same month, it was not one day too early.

The legal status of the Spratlys and Paracels was left unresolved. As for the United States it always maintained a remarkable neutrality, or passivity, in the legal dispute. The only time it had protested any action in the Spratlys, was in 1939 when Japan annexed the archipelago, and this protest was not made in defence of anyone else's claim. At San Francisco the USA seems to have favoured ambiguity, just as the United Kingdom. After the Geneva accords of June 1954, the Manila Pact of the same year, and in connection with the setup of the Southeast Asian Treaty Organisation (SEATO) in 1955, the USA felt it needed more information about the legal status of the Spratlys, since several of its allies in the region (Taiwan, the Philippines, Britain, France and South Vietnam) had conflicting claims. In August 1955, therefore, the State Department asked the British Foreign Office to help clarify the legal position of the so-called 'Dangerous Grounds'.¹⁴⁵

The British replied in October by recounting the history of Britain's association with Spratly Island and Amboyna Cay, and emphasised that Her Majesty's Government had never acknowledged the claims of other countries. The Foreign Office added that in the British view, all the other features in the area were, with one possible exception (Itu Aba) 'reefs and shoals, some of them being listed as covered at all states of the tide, and therefore uninhabitable and incapable of appropriation and occupation'. The Foreign Office held that only Spratly Island, Amboyna Cay and Itu Aba could be legitimately subjected to a claim of sovereignty. An internal Foreign Office minute moreover ascertained that 'we regard our claim as still valid'.¹⁴⁶

¹⁴⁴ Le Capitaine de Vaisseau Hébrard, Chef d'Etat-Major à 'Dumont d'Urville', no. 204 EM2, 14.11.55, dos. 'Renseignements sur les pays du Sud Est Asiatique (juillet-décembre 1955)', UU-sup. 33, SHM. Instructions pour le Capitaine de Frégate Commandant la Marine à Cam Ranh, no. 452 EM/3, signé Champenois pour Hébrard, 30.12.55, dos. Po1, UU-Sup 2, SHM.

¹⁴⁵ Copy of memo from American Embassy to Foreign Office, 30.8.55; Foreign Office to the Embassy of the USA, 12.10.55, CO 1030/396, PRO.

¹⁴⁶ In the British archives, the note to the US State Department is accompanied by an internal memorandum, including a map of the Spratly area with two lines

Annex 281

U.N. Food and Agriculture Organization, Fisheries and Aquaculture Department, *The State of World Fisheries and Aquaculture 2008* (2008)



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Table 15
Per capita supply of fish by groups of countries

Selected groups and countries	Per capita supply of fish (live weight equivalent)			Annual change	
	1985	1995	2005	1985–1995	1995–2005
	(Kilograms)			(Percentage)	
Africa	7.5	7.1	8.3	-0.6	1.5
Sub-Saharan Africa	7.8	7.0	7.6	-1.0	0.8
North Africa	6.4	7.6	11.9	1.8	4.6
Latin America and the Caribbean	8.3	9.1	8.7	0.9	-0.4
Latin America	7.9	9.0	8.7	1.3	-0.3
Caribbean	12.6	10.5	9.6	-1.8	-0.9
Near East	4.8	5.8	6.2	1.9	0.7
Asia and the Pacific	11.4	16.7	18.9	3.9	1.2
South Asia	3.7	4.6	5.5	2.1	1.8
East and Southeast Asia	15.8	24.4	28.0	4.4	1.4
China	6.7	20.3	26.1	11.8	2.5
Japan	69.7	71.1	61.2	0.2	-1.5
Other East and Southeast Asia	22.2	22.8	25.7	0.3	1.2
Oceania	19.7	19.9	24.5	0.1	2.1
Australia and New Zealand	17.3	19.9	24.9	1.4	2.3
Other Oceania	27.2	19.8	23.4	-3.1	1.6
Europe (+ Cyprus and Israel)	18.3	18.5	20.8	0.1	1.2
EU(27)	18.9	20.9	22.5	1.0	0.7
Non-EU countries	10.9	14.2	17.4	2.7	2.0
North America	19.0	21.9	24.1	1.4	1.0
United States of America	18.8	21.8	23.4	1.4	1.0
Canada	19.7	22.7	24.1	1.4	0.6
Other countries in North America	63.4	59.5	61.1	-0.6	0.3
World	12.6	14.9	16.4	1.7	1.0
Low-income food-deficit countries	6.8	11.6	13.8	5.5	1.8

Source: FAO Fisheries and Aquaculture Department.

Worldwide, the rate of growth in aquaculture production is slowing. Surveys of fish farmers and other aquaculturists show that, generally, the reasons for this are that those who want to expand production face various constraints and obstacles.³ They would probably be better equipped to overcome them, and increase production, if the price levels for fish rose. However, it would seem unwise to rely only on an increase in price, which, if it happens, is likely to be in nominal rather than real terms.

The rest of this "Outlook" reports on the perceived obstacles to aquaculture growth. The purpose is to try to identify which of the various potential constraints are likely to become effective constraints in the near future. Such information should interest public administrations that use public resources to promote continued aquaculture growth.

Annex 282

A. Salleh, et al., "Malaysia's policy towards its 1963-2008 territorial disputes", *Journal of Law and Conflict Resolution*, Vol. 1, No. 5 (2009)

Full Length Research Paper

Malaysia's policy towards its 1963 - 2008 territorial disputes

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Accepted 7th September, 2009

Malaysia has a number of territorial disputes such as Sipadan-Ligitan, Batu Puteh, Limbang and the Spratly Islands. So far, it had settled two of the disputes through the International Court of Justice (ICJ) that is Sipadan-Ligitan and Batu Puteh Islands. Other disputes remain outstanding and/or unsettled that is the Spratly Islands and Limbang. This paper provides an overview of the disputes and Malaysia's approaches to manage and/or settle them. As such, it analyzes the factors that influence Malaysia's policy in this regard. Analysis of the factors suggests that Malaysia's policy towards territorial disputes has been mainly shaped by the Prime Minister's Department. Other key foreign policy bureaucracies, such as the Defense and Foreign Ministries, have also been found to play an instrumental role especially through the National Security Council of which the two ministries are part of the other important bureaucracies include ISIS and MIMA. It also suggests that Malaysia's policy has adopted a pragmatic stature in which it allows for a combination of approaches to settle the disputes. This includes unilateralist approach as in Swallow Reef case, multilateralist as in Amboyna Cay case and bilateralist as in Sipadan and Batu Puteh cases. Finally, based on the analysis, this paper suggests several recommendations with regard to Malaysia's handling of the territorial disputes.

Key words: Territorial disputes, international court of justice, ASEAN high council, security, Malaysia.

INTRODUCTION

This paper examines Malaysia's policy for the settlement of its territorial disputes. It presents an overview of Malaysia's territorial disputes, analyze its positions on those disputes and finally analyze the factors behind Malaysia's policy towards its territorial disputes.

Malaysia proper is composed of two land masses with a total area of 330,252 square kilometres (sq. km); (1) West Malaysia or Peninsula Malaysia and (2) East Malaysia on Borneo Island. Both are separated by the South China Sea with a usual flight distance of 920 nautical miles (nm) or 1711 kilometres (km).¹ With the coastline of some 4,675 km (that is West Malaysia 2,068 km, East Malaysia 2,607 km), Malaysia's geographical condition exemplifies the most common boundary problems faced by most coastal countries throughout South-

east Asia. Bordered by Thailand, Indonesia, Singapore and Brunei, Malaysia is involved in territorial disputes and overlapping maritime claims with almost all its neighbours. Malaysia's territorial and maritime disputes stretch from the Gulf of Thailand, the Andaman Sea, the Straits of Melaka, the Straits of Singapore, the South China Sea, the Sulu Sea, and to the Celebes Sea.

Malaysia has adopted several methods to deal with the disputes. Among others Malaysia with Indonesia signed an agreement on both continental shelf boundaries (CSB) on October 27, 1969). It was followed by a tripartite agreement with Indonesia and Thailand delimiting their CSB in the northern part of the Straits of Melaka on December 21, 1972 (Leng, 1980). Another treaty between Malaysia, Indonesia and Thailand for joint resource development in the Gulf of Thailand was signed in 1978 (Sohn and Gustafson, 1984:65). Malaysia also signed a treaty demarcating its maritime boundary with Singapore through the Straits of Johor on August 7, 1995 (Haller-Trost, 1998). Recently, Malaysia had opted for judicial

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through the Federation of Malaysia on September 16, 1963.⁸ Singapore, however, withdrew from the Federation two years later on August 9, 1965. Consequently, the withdrawal brought up chains of issues and problems between both countries such as boundary and territorial issues. The dispute over Batu Puteh Island is one of them. Singapore protested over the inclusion of Batu Puteh Island as part of Malaysia's territory, as shown in *Peta Baru*, through a diplomatic note dated February 14, 1980. Following the protest, the Malaysian Foreign Ministry (*Wisma Putra*) held several meetings with its Singapore counterpart in order to resolve the dispute bilaterally. The first bilateral negotiation was held in December 1981. However, the talks reached a deadlock.

Eventually, in September 1994, Mahathir Mohamad and Lee Kuan Yew agreed in principle to submit the case to the ICJ.⁹ Following Mahathir and Lee's "principal agreement" in 1994, Malaysia held several other meetings with Singapore in 1995 and 1996 in order to finalize the modalities of the submission to the ICJ.¹⁰ On February 6, 2003, the Foreign Ministers of both countries, Malaysian Hamid Albar and Singaporean S. Jayakumar, signed the *compromis* for submission to the ICJ of the Batu Puteh dispute and the nearby two features of Middle Rocks and South Ledge that lie 3 nm from Batu Puteh. It was signed in Putrajaya, Malaysia. On May 23, 2008, the ICJ ruled by 12 votes to 4, that the sovereignty over Pulau Batu Puteh belonged to Singapore.

Brunei: Lawas-Limbang-Terusan-Rangau-Louisa reef

In August 1980, Britain, on behalf of Brunei, which was still its protectorate protested against the *Peta Baru*. The maritime boundary of Brunei originates from the colonial years when Brunei and the Malaysian States of Sarawak and Sabah were British colonies. Brunei's east and seaward sea boundaries were established on September 11, 1958 through the *North Borneo (Definition of Boundaries) Order in Council No. 1517* and the *Sarawak (Definition of Boundaries) Order in Council No. 1518* (Haller-Trost 1998). Despite Malaysia having accepted the two ordinances prior to the inception of the Federation of Malaysia, the *Peta Baru*, however, did not reflect this. Brunei reacted, among others through a speech reportedly delivered by Brunei's Sultan Omar Saifuddin in 1970 in which Omar stated that Limbang belonged to Brunei (Pelita Brunei 30 September 1970).

Brunei later published three series of maps showing its territorial waters, its continental shelf and fishery limits. The maps are called *Map Showing Territorial Waters of Brunei Darussalam* (1987), *Maps Showing Continental Shelf of Brunei Darussalam* (1988) and *Maps Showing Fishery Limits of Brunei Darussalam* (1988) (Haller-Trost 1998: 46-48). Brunei's claims on Limbang, Terusan, Lawas and Rangau and the Louisa Reef became official with the

publication of those maps. Limbang is especially significant in that it stands between two parts of Brunei proper. It is also rich in timber. Additionally, the Louisa Reef (6°20'N, 113°16'E) (Haller-Trost 1998:225) is also known as *Terumbu Semarang Barat Kecil*. It lies off the coast of Sarawak and belongs to the Spratly's group of islands. After publishing the maps, Brunei ratified UNCLOS III, on November 5, 1996. Malaysia had ratified UNCLOS III a month earlier on October 14, 1996.

Both countries have since entered into a number of negotiations to resolve the issues. In May 2003, Brunei Sultan Hassanal Bolkiah and Prime Minister Mahathir met at Pulau Pinang to discuss the issue. No resolution was reached. Two months later, Malaysian Deputy Prime Minister Abdullah Badawi went to Brunei for renewed discussions. On July 14, 2003 Bernard Dompok, the Minister in the Prime Minister's Department of Malaysia was reported to have said that Malaysia and Brunei would hold talks in order to reach a "win-win" solution to resolve rival territorial disputes that had interrupted both countries' offshore oil and gas exploration work <<http://www.gasandoil.com/goc/news/nts33214.htm>>.¹¹

On August 22, 2003, Sultan Hasanal Bolkiah of Brunei and Malaysian Prime Minister Mahathir Mohamad, once again held a meeting in Putrajaya in order to resolve the offshore dispute, including Limbang. However, the meeting failed.¹² In the meantime, Malaysia had already rejected the idea of third party arbitration (that is the ICJ) (Horton 2003). On August 24, 2006, the Sultan of Brunei Hasanal Bolkiah met with Malaysia's current Prime Minister Abdullah Badawi in Terengganu, Malaysia to discuss, among others, bilateral issues such as the overlapping EEZ claims in the disputed oil blocks and maritime cooperation between the two governments. Recently, on Mac 16, 2009, both countries reaffirmed their commitments to solve their territorial disputes by signing the Letter of Exchange in Bandar Seri Begawan to lay down a concrete end to the disputes.

The Philippines, Vietnam, China and Taiwan: The spratly islands dispute

The Spratlys disputes are Malaysia's most complex territorial disputes in the South China Sea. (Figure 4). They involve multiple claimants that subsequently overlap other multiple co-claimants. To identify a claim with a particular state and then to discuss it separately is highly complicated. This is so because a dispute consistently leads to other claimants' claims as well. Specifically, China, Vietnam and Taiwan claim the whole of the Spratly Islands while Malaysia, the Philippines and Brunei claim only parts thereof. A good example is Amboyna Cay. It is simultaneously claimed by China, Malaysia, Taiwan and Vietnam. What makes the claims on features in the Spratlys distinguishable from others is which countries have literally and technically bolstered their claims on them (that is troops

stationed or structures built thereon). Except for Brunei, all claimants have occupied respective claimed features.

In order to fit into the paper's objective, it focuses its discussion over the Spratlys dispute on features on which Malaysia has laid its claims and acted to within a subcategory. Since the disputes in the Spratly Islands involve 6 coastal states/governments, it only elaborates on Malaysia's actions in the Spratlys with Vietnam and the Philippines. These two countries are chosen because, besides the agreed present resolutions (that is the "Declaration on the Conduct of Parties in the South China Sea 2002" (DOC 2002)), the amount of Malaysian correspondence, remarks and actions against the two, and vice versa, with regard to their overlapping claims in the Spratlys, significantly resemble each other. Thus, they are considered essential to the evaluation of Malaysia's policy towards territorial disputes with regard to the Spratlys.

The Spratly Islands (herein, Spratlys) are a group of islands, reefs and shoals located in the southern part of the South China Sea which extends approximately 900 km from southwest to northeast (Prescott and Schofield 2005: 273 - 274). A semi-enclosed sea, the South China Sea covers an area of 648,000 square nautical miles (sq nm) stretching lengthwise from Singapore in the southwest to Taiwan in the northwest and breadth wise from Vietnam to East Malaysia (Sabah). It consists of around 170 plus features that are mostly submerged banks, reefs and low tide elevations that are more accurately known as *pseudo-islands* instead of true islands (Prescott 1985: 209 - 210 and Catley and Keliat 1997:1 - 3). It has an estimated 300 - 400 uninhabitable features which are sporadically situated in the middle of the South China Sea (latitude 6°N to 12°N and longitude 109°30'E to 117°50'E).¹³ Of all the features, only 37 can be considered as tiny islands, with the biggest being "Itu Aba Island" that is 1.4 km long and 400 meters wide.¹⁴ The total land area of the Spratlys is estimated to be less than 3 square miles, scattered over an area of around 240,000 km (Prescott 1985 and Catley and Keliat 1997).

For a start, Malaysia laid its claims on portions of the Spratlys in 1979 through the *Peta Baru*. Its claims were simultaneously protested by China, Vietnam, the Philippines, Brunei and Taiwan. The lists of the claimed features are various. However, as at 2003, eight of them have been occupied by Malaysia (Chung 2004 and Yusof et al 1993) (Table 1). They are; (1) Ardasier Reef (*Terumbu Ubi*), (2) Dallas Reef (*Terumbu Laya*), (3) Erica Reef (*Terumbu Siput*), (4) Louisa Reef (*Terumbu Semarang Barat Kecil*), (5) Marivales Reef (*Terumbu Mantanani*), (6) Royal Charlotte Reef (*Terumbu Semarang Barat Besar*), (7) Swallow Reef (*Terumbu Layang-Layang*), and (8) Investigator Shoal (*Terumbu Peninjau*).¹⁵ Another three have been occupied by other countries.

The Philippines occupied Commodore Reef (*Terumbu Laksamana*) while Vietnam occupied Amboyna Cay

(*Pulau Kecil Amboyna*) and Barque Canada Reef (*Terumbu Perahu*) (Trost, 1998 and Chung, 2004). Another feature claimed by Malaysia, but not occupied as of 1997, is Luconia Shoal (Valencia et al., 1997). It consists of three groups of reefs; (1) North Luconia Shoals (*Gugusan Beting Raja Jarum*) (2) South Luconia Shoals (*Gugusan Beting Patinggi Ali*) and (3) Central Luconia Field.¹⁶ Malaysia however, has in its possession in Central Luconia Shoal, gas pipelines leading to Tanjung Kidurong in Sarawak (Haller-rost, 1998).¹⁷ The shoals are also part of a dive destinations package operating from Sarawak.

The Philippines: In March 1998, the Philippines military discovered that Malaysia was building structures on the two features. The Philippines, having been assured by the then Malaysian Foreign Minister, Abdullah Badawi that the works had not been authorized by the Malaysian Government, did not make any official protests (Chung, 2004). However, in June 1999, Malaysia built a two-storey structure building, helipad, pier and radar antenna on the two features (Chung, 2004; Prescott et al., 1985 and Emmers, 2005; 2003). This time China, Taiwan and Vietnam protested against Malaysia's latest actions on the respective features.¹⁸

Following the 1999 incident, coupled with the one in 1998, the Philippines sent a diplomatic protest to Malaysia stating that Malaysia had trespassed into its territory (that is Investigator Shoal) and that Malaysia had breached the 1992 ASEAN Declaration on the South China Sea (Manila Declaration) and the subsequent ASEAN agreements relating to the Spratlys. The 1992 Manila Declaration is the specific declaration made by ASEAN countries to restrain states' conducts in the Spratlys. Among others, it calls for peaceful resolution methods to resolve disputes in the Spratlys as emphasized by the Treaty of Amity and Cooperation (TAC). The Malaysia-Philippines episode developed into a series of intense remarks and counter remarks from both countries. The then Malaysian Prime Minister, Mahathir Mohamad stressed that Malaysia was not trespassing into any country's territory and that those structures were meant only for climatic research, marine life studies and as navigational aids. The former Philippine President, Joseph Estrada, enraged by Abdullah's initial assurance, replied that the Philippines might build its own structures.¹⁹ Malaysia defended its actions in the respective features as legal as they were within Malaysia's EEZ. The government of the Philippines did not agree with Malaysia's arguments and threatened to take the matters to the United Nations. Nevertheless, the dispute did not stop both countries from consolidating both claims on several features in the Spratlys. By 1996, the Philippines had 595 troops deployed to guard its (occupied) nine Spratly islands (Collins, 2000). No latest development

Table 1. Spratlys: features occupied by Malaysia, the Philippines and Vietnam.

Features	Malaysia's Occupation
Ardasier Reef (<i>Terumbu Ubi</i>)	1986, 20 soldiers
Dallas Reef (<i>Terumbu Laya</i>)	1987
Erica Reef (<i>Terumbu Siput</i>)	1998
Louisa Reef (<i>Terumbu Semarang Barat Kecil</i>)	1987
Marivales Reef (<i>Terumbu Mantanani</i>)	1986, one platoon
Royal Charlotte Reef (<i>Terumbu Semarang Barat Besar</i>)	N/A
Swallow Reef (<i>Terumbu Layang-Layang</i>)	1983
Investigator Shoal (<i>Terumbu Peninjau</i>)	1999
Features occupied by other claimants	Country and Occupation Year
Commodore Reef (<i>Terumbu Laksamana</i>)	Philippines, 1978
Amboyna Cay (<i>Pulau Kecil Amboyna</i>)	Vietnam, 1975
Barque Canada Reef (<i>Terumbu Perahu</i>)	Vietnam, N/A

over the issue is available.

Vietnam: Vietnam, on the other hand, has been protesting against the *Peta Baru* since 1982. What followed thereafter was a spate of protest notes exchanged between the two countries. Following Vietnam's protest in 1982, it declared the new limits of its territorial waters and laid its claims on Swallow Reef in November 1982. Two months after Malaysia submitted a diplomatic note of protest in January 1983 stating its refusal to recognize Vietnam's baselines. On March 25, 1983, Vietnam replied stating that its CSB was consistent with international law. On May 19, 1983, Malaysia's Deputy Minister in charge of legal matters was reported to have stated that Malaysia's right to Amboyna Cay and Swallow Reef was a simple matter of geography (Lo, 1989).

Despite Vietnam's claim on Swallow Reef, Malaysia went ahead and occupied the reef on September 4, 1983. Vietnam immediately protested on September 7, 1983. Malaysia responded and demanded that Vietnam withdraw from Amboyna Cay (Yusof and Khatijah 1993). Malaysia continued to insist on its right over Amboyna Cay when in 1988, Malaysian Deputy Foreign Minister, Abdullah Che Wan was reported to have asserted that Malaysia's claims were legal and in line with international law. In 1992, the *Yang Dipertuan Agong*, the Constitutional Head of Malaysia, even visited Swallow Reef.

The closest confrontation the two ever came to was when a group of Malaysian engineers visiting Amboyna Cay placed a stone marker next to an existing one (Vietnamese) in 1978. Prior to that, Vietnam had occupied Amboyna Cay twice in 1956 and 1973, but never maintained a permanent presence there. However, when Malaysia placed the stone marker in 1978, Vietnam returned in 1979 and removed Malaysia's marker (Yusof and Khatijah 1993). Vietnam has not left the island ever since. It has also expanded its naval and air facilities thereon, including an airstrip. In total by 1996, Vietnam had occupied 25 islands in the Spratlys with 600 troops stationed thereon (Collins, 2000).

Malaysia's mounting concerns over controversies sur-

rounding the Spratlys were interpreted, among others, by its stopping from occupying newer features since 1999. In 2002 Malaysia had played an active role in mediating a non-binding declaration of the South China Sea. The 2002 "Declaration on the Conduct of Parties in the South China Sea" (DOC) is an extension of the 1992 Manila Declaration. Apparently, the DOC was specifically designed to deal with claiming states' actions in the Spratlys (Hasjim and Gault, 1999; Trost, 1998; and Catley et al., 1997). The DOC, signed on November 4, 2002 by ASEAN countries and China, mainly calls for states to reaffirm their determinations to maintain peace and stability in the region by exercising self-restraint in their conduct and to seek for mutual peaceful solutions to the Spratlys dispute.²⁰ The DOC particularly urges disputing states to "refrain from action of inhabiting the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner". The DOC also emphasizes that the states concerned put emphasis on bilateral or joint cooperation. The DOC, however, does not spell out any binding legal force mechanisms to be applied. Rather, it serves more as a moderating or restraining mechanism to states' actions in the Spratlys.

AN ANALYSIS OF MALAYSIAN FOREIGN POLICY

The overview of the territorial disputes suggests the fundamental bureaucratic factors which played essential roles in influencing Malaysia's policy towards its territorial disputes.

The prime minister department and national security division (NSD)

The Prime Minister's Department is the key governmental policy institution in the formulation of Malaysia's policy of this regard. Hence, the Prime Minister is the final decision maker in Malaysia. In the disputes of Sipadan-Ligitan

Annex 283

Clive Schofield, "Dangerous Ground: A geopolitical overview of the South China Sea" in *Security and International Politics in the South China Sea: Towards a co-operative management regime* (S. W. Bateman and R. Emmers eds., 2009)

Security and International Politics in the South China Sea

Towards a cooperative management
regime

**Edited by Sam Bateman and
Ralf Emmers**

First published 2009

by Routledge

2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada

by Routledge

711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

First issued in paperback 2012

© 2009 Selection and editorial matter, Sam Bateman and Ralf Emmers;
individual chapters, the contributors

Typeset in Times by Wearset Ltd, Boldon, Tyne and Wear

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British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloguing in Publication Data

Security and international politics in the South China Sea: towards a cooperative management regime/edited by Sam Bateman & Ralf Emmers. p. cm. — (Routledge security in Asia Pacific series; 9)

Includes bibliographical references and index.

1. South China Sea—International status. 2. South China Sea Region—Politics and government. 3. Security, International—South China Sea.

I. Bateman, W.S.G. (Walter Samuel Grono) II. Emmers, Ralf, 1974–
KZA1692.S43 2008

355'.033016472—dc22

2008025473

ISBN13: 978-0-415-46943-2 (hbk)

ISBN13: 978-0-415-54214-2 (pbk)

ISBN13: 978-0-203-88524-6 (ebk)

1 Dangerous Ground

A geopolitical overview of the South China Sea

Clive Schofield

Introduction

When the Spratly Islands are mentioned, a number of striking images tend to spring to mind. One notable picture shows a pair of soldiers perched precariously on a tiny inhospitable-looking rock only marginally larger than the sovereignty marker dominating it. Another striking photo shows a flimsy-seeming bamboo shelter, complete with ragged flag, attached to another diminutive rock just breaking the surface of the sea. Rather than being exceptions to the rule, these images are indicative of the true characteristics of many of the insular features among the Spratlys archipelago.

Despite their seeming insignificance physically these features have been subject to intense competition between rival claimants among the South China Sea's coastal states. In terms of the number and complexity of overlapping jurisdictional and sovereignty claims made to it, the South China Sea is among the world's most disputed areas. Competing claims to maritime space on the part of the littoral states are complicated by the presence of two disputed archipelagos of islands and reefs generally known as the Spratly and Paracel islands, as well as other outlying islands and islets. Sovereignty over these islands is disputed and maritime jurisdictional disputes related to the maritime claims that they may, or may not, be able to sustain also appear to exist.

The objective of this chapter is, essentially, to set the geopolitical scene in respect of the South China Sea and in particular of the Spratly Islands area. In light of lingering uncertainties over where the islands of the South China Sea are located and what they comprise, the chapter will, in the first instance, provide a brief examination of the geographical nature of the features that make up the South China Sea islands, particularly those collectively known, in English at least, as the Spratly Islands. The competing claims to sovereignty over these islands will then be briefly alluded to, as this provides a necessary context against which to assess the geopolitical value the claimant states attach to the features in question. Discussion will then turn to examining the key geopolitical interests and factors motivating the claimant states.

First, the possible intrinsic worth of the insular features themselves will be briefly examined. The potential value of the disputed islands in terms of the

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claims to maritime zones of jurisdiction that they may generate will be explored. This represents a critical issue as it has direct consequences in terms of access to the resources believed to exist in the South China Sea. The regime of islands as set out in the United Nations Convention on the Law of the Sea (UNCLOS)¹ will therefore be considered and the implications of this for the South China Sea “islands” will be discussed. A key related issue here is the possible presence of resources, particularly hydrocarbon, among the Spratly Islands. The conflicting assessments as to the potential resources, especially seabed resources, believed to exist in the South China Sea will therefore be reviewed with regional energy security concerns in mind, as these considerations appear to play a vital role in the geopolitical calculations of claimant states.

The significance of the islands with respect to access to living resources and in environmental terms will also be briefly raised; as will their potential value in a military and geostrategic sense, with particular reference to shipping passing through the South China Sea. The crucial role of the nationalism that underlies regional claims to territory, sovereignty and sovereign rights in the disputes over the South China Sea islands is also acknowledged.

The “Dangerous Ground”

The islands of the South China Sea include two contested archipelagos, the Paracel Islands in the northwest and the Spratly Islands in the south. Additionally, the isolated features of Pratas Island and Scarborough Shoal (or Reef) are located in the northeast and east of the South China Sea respectively. The present discussion will focus specifically on the Spratly Islands group.

Despite the intense examination of the problem these insular features pose in international relations, the substantial research efforts undertaken and the wealth of literature devoted to them, there remains a surprising degree of uncertainty over the nature of the islands, islets, rocks and shoals under discussion. Some of the fog of illusion, half-truths and misinformation associated with discussion of the geographical nature of the Spratly Islands has been lifted by scholars such as Hancox and Prescott.² The present author is indebted to them, and other scholars, for their meticulous research efforts on which key parts of the remainder of this section are largely based.³

Estimates as to the number of “islands” making up the Spratlys group vary wildly, with a high-tide mark of around 500.⁴ This figure is on the high side among estimates and appears to substantially overstate the case. A rather more realistic assessment puts the number of insular features of various types at 150–180.⁵ Why such uncertainty? One reason is the practical consideration of what, exactly, to count. The question “how many Spratly Islands are there?” should therefore immediately give rise to a counter-query as to what type of insular feature is meant.

The majority of the Spratly Islands are not, in fact, islands in the international legal sense as provided by the relevant provisions of UNCLOS. According to UNCLOS, Article 121(1), an “island” is “a naturally formed area of land,

surrounded by water, which is above water at high tide". While the requirements that an island be "naturally formed", an "area of land" and "surrounded by water" appear to be reasonably unambiguous, the requirement that islands be "above water at high tide" is potentially more problematic. The phrase "naturally formed" also serves to exclude from consideration artificial islands or structures (see below).⁶

The *regime of islands* provided under UNCLOS also includes, through Article 121(3) a sub-category of islands, the "rock". Such features "cannot sustain human habitation or economic life of their own". Differentiating between "islands" and "rocks" is problematic and has generated considerable scholarly debate as well as proving an important factor in numerous maritime and boundary disputes and delimitation questions (see below). Furthermore, UNCLOS Article 13(1) defines a low-tide elevation as "a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide".

Issues related to the relevant vertical datum are fundamental to distinguishing between these various categories of insular feature. The term "vertical datum" refers to the level of reference for vertical measurements such as depths and heights of tide. Choice of vertical datum can have a telling impact on whether a particular feature can be classified as an island (above high tide), a low-tide elevation (above low tide but submerged at high tide) or a non-insular, submerged feature (submerged at low tide).⁷

Many of the features counted among the Spratly Islands are in fact really low-tide elevations or submerged banks. Only 48 are known to rise above high tide to form uniformly small, and in most cases tiny, islands or rocks.⁸ The biggest insular feature among the Spratlys, Itu Aba Island, is a mere 1.4 kilometres long and 370 metres wide with an area of approximately 50 hectares, while Spratly Island itself has a roughly isosceles triangle shape, the base measuring 750 metres with the apex 350 metres distant and an area of around 13 hectares.⁹ The highest point on both islands is 2.4 metres above the high-tide mark.¹⁰ Indeed, the total land area of the Spratlys above the highest astronomic tide has been estimated to be less than eight square kilometers (three square miles). These features are located in the southern part of the South China Sea extending for approximately 460 nautical miles (nm) from southwest to northeast and 220 nm east to west.¹¹ They are therefore scattered over an enormous area of around 240,000 square kilometres.¹²

As noted above, the Spratly Islands encompass a bewildering profusion of different types of feature – islands, rocks, reefs, coral cays, low-tide elevations and submerged banks and shoals. This geographical complexity has made distinguishing between different insular features among the Spratlys group highly problematic. Consequently, commentators have tended to count some features but not others, count several grouped features as one or, alternatively, count each tiny, and often sub-surface, feature as a separate entity. Further sources of confusion are that there is no clear or consistently used definition of the Spratly Islands.¹³ There are also considerable difficulties over appropriate names for features among the Spratly Islands which may have multiple names in Chinese,

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English, French, Malay, Filipino and Vietnamese as well as variants within these languages.¹⁴

Furthermore, it is important to note that for the vast majority of their history, the Spratly Islands have been generally regarded as no more than hazards to navigation. This is evidenced by the number of features among the Spratlys whose names (in English at least) derive from the names of vessels that were wrecked on them.¹⁵ The term “Dangerous Ground”, which has traditionally featured on British navigational charts of the area now commonly known as the Spratly Islands group, seems particularly apt both in this regard and in terms of their contemporary role as a focus for conflicting jurisdictional claims.

As serious hazards to navigation, the Spratlys represented an area traditionally best avoided. The limits of this perilous part of the South China Sea were thus ascertained with some urgency in the nineteenth century but there was understandably little interest in penetrating what Findlay described in 1889 as a, “labyrinth of detached shoals”.¹⁶ Additionally, some of the observations that were made were uncertain, particularly regarding positional information. Plausible explanations here relate to inaccuracies in celestial observations, cumulative and unaccounted errors in ships chronometers and errors arising from dead reckoning.¹⁷ This gave rise to numerous features being recorded and appearing on charts that did not (and do not), in fact, exist. Examples of these are two Brown Islets, two Ganges Reefs and no fewer than seven reefs bearing the name Pennsylvania!¹⁸ Moreover, when systematic surveys among the Spratlys eventually did occur, they were largely conducted in secret and the information collected was deemed too sensitive to share (even, on occasion, with allies) and classified.¹⁹ This was largely because of the emergence of geopolitical rivalries among the distant but interested maritime powers, notably Britain, France, Japan and the USA. These conflicting ambitions prompted secret surveys with differing aims.

Thus, Britain was concerned to find safe and speedy passage through the Dangerous Ground for oil supplies from Borneo to Hong Kong. The British Admiralty also held out hope that there might exist a strategically useful concealed fleet anchorage among the Spratlys. Japan was the other main player, especially in the 1930s, scouting safe invasion routes and potential submarine bases, as well as generally attempting to bolster its commercial presence in Southeast Asia. France’s modest surveying efforts appear to have been mainly motivated by a desire to ward off Japan, while the US conducted surveys with the intent of establishing a secure east–west passage through the complex Spratlys group. It has thus been rightly observed that geopolitical rivalries over the Spratlys are nothing new – only the players have changed.²⁰

It is, nonetheless, surprising that major discrepancies remain between charting authorities on the Spratlys and that many charts and maps continue to show features among the Spratlys that simply do not exist. For instance, Hancox and Prescott have identified 22 features which routinely appear on US navigational charts and maps, yet have been conclusively proven not to exist by other hydrographic survey authorities, notably the British Admiralty, decades before. This is especially surprising given that it is common practice for hydrographic survey

information with a bearing on safety of navigation to be exchanged among charting authorities (and this is certainly the case between the UK and US agencies) and the survey information in question has been declassified and published (largely in the early 1960s in the British case) and is therefore in the public domain.²¹

Competing claims

There exist six claimants to all or part of the Spratly and Paracel archipelagos and their surrounding maritime space: China (both the People's Republic of China (PRC), and separately, the Republic of China, referred to hereinafter as Taiwan), Vietnam, the Philippines, Malaysia and Brunei. Of these six claimants, all save Brunei maintain a military presence on one or more islands.

China, Taiwan and Vietnam lay claim to virtually all the geographical features making up the South China Sea islands groups on the grounds of discovery, history and occupation. The Philippines and Malaysia claim parts of the group on the basis of proximity and that certain features lie on their claimed continental shelves. Brunei claims only one feature, also on the basis that it lies on Brunei's continental shelf. An exhaustive analysis of these claims is not necessary at this point. However, the important point to note is that none of these sovereignty claims is especially compelling.²²

The claimant states have, with the exception of Brunei, sought to consolidate their claims by establishing sovereignty claim markers, occupying geographical features, physically building them up (see below), building and upgrading structures, constructing facilities such as airstrips, fortifying them and stationing military personnel on them. As noted, Brunei has not occupied any Spratly Islands feature. However, the five countries with a permanent presence in the Spratly Islands also claim all or some of the other Spratly features that they do not occupy. The claimant states have also sought to bolster their claims in non-military ways, for example adopting legislation related to them, establishing marine scientific research stations or programmes, issuing exploration concessions to oil companies, allowing tourists and journalists to visit the islands and publishing relevant documents.²³

In a sense these occupations and related activities can be viewed as being symptomatic of the shortcomings in the claimant states' cases in international legal terms rather than their strength. Indeed, claimant states give every appearance of operating on the basis of the old adage that possession represents nine tenths of the law. The garrisoning of small, isolated features is also arguably indicative of the military weakness of some of the claimants. It is noticeable that the Philippines and Vietnam, the two major Spratly Islands claimants with arguably the weakest militaries, appear to be the most enthusiastic island occupiers. Overall, it is understood that around 45 insular features among the Spratlys are currently occupied by one or other of the claimant states.²⁴ This is despite the fact that some commentators identify only 36 Spratly "Islands" that appear above water at high tide.²⁵

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Geopolitical interests

Intrinsic value

The vast majority of the Spratly Islands are remote, barren, small and uninhabited islets, rocks, low-tide elevations, reefs and submerged banks and shoals. Even the largest features concerned have not traditionally supported permanent populations, instead being occasionally visited by fishermen and passing mariners, prior to the arrival of garrisons from the 1970s and 1980s onwards. Lack of permanent habitation can largely be attributed to the physical characteristics of the islands, notably their small size and frequent lack of fresh water. Indeed, only a few of the islands are large enough to support significant vegetation, such as trees, and have therefore proved unattractive for potential settlers.²⁶ Similarly, only a few have been exploited for their own resources, for example guano, and even then only briefly. These factors serve to undermine all the claims to sovereignty that have been made as there is little evidence of past occupation.²⁷ It can be stated with confidence, therefore, that the Spratlys have minimal intrinsic value in themselves.

Maritime spaces generated

Paragraph 2 of Article 121 of UNCLOS provides that islands, in an identical fashion to mainland coasts, are capable of generating a full suite of maritime zones: “[T]he territorial sea, the contiguous zone, the exclusive economic zone [EEZ] and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.”

In the context of extended claims to maritime jurisdiction, therefore, even small islands potentially have huge maritime zone generative capacity with significant resource/security implications. Crucially, if an island had no maritime neighbours within 400 nm, it could generate 125,664 nm² (431,014 km²) of territorial sea, EEZ and continental shelf rights.²⁸

However, as previously noted, Article 121(3) provides for “rocks” as a sub-category of islands and further states that these features “shall have no exclusive economic zone or continental shelf”. If deemed a mere “rock” incapable of generating EEZ and continental shelf rights, therefore, a feature such as that mentioned above, even if similarly isolated, may only generate a territorial sea of 452 nm² (1,550 km²). The distinction between fully fledged island and mere rock is therefore critical and this goes a long way to explaining both the significance attached to islands in the recent past and the allied rise in the number of international disputes involving islands.

With regard to low-tide elevations, UNCLOS Article 13(1) states that where such a feature “is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island” then that low-tide elevation’s own low-water line “may be used as the baseline for measuring the breadth of the territorial sea”. UNCLOS Article 13(2) emphasises that in the case where a low-tide elevation is situated wholly beyond the breadth of the territorial sea,

commonly 12 nm in line with UNCLOS Article 3, measured from another island or mainland baseline “it has no territorial sea of its own”. A low-tide elevation’s value for maritime jurisdictional claims is therefore geographically restricted to coastal locations and, as such, they have been termed “parasitic basepoints”.²⁹

Artificial islands and permanently submerged features have even less capacity to generate claims to maritime jurisdiction. Clearly, the requirement under Article 121(1) that in order to qualify as an island, a feature must be “naturally formed” serves to disqualify artificial “islands”, such as platforms constructed on submerged shoals, low-tide elevations or reefs, from consideration as islands under UNCLOS. This is reinforced by UNCLOS Article 60(8), which states unambiguously:

Artificial islands, installation and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Instead, only “safety zones” may be defined around these structures. In accordance with UNCLOS Article 60(5) the breadth of such safety zones is to be determined by the coastal state, though it may not exceed 500 metres. For their part, permanently submerged features have no capacity to generate maritime jurisdictional claims and merely represent hazards to navigation.

Furthermore, concerning the role of islands in maritime boundary delimitation, the question of how outstanding geographical features, such as islands significantly far offshore, are treated is often a vitally important one. The important issue to bear in mind in this context is that, even if a feature can be categorised as a fully fledged island under Law of the Sea rules, it may well not be accorded “full effect” in maritime boundary delimitation – achieved either through negotiations or with third-party assistance.³⁰ Indeed, there are numerous examples of state practice and case precedents where islands have received a substantially reduced, frequently half, effect, been partially or wholly enclaved or completely ignored.³¹ This reduced effect often stems from recognition of a disparity in the relevant coastal lengths of the coastlines involved, for example between a small island and a mainland coastline, and the consequent disproportionate impact an island may have on the construction of a strict equidistance line.

Application to the Spratly Islands

A reasonable reading of the relevant provisions of UNCLOS would seem to indicate that the vast majority of the Spratly Islands would fall short of the status of fully fledged islands capable of generating continental shelf and EEZ rights. Instead, most of the Spratly “islands” may instead be correctly classified as submerged features or low-tide elevations. Consequently, these insular features should have severely restricted capacity to generate claims to maritime jurisdiction in accordance with UNCLOS.

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It is notable, however, that the South China Sea is host to many pseudo-islands, including fully submerged seamounts, that have been subject to “island-building” activities including the erection of above-surface structures and have also been fortified and garrisoned in order to help bolster the occupier’s claims.³² Such island-building antics on the part of some Spratlys claimants will not, under the terms of UNCLOS, lead to the creation of “new” basepoints for the generation of zones of maritime jurisdiction, as outlined above. This clear-cut legal situation has not, however, necessarily dissuaded South China Sea coastal states from advancing some remarkable claims. For example, it has been reported that China and Taiwan claim the Macclesfield Banks as islands capable of generating maritime claims to jurisdiction. This is despite the fact that the features in question lie between seven metres and 82 metres below sea level.³³ A significant problem does exist in this context in terms of distinguishing, after the passing of time and the deposition of large amounts of concrete in the course of island-building activities, whether a particular island may have been naturally formed in its original condition.

A few of the Spratlys do, however, rise above high tide and therefore come under the regime of islands laid down in Article 121 of UNCLOS. Certainly, in light of the (arguably deliberately) ambiguous nature of Article 121(3), a case can be made that some of the Spratlys, at least, are fully fledged islands capable of generating claims to continental shelf and EEZ rights. Equally, however, the alternate, and arguably stronger, view can be advanced (most likely by the neighbouring coastal state).³⁴

If the Spratly Islands are considered fully fledged islands, and an equidistance line is constructed between the Spratly Islands group and the surrounding mainland and island coastlines, the area of land, sea and seabed so enclosed measures approximately 165,000 nm² (565,000 km²).³⁵ However, as outlined, compelling arguments can be made that, even if it is accepted that some of the Spratlys are indeed islands capable of generating extended jurisdictional claims, in any eventual maritime boundary delimitation, particularly between the Spratlys and the surrounding mainland states, the Spratlys should be accorded a reduced effect. There are therefore good grounds to believe that the figure mentioned above is exaggerated and that generally the capacity of the Spratlys to generate a maritime zone tends to be significantly overstated.³⁶

Ocean resources

The lure of the South China Sea oil

Whenever the South China Sea, and the Spratly Islands in particular, are mentioned in the media it seems almost inevitable that the preceding words will be “oil rich”. This perception of the Spratly Islands as the key to major seabed hydrocarbon reserves must also be set against the backdrop of rising regional energy security concerns, emphasised by surging global oil prices. For example, although China has succeeded in substantially increasing its oil production over

the last decade, demand, growing at a rate of 4.9 percent annually since 1991, has outstripped increasing supply to a significant degree. China became a net oil importer from 1993, its oil consumption rose by 15.8 per cent in 2004 alone, and it is now the second largest consumer of oil after the United States. This trend appears set to continue unabated, with conservative estimates putting the PRC's crude oil imports at 150 million tons by 2010 and 250–300 million tons by 2020.³⁷ If current trends continue, China will be importing 50 per cent of its projected oil requirements of 360 million tonnes by 2015 and 58 per cent of its 430 million tonnes of oil requirements by 2020.³⁸ Similar trends are apparent in relation to natural gas consumption which, for China, is set to rise from around 22 billion cubic metres in 1998 to 80 billion cubic metres by 2010. This type of scenario is repeated across the region and go a long way to explaining the lure of possible oil and gas reserves, close at hand, under the South China Sea.³⁹

As a whole, the South China Sea encompasses approximately three million square kilometres of ocean space. Around one third of this area consists of continental shelf of less than 200 metres depth, largely located to the west and south (the Sunda Shelf).⁴⁰ While the existence of large areas of continental shelf in relatively shallow waters is therefore not in doubt, the presence of substantial oil and gas reserves is. Estimates as to the hydrocarbon resource potential of the Spratlys vary wildly.⁴¹ For example, whilst the United States Energy Information Administration analysis of the South China Sea region notes that proven oil reserves are estimated to be of the order of seven billion barrels, Chinese estimates as to the area's seabed resource potential are considerably higher, with figures in the range of 105–213 billion barrels of potential oil resources mentioned.⁴² Indeed, some Chinese sources have even described the South China Sea as a “new Persian Gulf”.⁴³

In this context it is worth observing that in general government estimates may tend to err towards the optimistic side in order to attract international interest and investment. Bold estimates as to the potential oil wealth involved also serve to underpin aggressive and/or inflexible positions on questions of national policy relating to sovereignty and jurisdiction. In contrast, it can be observed that oil companies tend to down-play the potential of a given area in order to help secure more commercially favourable contractual terms.⁴⁴ Nonetheless, independent scientific institutions, such as the Lamont Doherty Geological Observatory and the German Geological Survey, and extra-regional actors including Russia and the USA have also issued optimistic predictions concerning the South China Sea's oil and gas potential.⁴⁵

To a large extent the prevailing uncertainty over the seabed resource potential of the South China Sea, and the Spratly Islands region in particular, stems from a lack of sufficient exploration activity. While commercial discoveries have been made at the margins of the South China Sea, all the estimates relating to the South China Sea as a whole, and the area around the Spratly Islands in particular, are therefore instead probably better described as “best guesses”.

With regard to the Reed Bank, for example, it has been established that this area is underlain by as much as nine kilometres of sediment and preliminary drilling efforts indicate the presence of good source and reservoir rocks,⁴⁶ while

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stratigraphic sections point to the existence of the structural traps necessary for oil accumulation, notably faulted anticlines.⁴⁷ However, despite sporadic survey work from the 1970s, especially under licence from the Philippines,⁴⁸ it is understood that relatively little has been discovered in the way of seabed hydrocarbons. That is not to argue that commercially viable fields definitively do not exist on the Reed Bank, but neither does this evidence justify the unbridled optimism that frequently pervades media coverage of the Spratlys question in relation to oil.

Regarding the central part of the South China Sea, little in the way of drilling or even seismic exploration has taken place, making estimates as to hydrocarbons prospectivity highly uncertain. In contrast, the Vanguard Bank (or Wan'an Bei) is perhaps a promising area. The limited seismic survey information that is available indicates that the area does host geological structures that could contain significant quantities of oil and gas. Indeed, the Vanguard Bank could be considered to be analogous to the adjacent Cuu Long and Nam Con Son basins to the west or the more distant Natuna basins to the south. However, there is considerable doubt as to the presence of appropriate source and reservoir rocks.⁴⁹ The only way to establish this would be to drill and therein lies a significant problem as this area has been characterised by multiple, overlapping maritime jurisdictional claims.

Potential Eldorado or "Moose Pasture"?

Overall, while the presence of seabed resources underlying the Spratly Islands is likely, there are notable qualifications: in particular, whether oil and gas deposits are present in sufficient quantities, at appropriate depths of water and in technically manageable situations remains open to question.

Depth has been raised as a negative factor counting against oil exploration in the Spratlys region. However, much of the area in question is relatively shallow and in any case the technology for deep-water drilling is improving rapidly – the Malampaya project in deepwater off the Philippines certainly provides good evidence of such developments being applied to the South China Sea. An example from further afield is provided in the Gulf of Mexico, where 49 ultra-deepwater discoveries had been made in over 1,524 metres (5,000 feet) of water by late 2006.⁵⁰ In any case, much of the Spratly Islands area is relatively shallow. It has been estimated that approximately 10,350 square kilometers of seabed lies under less than 200 metres (656 feet) of water on the Reed Bank and associated banks.⁵¹

Another key factor relates to demand for and thus the price of oil. The oil price was, at the time of writing, high (in excess of US\$100 per barrel) and, as previously noted, in the long term, demand in Southeast Asia is set to rise steadily. These factors are highly likely to drive further offshore exploration efforts as well as enhancing the importance claimant states attach to the South China Sea disputes. Thus, while the Spratlys do not appear to be a priority area for oil companies at present, they may well be in due course.

Nonetheless, it is perhaps enlightening that when the author approached a well-known international oil company on the topic of the oil potential of the Spratlys area a few years ago, the initial reaction of the consultant in question was that the Spratlys area, and particularly the central part of the South China Sea was regarded as “Moose Pasture”. That is, its potential was strictly limited, had been “over-hyped” and it was by no means at the top of his company’s list of priority areas for exploration.⁵² That view was based partially on the lack of available scientific data on the area, its complex geology, the technical difficulties involved in shooting seismic lines in relatively shallow waters among numerous reefs and the likely costs of exploration in the face of severe weather conditions. However, the key disincentive for the oil companies remains the political uncertainties over to whom the Spratlys and their associated waters belong.

Ultimately, while there is a strong likelihood that oil and gas reserves do indeed underlie the Spratlys area, there is little reason to suspect a hydrocarbons Eldorado waiting to be tapped. Nevertheless, the “oil factor” is likely to remain significant in the geopolitical calculations of the claimant states, at least as long as it is *perceived* that the Spratlys are, or potentially are, oil rich and especially in the context of the heightened energy security concerns among the littoral states of the South China Sea. Indeed, as regional energy demands become ever more pressing, the attractiveness of suspected South China Sea seabed resources will only increase. It remains to be seen whether the Joint Marine Seismic Undertakings involving China, the Philippines and Vietnam will reveal more concerning the seabed resource potential of the South China Sea and perhaps lead towards some kind of mutually beneficial accommodation that facilitates exploration for energy resources. That said, although the joint seismic undertakings undeniably represent an encouraging sign, sensitive questions, for instance relating to sharing any resources discovered and the potential role of the other claimant states, have yet to be addressed. Clearly, while the impetus towards cooperative approaches exists, the ingredients for competition over these resources are also present and it is notable that the conclusion of these trilateral seismic initiatives has not led to a cessation in violent incidents in the vicinity of the disputed islands.⁵³

Beyond the oil factor

Fisheries, food security and the environmental dimension

The South China Sea as a whole has been termed “an area of globally significant biological diversity”.⁵⁴ Of particular importance here is the South China Sea’s extraordinary diversity, especially as compared to other ocean spaces.⁵⁵ Within this context, the Spratly Islands have been identified as an “irreplaceable mid-ocean reef habitat”.⁵⁶ These reef habitats provide important nursery and breeding grounds for regional fisheries. It is important to acknowledge that the South China Sea supports a fishery of global significance, with capture fisheries accounting for 10 per cent of the world’s landed catch, and fishing remain a major industry in the South China Sea littoral states.⁵⁷ Furthermore, five of the

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world's top eight shrimp producers are South China Sea littoral states.⁵⁸ Djalal does, however, make the point that this species diversity poses a challenge in terms of large-scale commercial fishing targeting a particular species, such as tuna, as "it is not uncommon that in a single trawl haul, 200 species would be caught, around 80 per cent of which would be of no or little commercial value".⁵⁹ Nonetheless, fisheries continue to play a critical role in regional food security. The protection and preservation of the environment and biodiversity of the South China Sea in general and the Spratly Islands reef systems in particular should therefore be a first-order priority for the coastal states concerned.

The reality, however, is that this certainly does not appear to have been the case in the past and the environment and biological diversity of the South China Sea is under serious threat. Indeed, it is estimated that mangrove habitats are being lost at a rate of 0.5–3.5 per cent per annum, dependant on littoral state, and that fully 82 per cent of coral reef habitats surveyed in the South China Sea suffer from degradation to some extent.⁶⁰ With regard to the Spratly Islands themselves, though understood to be in a relatively good state at present, these unique coral reef habitats are also under threat – not least from the activities of the garrisons on the occupied Spratlys.⁶¹

Strategic and military significance

There is also a clear strategic dimension to the dispute over the Spratly Islands and the South China Sea islands more generally. Indeed, it is often asserted that the Spratly Islands are crucial in geostrategic and military terms. In particular, many commentators see a link between control of the Spratlys and freedom of navigation, particularly in respect of the security of Sea Lines of Communication (SLOCs).⁶² Certainly, the Spratly Islands occupy an important strategic location in close proximity to a waterway of global significance, providing the key maritime link between the Indian Ocean and East Asia. More than a quarter of the world's trade traverses through these SLOCs, including 70 per cent of Japan's energy needs and 65 per cent of China's.⁶³ It is also the case that the importance of the South China Sea as a conduit for energy supplies is likely to be maintained, if not to increase still further, for the foreseeable future. The same also holds true for the import of other raw materials to and the export of manufactured goods from resource-poor Southeast Asian and East Asian economies dependent on sea-borne trade. Freedom of navigation and maritime security therefore constitute critical issues not only for the South China Sea littoral states but for interested non-claimant user states, notably Japan, South Korea and the United States.

However, it is worth noting that, unsurprisingly, commercial shipping routes are located well to the west of the Dangerous Ground in the vicinity of the Spratly Islands. It also remains questionable quite what military advantage can be realistically derived from possession of the Spratlys. Although a number of the Spratlys do boast airstrips, the small size of the islands and islets in question undermines their utility as bases or platforms, as compared, for example, to the

deployment of ships and aircraft. Furthermore, maritime security threats such as piracy and armed robbery against ships are routinely overstated, particularly in respect of the supposed threat to international trade.⁶⁴ Nonetheless, the perception of a potential threat to freedom of navigation remains important in regional and extra-regional geopolitical calculations. It is also the case that military competition among the Spratlys clearly has, in itself, the potential to disrupt shipping interests. In this context the Sino-Vietnamese clashes in the Paracels (1974) and Spratlys (1988) illustrate that parties to the dispute have in the past not been afraid to use military force to assert their respective claims.⁶⁵

Domestic, regional and international geopolitical considerations

Although securing access to ocean resources and the strategic dimensions of controlling important sea-lanes are important drivers in the dispute, they do not tell the whole story. The domestic dimensions to the South China Sea disputes cannot be ignored. In this context, a particular maritime boundary dispute often reflects the health of the overall bilateral political relationship between the parties concerned, rather than energy security or resource considerations in isolation. Ancel's dictum relating to land boundaries seems just as apt in relation to maritime boundary disputes: "Il n'y a pas de problèmes de frontières. Il n'est que des problèmes de Nations. [There are no boundary problems. There are only problems of nations.]"⁶⁶ States are inextricably linked to their territory and any potential loss of claimed territory, however slight, can be construed as a threat to a state's sovereignty, security and integrity. In consequence, such disputes frequently provide fertile ground for nationalistic rhetoric and flag-waving.⁶⁷ In the South China Sea context it is also worth observing that China's lingering sense of injustice over past territorial setbacks plays a potent role and makes compromise extremely difficult to achieve. Similarly, boundary disputes can prove useful as geopolitical pressure points in international relations. Disputes therefore need to be seen both in terms of their domestic political impact and in their wider geopolitical context, including the history of relations between the parties.⁶⁸

Conclusions

Some uncertainty persists in respect of defining where and what the Spratly Islands consist of. This is largely the consequence of the lack of an accepted definition of the Spratlys, uncertainties over place names in a variety of languages and the persistent appearance of features that do not exist on some modern charts. This last issue is the most difficult to reconcile with the hydrographic surveying and geodetically robust positioning techniques available to us in the twenty-first century.

With regard to the geopolitical interests of the claimant states in the Spratly Islands, the intrinsic worth of the islands is a non-factor. The Spratlys are generally small, low-lying and lacking in vegetation and thus vulnerable to being overtopped by waves in exceptionally severe weather conditions a phenomenon likely

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to become more frequent in the future given global sea level rise. Unsurprisingly, the Spratlys have traditionally been regarded as little more than navigation hazards and their lack of intrinsic worth is evidenced by the distinct lack of habitation and development on them up to the 1970s and 1980s, when the South China Sea disputes came to prominence.

Concerning the ability of these islands to sustain extensive claims to maritime jurisdiction and thus access to the resources of the South China Sea, it appears that the geopolitical calculations of the claimant states are based on a brace of assumptions, neither of which is certain: first, that the Spratly Islands can generate extensive claims to maritime jurisdiction and, second, that significant resources, particularly oil, will as a result fall to the claimant state that secures the islands.

The ability of the Spratly Islands to generate claims to the extended zones of maritime jurisdiction under UNCLOS, namely the continental shelf and EEZ, is conditional on their qualifying as fully fledged islands under international law. As discussed, the vast majority of the insular features that make up the Spratly Islands group are not capable of qualifying as fully fledged islands and instead can be more appropriately classified as sub-surface features, low-tide elevations or rocks within the meaning of UNCLOS Article 121(3). An allied consideration here is that even though some of the larger features among the Spratly Islands may arguably be capable of generating continental shelf and EEZ claims, there appears to be little reason to be confident that they would be accorded full weight in any subsequent maritime boundary delimitation exercise – especially one pitting small islands with limited coastal fronts versus long mainland and continental coastlines.

Second, the primary importance attached to such extended maritime claims from the South China Sea islands relates to the marine resources that may be contained therein and which the claimant states may, consequently, gain sovereign rights over. In this context, the possible existence of seabed hydrocarbon resources is often cited as a key factor in the disputes associated with the South China Sea Islands. However, as discussed, it is by no means certain that the South China Sea will prove to be the oil bonanza that some of the more optimistic estimates would have us believe.

However, protestations from interested geographers and international lawyers that the islands of the South China Sea are inappropriate features to generate claims to continental shelf and EEZ rights appear to discount geopolitical realities. At least some of the Spratlys *may* be able to generate extended claims and should the sovereignty disputes ever be resolved or set aside, it is possible that the claimants will accord the islands significant weight. This is especially likely in the context of a cooperative regional solution. Not to advance extended maritime claims from these islands would, after all, be disadvantageous to all the claimant states, as the maritime area associated with the Spratly Islands would be much reduced. Additionally, if, for example, the Spratly Islands were to generate no more than 12 nm of territorial seas, a substantial high seas enclave would exist in the South China Sea – something that is likely to be an unwelcome scenario for most if not all the claimant states. Crucially, the maritime

spaces associated with the Spratly Islands *may* encompass seabed areas with significant hydrocarbons resource potential. Despite the associated uncertainties the tantalising possibility that the Spratlys are indeed “oil rich” therefore remains a potent lure.

It has also been argued that the Spratly Islands have great environmental worth and potentially a significant role to play in sustaining regional fisheries and thus, by extension, ensuring regional food security. Important and urgent as this consideration undoubtedly is, it is unclear how weighty this factor is in the claimants’ geopolitical reckonings. In geostrategic terms, much has been made of the proximity of the Spratlys group to key SLOCs. As noted, the true military worth of the Spratlys is questionable. This is not, however, to discount this factor in the geopolitical thinking of the claimant states and other interested parties in light of the crucial importance attached by these actors to ensuring freedom of navigation through the waters of the South China Sea.

Finally, the enduring importance of boundary, territorial and sovereignty issues, especially in light of perceptions of potential oil wealth in the context of regional energy security concerns, should not be underestimated.

Notes

- 1 United Nations Convention on the Law of the Sea, Montego Bay, Jamaica, 10 December 1982 (in force as from 16 November 1994) (New York: United Nations, 1983).
- 2 See, especially, D. Hancox and J.R.V. Prescott, *A Geographical Description of the Spratly Islands and an Account of Hydrographic Surveys Amongst Those Islands*, Maritime Briefing 1, 6 (Durham: International Boundaries Research Unit, 1995), and D. Hancox and J.R.V. Prescott, *Secret Hydrographic Surveys in the Spratly Islands* (Kuala Lumpur: The Maritime Institute of Malaysia, 1997).
- 3 The author does, of course, nonetheless take responsibility for the views expressed in this chapter.
- 4 See, for example, G. Hearns and P. Tyedmers, “Poseidon’s Trident: Biological Diversity Preservation, Resource Conservation and Conflict Avoidance in the South China Sea”, in G.H. Blake, W.J. Hildesley, M.A. Pratt, R. Ridley and C. Schofield (eds), *The Peaceful Management of Transboundary Resources* (London: Graham and Trotman, 1995), pp. 289–300 at p. 290. Similarly, Snyder suggests that there are “400-plus rocks, reefs and islands” making up the Spratly Islands group. See S. Snyder, *The South China Sea Dispute: Prospects for Preventative Diplomacy*, USIP Special Report, no. 18 (Washington DC: United States Institute of Peace, August 1996), available at www.usip.org/pubs/specialreports/early/snyder/South_China_Seal.html.
- 5 For instance Dzurek states that there are “more than 170 features with English names in the Spratly Islands”. See D.J. Dzurek, *The Spratly Islands: Who’s On First?* Maritime Briefing 2, 1 (Durham: International Boundaries Research Unit, 1996).
- 6 J.R.V. Prescott and C.H. Schofield, *The Maritime Political Boundaries of the World* (Leiden and Boston: Martinus Nijhoff Publishers, 2005), pp. 58–61.
- 7 Neither the Geneva Conventions of 1958 nor UNCLOS specifies a particular vertical datum. This choice of vertical datum is thus left up to the individual coastal state. There is therefore no inherently “wrong” low-water line choice. However, if two countries opt for differing vertical datums, insular features may, for example, be represented as an island or rock on the chart of one state but as a mere low-tide elevation or sub-surface feature on the other state’s chart. See C.M. Carleton and C.H. Schofield,

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- Developments in the Technical Determination of Maritime Space: Charts, Datums, Baselines, Maritime Zones and Limits*, Maritime Briefing 3, 3 (Durham: International Boundaries Research Unit, 2001). See also International Hydrographic Organization (with the International Oceanographic Commission and the International Association of Geodesy), *A Manual on Technical Aspects of the United Nations Convention on the Law of the Sea, 1982*, Special Publication 51, 4th edn (Monaco: International Hydrographic Bureau, 2006), chapter 2, pp. 16–20. Available at www.iho.shom.fr.
- 8 Hancox and Prescott, 1995, provide the figure of 48. However, some commentators offer lower figures. For example Dzurek, 1996, p. 1, offers the number 36.
- 9 Hancox and Prescott, 1995, pp. 8 and 14.
- 10 Ibid.
- 11 J.R.V. Prescott and C.H. Schofield, *The Undelimited Maritime Boundaries of the Asian Rim in the Pacific Ocean*, Maritime Briefing 3, 1 (Durham: International Boundaries Research Unit, 2001), pp. 58–61 and Prescott and Schofield, 2005, pp. 456–457.
- 12 Prescott and Schofield, 2001, p. 58.
- 13 Dzurek, 1996, pp. 3–4.
- 14 Ibid., pp. 4–6.
- 15 Hancox and Prescott, 1997, p. 2.
- 16 A.G. Findlay, *Indian Archipelago and China Directory*, 3rd edn (London: Richard Holmes Laurie, 1889), p. vi; quoted in Hancox and Prescott, 1997, p. 1.
- 17 Hancox and Prescott, 1997, pp. 2–4. The same authors wryly note that in the case of insular features amongst the Spratly Islands named after particular wrecked vessels,
- A Master and his navigating officers, some of whom were probably rudely and unceremoniously awakened by the grinding impact of a stranding, were not usually too concerned about the navigational niceties of knowing exactly where their ship had run aground!
- 18 J.R.V. Prescott, personal communication, 16 April 2007.
- 19 Hancox and Prescott, 1997, p. 186.
- 20 Ibid., pp. 36–58 and 184–186.
- 21 Ibid., pp. 187–188.
- 22 Most independent analyses of these claims reach this conclusion. See for example, Dzurek, 1996, pp. 47–55; and M.J. Valencia, J.M. Van Dyke and N.A. Ludwig, *Sharing the Resources of the South China Sea* (The Hague: Martinus Nijhoff, 1997), pp. 17–40. The latter authors conclude that
- Each of the claimants has made a claim that has significant weaknesses under international law, and it is highly unlikely that any of the claimants would receive all of its claimed areas in an adjudication by the International Court of Justice or an arbitration tribunal.
- (pp. 59–60)
- 23 T. McDorman, “The South China Sea Dispute in the 1990s: A New Multilateral Process and continuing Friction”, *International Journal of Marine and Coastal Law* 8, 2 (1993), pp. 263–285 at pp. 276–280, and Valencia *et al.*, 1997, pp. 8–9.
- 24 Some uncertainty exists over the precise figure. For example the CIA suggests that “about 45 islands are occupied” in the Spratly Islands group. See Central Intelligence Agency, *CIA World Factbook 2008*, available at www.cia.gov/library/publications/the-world-factbook/geos/pg.html. Other sources provide higher figures. For example, Djalal indicates that China occupies 14 features; Malaysia, 10; the Philippines, 11; Taiwan, 1; and Vietnam, 22, for a total of 58. See H. Djalal, “Preventative Diplomacy: Managing Potential Conflicts in the South China Sea”, in C.A. Croker, F.O. Hampton and P. Aall (eds), *Herding Cats: Multiparty Mediation in a Complex World* (Washington, DC: United States Institute of Peace Press, 1999), pp. 107–133.

- 25 As previously noted, this figure is provided by Dzurek, 1996, p. 1; Hancox and Prescott, 1995, provide the figure of 48.
- 26 Based on the British Admiralty *South China Sea Pilot*, ten features have been identified as apparently sustaining trees naturally, Valencia *et al.*, 1997, p. 43.
- 27 *Ibid.*, pp. 39–40.
- 28 For the sake of this theoretical calculation the island in question is represented by a point and thus has no area.
- 29 C.R. Symmons, *Some Problems Relating to the Definition of "Insular Formations" in International Law: Islands and Low-Tide Elevations*, Maritime Briefing 1, 5 (Durham: International Boundaries Research Unit, 1995), p. 7.
- 30 For example see D.W. Bowett, *The Legal Regime of Islands in International Law* (New York: Oceana, 1979); H.W. Jayewardene, *The Regime of Islands in International Law* (Dordrecht: Martinus Nijhoff, 1990), pp. 3–12; C.R. Symmons, *The Maritime Zones of Islands in International Law* (The Hague: Martinus Nijhoff, 1979); Symmons, 1995; C.M. Carleton and C.H. Schofield, *Developments in the Technical Determination of Maritime Space: Delimitation, Dispute Resolution, Geographical Information Systems and the Role of the Technical Expert*, Maritime Briefing 3, 4 (Durham: International Boundaries Research Unit, 2002).
- 31 Examples include the substantial Swedish island of Gotland which was accorded a 75 per cent effect on the delimitation between Sweden and the then USSR, the Scilly Isles which were given a half-effect in the Anglo-French Arbitration, the Italian islands of Pantellaria, Linosa, Lampione and Lampedusa in the delimitation agreement between Italy and Tunisia and the Channel Islands which have been wholly enclaved on the French side of a median line between the opposite British and French coasts. See Carleton and Schofield, 2002, pp. 13–20.
- 32 Prescott and Schofield, 2005, pp. 273–276.
- 33 Dzurek, 1996, p. 54.
- 34 This view appears to be supported by the majority of the relevant literature on the issue.
- 35 Prescott and Schofield, 2005, p. 457. Estimates as to the maritime space that the Spratly Islands may be able to generate vary considerably with some Chinese estimates stating that the maritime area associated with the islands exceeds 800,000 km² (Dzurek, 1996, p. 2 and fn. 4).
- 36 See, for example, Prescott and Schofield, 2005, pp. 215–244. For a detailed legal exploration of this issue see, in particular, A.O. Elferink, "The Islands of the South China Sea: How Does Their Presence Limit the Extent of the High Seas and the Area and the Maritime Zones of the Mainland Coasts?", *Ocean Development and International Law* 32, 2 (2001), pp. 169–190.
- 37 *BP Statistical Review of World Energy*, June 2005, p. 9.
- 38 *Straits Times*, 16 February 2001, p. 20.
- 39 See C.H. Schofield and I. Storey, "Energy Security and Southeast Asia: The Impact of Maritime Boundary and Territorial Disputes", *Harvard Asia Quarterly* 9, 4 (Fall 2005), pp. 36–46.
- 40 H. Djalal, "South China Sea Island Disputes", in M.H. Nordquist and J.N. Moore (eds), *Security Flashpoints: Oil, Islands, Sea Access and Military Confrontation* (The Hague: Martinus Nijhoff Publishers, 1998), pp. 109–133 at p. 109.
- 41 M.J. Valencia and M. Miyoshi, "Southeast Asian Seas: Joint Development of Hydrocarbons in Overlapping Claim Areas?", *Ocean Development and International Law* 16, 3 (1986), pp. 211–254 at pp. 215–217; M.J. Valencia, "Taming Troubled Waters: Joint Development of Oil and Mineral Resources in Overlapping Claim Areas", *San Diego Law Review* 23, 3 (May/June, 1986), pp. 661–684 at pp. 661–664; L. Odgaard, "Deterrence and Cooperation in the South China Sea" (Department of Political Science, University of Aarhus, Denmark, 2000), p. 94. See also D.J. Dzurek, "Boundary and Resource Disputes in the South China Sea", *Ocean Yearbook* 5 (1985), pp. 254–284 at

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- pp. 257–264 and D.M. Johnston and M.J. Valencia, *Pacific Ocean Boundary Problems: Status and Solutions* (Dordrecht: Martinus Nijhoff, 1991), p. 122.
- 42 Energy Information Administration (EIA), “South China Sea”, *Country Analysis Briefs*, available at, www.eia.doe.gov/cabs/South_China_Sea/Background.html.
- 43 Ibid., See also Z. Keyuan, “Joint Development in the South China Sea: A New Approach”, *International Journal of Marine and Coastal Law* 21, 1 (2006), pp. 83–109 at p. 84.
- 44 Valencia *et al.*, 1997, p. 10.
- 45 US estimates of oil reserves in the Spratlys region range between 2.1 and 15.8 billion barrels (Odgaard, 2000, p. 94), while a 1995 Russian Research Institute of Geology of Foreign Countries put the figure at six billion barrels of oil equivalent, of which 70 per cent could be natural gas (Valencia *et al.*, 1997, p. 10).
- 46 Johnston and Valencia, 1991, p. 122.
- 47 Valencia *et al.*, 1997, pp. 9–10.
- 48 Odgaard, 2000, p. 96. The companies involved in this period were Oriental Petroleum and Minerals Corporation of the Philippines, Salen Group of Sweden, Amoco of the USA and London and Scottish Marine Oil Ltd of the UK.
- 49 Valencia *et al.*, 1997, p. 10.
- 50 R.J. McLaughlin, “Hydrocarbon Development in the Ultra Deepwater Boundary Region of the Gulf of Mexico: Time to Reexamine a Comprehensive US–Mexico Cooperation Agreement”, *Ocean Development and International Law* 39, 1 (2008), pp. 1–31 at p. 3.
- 51 Valencia *et al.*, 1997, p. 11.
- 52 Interview with oil company representative, 26 May 2000.
- 53 For example, it was reported that in early July 2007 a group of Vietnamese fishing boats operating near the Spratly Islands had been fired on by Chinese naval vessels, resulting in the death of one Vietnamese fisherman and the sinking of one of the fishing boats. See R. Mitton, “Vietnam, China Clash again over Spratlys”, *Straits Times*, 19 July 2007.
- 54 See UNEP/GEF Reversing Environmental Degredation Trends in the South China Sea and Gulf of Thailand project website at www.unepscs.org.
- 55 For example, the Indo-west Pacific hosts 51 mangrove species and over 700 coral species as compared with five mangrove species and 35 coral species present in the Atlantic Ocean. See www.unepscs.org/SCS_Documents/startdown/381.html.
- 56 Hearn and Tyedmers, 1995, pp. 289–293.
- 57 See UNEP/GEF Reversing Environmental Degredation Trends in the South China Sea and Gulf of Thailand project documentation at www.unepscs.org/SCS_Documents/startdown/381.html.
- 58 Ibid. These states are, in order of significance as shrimp producers: Indonesia (1st), Vietnam (2nd), China (3rd), Thailand (6th) and the Philippines (8th).
- 59 Djalal, 1998, p. 110.
- 60 See UNEP/GEF Reversing Environmental Degredation Trends in the South China Sea and Gulf of Thailand project documentation at www.unepscs.org/SCS_Documents/startdown/381.html.
- 61 Hearn and Tyedmers, 1995, pp. 289–293.
- 62 See, for example, R. Emmers, *Maritime Disputes in the South China Sea: Strategic and Diplomatic Status Quo*, Institute for Defence and Strategic Studies (IISS) Working Paper No. 87 (Singapore, September 2005), pp. 7–9.
- 63 Schofield and Storey, 2005, p. 42.
- 64 For example, analysis of attacks against shipping in the Malacca Strait suggests that many media reports portraying the area as a “hot spot” for piracy and armed robbery against ships, particularly large vessels, transiting the straits engaged in international trade, are misleading as “attacks are actually on smaller, more vulnerable vessels on ‘local’ voyages,” as well as on “fishing vessels and cruising yachts”. See S. Bateman, J. Ho and M. Mathai, “Shipping Patterns in the Malacca and Singapore Straits: An

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Assessment of the Risks to Different Types of Vessel", *Contemporary Southeast Asia* 29, 2 (2007), pp. 309–332 at p. 311.

65 *Far Eastern Economic Review*, 13 August 1992, p. 15.

66 Quoted in Prescott and Schofield, 2005, p. 246.

67 The United Kingdom and Argentina's 1982 conflict and continuing dispute over a hitherto obscure group of islands in the south Atlantic being a case in point.

68 See, for example, Valencia *et al.*, 1997, pp. 7–8; and, Emmers, 2005, pp. 1–2 and 9–13.

Annex 284

G. Till, "The South China Sea Dispute: An International History" in *Security and International Politics in the South China Sea: Towards a Co-operative Management Regime* (S. Bateman and R. Emmers, eds., 2009)

Security and International Politics in the South China Sea

Towards a cooperative management
regime

**Edited by Sam Bateman and
Ralf Emmers**

First published 2009
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

First issued in paperback 2012

© 2009 Selection and editorial matter, Sam Bateman and Ralf Emmers;
individual chapters, the contributors

Typeset in Times by Wearset Ltd, Boldon, Tyne and Wear

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British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloguing in Publication Data

Security and international politics in the South China Sea: towards a cooperative management regime/edited by Sam Bateman & Ralf Emmers. p. cm. – (Routledge security in Asia Pacific series; 9)

Includes bibliographical references and index.

1. South China Sea—International status. 2. South China Sea Region—Politics and government. 3. Security, International—South China Sea.
I. Bateman, W.S.G. (Walter Samuel Grono) II. Emmers, Ralf, 1974–
KZA1692.S43 2008

355'.033016472—dc22

2008025473

ISBN13: 978-0-415-46943-2 (hbk)

ISBN13: 978-0-415-54214-2 (pbk)

ISBN13: 978-0-203-88524-6 (ebk)

2 The South China Sea dispute

An international history

Geoffrey Till

Introduction

Consciously and unconsciously, the long-running South China Sea dispute has been used as a means of illuminating the sometimes ambiguous intentions and policies of the countries around it. This is particularly true as far as China-watching is concerned. At a time when China was being analysed as either a potential collaborator in the maintenance of the world order or as a possible threat to it, Chinese policy in the South China Sea was seen as a useful indicator of the country's future role both in the region and globally. Thus the "rise, decline and potential re-birth of China as a maritime power in Asia is the grey eminence lurking behind the scenes of the dispute over the islands and waters of the basin."¹

This approach leads naturally to such questions as: did China's "acquisition/occupation"² of Mischief Reef in 1995 indicate a creeping assertiveness, here as elsewhere, that would, in course of time, lead to China's emergence as a regional hegemon?³ Alternatively, did its apparent acceptance of a multilateral approach and its proposal of a suspension of sovereignty and shared exploration/exploitation not suggest it was working towards a more benign outcome? But perhaps this approach could be broadened in the same kind of way to encompass consideration of the much larger issue of the light the conduct of this dispute sheds not just on Chinese policy but on the shape of international relations in general, now and in the future. Does the evolution of this dispute suggest we are moving into a different kind of international system – or will it suggest the continuation of normal business?

This line of analysis works because the shape and nature of the South China Sea dispute indeed reflects the broader international context in which the dispute is set. As the strategic environment changes, so does the nature of the dispute. At the same time, of course, this is a two-way relationship for the dispute has a significant impact on that environment.

Three broad chronological eras in the wider world environment can be discerned, that have been called the "premodern" and the "modern" with a third, the postmodern era, now beginning to emerge.⁴ Very crudely, the first period is characteristic of agricultural states with limited economic interdependence and

insufficient surpluses to invest in further development, the second is characterised by the “realist” interactions of states shaped by industrial mass production and the third is animated by aspirations for a cooperative world system of openness and mutual dependence operated by states moulded by, and for, the contemporary information economy. The South China Sea dispute has taken very different forms in the first two of these eras and may be changing again into a possible and particularly complex third.

The “premodern” era

From earliest days the South China Sea was important to China as the route through which trade with India, the Gulf, the Middle East and eventually Europe was conducted. It was “an intersection of history,”⁵ a vital sea line of communication, and Chinese seafarers were perfectly aware of the navigational hazards of sailing across the area. Early ships coast-hopped with reasonable safety. Later voyages were across the open seas. For them the Spratlys and the Paracels were regarded as a source of danger, something to be avoided, a traffic-divider. While recent archaeological discoveries seem to suggest that Admiral Cheng Ho may actually have visited the islands,⁶ the essential interest of the time was to avoid the islands, not take them over and settle there. Moreover, the whole idea of “sovereignty” over areas of land or sea, rather than over the people who live there, is a thoroughly anachronistic Western concept which would not have made sense in those early days.⁷

Indeed, the Chinese state itself was fundamentally premodern in the sense that its merchant classes “of the middling sort”, however important economically, had little influence over the overall direction of national affairs. When it was decided in the early fifteenth century, that the sea represented a contaminating source of ideas and influences that were potentially dangerous, and moreover was a distraction from the more urgent need to defend the land frontier, maritime endeavour was greatly discouraged, even in the immediate aftermath of the extraordinary seven voyages of Admiral Cheng Ho [Zheng He] of 1405–1433. For this reason, “Zheng He and his men did not alter the trajectory of China’s economic development in the pre-modern era.”⁸ As a result, just as the Europeans began appearing in the Indian Ocean, late Ming China entered a period of relative maritime decline.⁹ This was largely coincidental but made it much more difficult for the Chinese or indeed anyone else in the area, to contest the newcomers and their new-fangled ideas about territorial sovereignty. From being a “Chinese lake,” the South China Sea became a sea open to anyone else with the strength and interest to claim it.

For such reasons, it is perhaps not surprising that many have concluded that in this period the islands of the South China Sea remained essentially *res nullius* – “a territory belonging to no one but acquirable by appropriation” and there was, in effect, no South China Sea dispute in the contemporary sense of the concept.

The “modern” era

The modern era comprises the European period, the post-European period, the Cold War period and, finally the post-Cold War period, the boundaries between each being inevitably fuzzy. The modern era began with the transformational arrival into the region of the Portuguese and the Spaniards in the sixteenth century, followed soon after by the Dutch, the French and the British. Disputes between them, the adoption of Western military practices and residual resistance of some local rulers delayed the full Europeanization of Asia Pacific in general and the South China Sea in particular until the early nineteenth century. This period of European dominance of the scene lasted, arguably, until the Depression of 1929.¹⁰ France, Britain and the Netherlands were the main contenders for influence in the South China Sea region but the level of competition between them, compared, say, to that over Africa, was low.

Their local protégés sometimes generated claims of their own to either the Spratlys or the Paracel Islands, for example in 1816 when the Annamese Emperor Gia Long “took possession” of the Paracels. But these efforts were hardly more than symbolic and did not result in sustained presence. Likewise, none of the main European contenders developed coherent claims to, or a sustained presence in, the islands of the South China Sea through the nineteenth century. Both sets of islands were essentially regarded merely as areas of navigational hazard, with very limited commercial possibilities largely based on *guano*. The French, for example made no objection to the Chinese claim in 1921 that the Paracels came under the jurisdiction of the island of Hainan.¹¹

The impetus to do so, moreover, seem to be the product of the sense of incipient commercial and military decline that marks the onset a few years later of the second period of the “modern” era. This was the time when anti-colonialism was beginning to emerge as a force in the several empires of Europe, when Europe was beset with major economic, social and political problems and when Japan was increasingly seen as the Asian power of the future. The fear that Japan would use its acquisition of Taiwan in 1895 and the current catastrophic weakness of China to advance its interests in the area, decided France, or rather France’s local representatives, to take preventive steps against this danger. In 1930, the French warship *Malicieuse* took formal possession of the Spratlys, and this formed the basis of a claim that was both vaguely formulated and incompletely declared.¹²

One of the reasons for the late half-heartedness of this claim was France’s fear of the potential military and economic costs, and the possible international consequences of this action. There were many in Paris who doubted whether the islands and indeed the area were worth the candle, certainly when compared to the other enormous pressures that there were on the budget of the French empire. Plans to build a protective submarine base at Cam Ranh Bay for example were repeatedly delayed for the same sort of reasons.¹³ The British were concerned that their own claims, which were, if anything, even vaguer, had been ignored by the French but they shared France’s desire to ensure that the

islands did not fall into the hands of the Japanese, and were reasonably content to rely on France's actions to ensure they did not. The KMT government in China apparently protested against this claim, although there is no documentary record of this.

For their part the Japanese did actively and officially protest against this action; neither were they deterred for long from advancing their interests in the area. Indeed, a significant Japanese presence on Spratly and Itu Abu Islands was discovered by the British in July 1937.¹⁴ Even so when seen against the broader strategic issues facing all these contestants, the problem of the South China Sea seemed very minor, and certainly was not seen to warrant the urgent expenditure of the kind of significant treasure, political capital or military force that would have formed the basis of a clear, public and unequivocal presence on any of the islands. The French, the British and the Chinese were anxious about the situation in the South China Sea but not anxious enough to do anything decisive to resolve the problem. The Japanese took things steadily too, establishing a presence in the Paracels on Woody Island in January 1938 and Lincoln Island in April, but being "polite" about it and coexisting alongside French and Chinese presences in the meantime.

As far as Britain and France were concerned, the overwhelming strategic issue was the deteriorating situation in Europe itself, not what happened in the far-off waters of the South China Sea. The increasing prospect of a major war with Germany commanded their attention and their resources. Amongst French and British decision-makers, a sizeable constituency concluded that, because the European and Mediterranean situations had to be their top strategic priority, Japan should be appeased rather than confronted, and certainly not over something that did not seem to be all that important. For their part, the Japanese had their hands full in the China war already, were very conscious of developing tensions with both the United States and the Soviet Union and were divided in how far they should push the notion of the Greater East Asia Co-Prosperty Sphere embraced by their more combative decision-makers. For the time being, it was a question of making haste slowly.

But, profiting from increasing British and French distractions in Europe, the Japanese ratcheted the pressure up in February 1939 when they seized Hainan, the obvious jumping-off point for a major *démarche* against Southeast Asia. In the following month they moved into the Spratly Islands, and in April 1939 proclaimed that Pratas island, the Paracels and the Spratlys were all theirs and henceforth to be known as the "New South Archipelago".¹⁵

This time the British did protest – if not very forcefully.¹⁶ This was partly from a continuing sense that actually the islands were not very important, and partly from acceptance that it was really the French who should do something about it. But in the background there was that much larger assumption that animated much of British grand strategy in regards to Japan, namely that the Japanese would only dare to attack the majesty of the British Empire if it was clear that the British were definitely losing the central war in Europe. This assumption dominated every aspect of British defence policy in the East, not

least the neglect of the defences of Singapore.¹⁷ Set against this, the fate of the Spratlys and Paracels was “small beer” indeed.

It was the same for the French, especially after the fall of France in the summer of 1940. The main priority of the Vichy regime in French Indochina was to survive as an independent political entity that could form the basis for post-war reconstruction but in the meantime this meant accommodating itself, as necessary, to the strategic demands of the currently victorious Japanese. In the South China Sea, the French were squeezed out of some of their island positions, but managed to hang on to a presence on Woody Island until at least March 1945.¹⁸

As far as the Japanese were concerned, this vestigial French presence on the islands was completely inconsequential. The strategic fact of the matter was that the temporary success of their armed forces meant that the South China Sea was a Japanese “lake.” As the fortunes of war gradually shifted in favour of the allies, Japanese control of these waters lessened, and an increasingly “uncommanded” sea became what it always does – a dangerous source of strategic and operational vulnerability. In January 1945 Admiral Halsey made this painfully clear with a devastating foray into the South China Sea that was intended to support MacArthur’s landings in the Lingayan Gulf. Although Japan’s major warships in the area, the *Ise* and the *Hyuga*, had already fled to Singapore, Halsey sank dozens of smaller French and Japanese ships, and cleaned out the naval base at Cam Ranh Bay. In theory the presence of Japanese airfields all round the South China Sea made this operation “extremely ticklish” but in fact Halsey sailed around the area for 11 days without encountering serious opposition.

His foray “showed that control of the South China Sea had changed hands” and once again, the tiny Japanese/French presence on the islands themselves was an irrelevance.¹⁹

In effect, the ultimate fortunes of the islands of the South China Sea seemed likely largely to be decided by external events in the success of allied forces elsewhere in the Pacific, in China and in Myanmar.

The post-European period

With the Japanese defeated, there was something of a brief, flickering European resurgence in the area as some attempt was made, within severely restricted resources, to recover what had been lost. Again, the question of the sovereignty of the islands was not high in anyone’s strategic priorities, but by the end of 1946 both the Chinese and the French had begun low-level campaigns to re-assert their claims to the Paracels and the Spratlys.

This was part of the great flurry of diplomatic activity that always attends the completion of a great war, when there seemed to be so many things that needed tidying-up. The easiest part of the process was removing the defeated and devastated Japanese from the equation. The Treaty of San Francisco of September 1951, was perfectly clear about this, saying, *tout court*, “Japan renounces all rights, title and claim to the Spratly Islands and to the Paracel islands”. Although

the separate Japanese peace treaty with China/KMT of April 1952 went a little further, at least according to some readers of the text, the peace treaties left who did actually own the islands in decent obscurity. This was unfinished business, but no one thought it sufficiently important to disturb the process of finishing one war by taking action which just might start another.

In theory at least, the French claim on the Spratlys was a direct national one but their indirect pretensions towards the Paracels were based on the nineteenth-century claims of Annam. The political complexities of sorting out a common position with the successor state in Vietnam, and a certain sense that other things were more important, not least the war with Ho Chi Minh's regime in the north that began in 1946, conspired to delay positive action. In the event the KMT Chinese were the first to establish a presence on Woody Island in the Paracels in January 1947. A few days later, the French turned up and challenged the Chinese, even to the extent of having their warship, the *Tonkinois* fire shots in the air, but the diplomatic hullabaloo that resulted made the French reconsider and back off, although they maintained a French/Vietnamese presence in other parts of the group.²⁰ But even this did not resolve the matter, for when Chiang Kai-shek fell back onto Taiwan, the Chinese/KMT presence on Woody Island and Itu Aba was withdrawn in May 1950. The PRC appeared relaxed about the problem. It was over five years before they replaced their presence on Woody Island in December 1955, and some 30 years before a PRC presence was established in the Spratly area.

The Philippines became the first new player in the game. Initially, this was essentially a private enterprise venture led by the Cloma brothers and concerned "Freedomland", an alleged archipelago *between* the Spratlys and the main Philippine islands. It is generally agreed that private individuals cannot make sovereignty claims and until 1971 the Philippine government was divided about the wisdom of taking such a claim on. Nonetheless these opaque manoeuvres prompted a cascade of responses that reanimated the dispute throughout the area: the Chinese/KMT returned to Itu Aba in June 1956 and the South Vietnamese and the PRC both re-asserted their claims that the Spratlys and the Paracels belonged to them. Tensions rose between them, ending with the Chinese attack on Vietnamese positions in the Paracels in 1974. Completing the circle of claimants, Indonesia, Malaysia and Brunei entered the competition as well at this time. As a result of all this, the 1980s saw a great many acquisitions, consolidations and claims.²¹

The Cold War period

By now the French strategic presence in the whole area was fading fast and the writing was on the wall for the British and the Dutch as well. The colonial period was drawing to a close and was being succeeded by that of the Cold War.

With the struggle between north and south in Vietnam and the onset of the Korean War, the islands of the South China Sea began to be seen, unsurprisingly, as a potential battleground in the struggle between the Communist and Western blocs. The French, certainly, took the line that these islands were just

another set of dominoes ready to fall to the Communist world. But for the United States, there were more important islands to worry about. The Americans saw the PRC as a threat against which they needed to defend Taiwan. Particularly during the long-drawn-out offshore islands dispute of the late 1950s, China's focus of attention had accordingly to be on the dangers of the immediate situation, not in the South, but in the East China Sea, for that was where the threat was greatest and where the PRC ran up against American naval opposition. During the Vietnam war moreover, and as part of the exigencies of fighting that war, the South China Sea became something of an American "lake"; this was not therefore an area in which the PRC could easily advance its interests. Moreover the Cultural Revolution and its aftermath was a major distraction for Beijing. The Vietnamese, likewise had other more pressing preoccupations, and the regime in Hanoi was in no position to query any Chinese claims that *were* made, at a time when it needed Chinese help in its war in the South.

The end of the Vietnam war and of the more general Asian Cold War of which it was a significant part, restored an increasing degree of movement into the dispute. Just as in Europe, when the prospect of major confrontation between the superpowers receded, so "a host of disputes and tensions, hitherto suppressed now came to the forefront"²² for the strategic imperatives of the Cold War were far from being the only ones to frame the South China Sea dispute. Just in case, the French and even the British, for example, had chosen to keep their claims under, if not on, the table although they ceased to be major players in the game.²³ They decided neither to advance nor to abandon their cause until such time as "the vacuum is filled and some claimant becomes able to exercise a more real and permanent sovereignty than has been possible hitherto".²⁴

The decay in the bipolar conceptions of the world that animated the Cold War in its "purest" phases became very evident in the deteriorating relations between the two Marxist powers of China and the Soviet Union. Ideology-driven conceptions of the Cold War in Asia made increasingly less sense. Indeed, in 1979 elements of the Soviet navy deployed between Hainan and the Vietnamese coast apparently in order to deter a Chinese sea-based attack on their local ally.²⁵ The Soviet navy used the Macclesfield Bank as an anchorage during this period and shortly afterwards won basing rights at Da Nang and Cam Ranh Bay. Inevitably, this aroused considerable concern in the US navy, but this was directed at the Soviet navy not the PRC.²⁶

Relieved, at least temporarily, of a notional territorial threat from a collapsing Soviet Union,²⁷ and with better relations with the United States, China could now devote rather more attention to its maritime interests across the Taiwan straits and in the South China Sea. It was, moreover, concerned about the many advances made by other claimants in the area during its period of relative inattention. The major worry was the now reunited and apparently assertive Vietnam which seemed to want to make the most of the historic claims of its predecessor regimes. Accordingly, the battle for the Paracels was followed by growing tensions over the Spratlys, a second burst of fighting in 1988–1989 and China's much discussed Territorial Water Law of February 1992.

The post-Cold War period

With the final end of the Cold War period the South China Sea dispute reverted to being “just” a regional rather than a global issue, albeit one that still had potentially widespread consequences. The series of incidents that perhaps best exemplified what now became a traditional state-centred approach to the dispute included China’s ejection of the Vietnamese from Johnson Reef in 1988, the rise of tension between China and Vietnam during July and August 1994, China’s occupation of Mischief Reef in February 1995, and local reactions to it.

Local the dispute may have been, but it could have much wider security consequences. “We are concerned about China’s creeping irredentism or expansionism,” said Masashi Nishara, the Research Director at the National Institute for Defense Studies in Tokyo, exemplifying a traditional “Westphalian” approach. “This is a very important trade route for us, not only with Southeast Asia but with the Middle East and Europe. Our economic security is at stake.”²⁸ Such nation-centred reactions were reinforced by a worry that Mischief Reef and other such events would undermine the new way of managing the problem that had been suggested in the general 1992 agreement that force should not be used to back up claims in the South China Sea.

Nonetheless there was little in the way of a nationalistic response by the members of ASEAN; further agreements were made about the non-use of force, including one between the PRC and the Philippines; there appeared to be some rethinking of the issue in the PRC and the United States appeared reasonably relaxed about the incident and the issues it raised.²⁹ All this suggested that early hopes for a new collective approach to solving a set of common problems might, despite everything, yet be appearing through the 1990s.

The causes of the dispute in the modern period

The current undecided state of the sovereignty of the Spratly and Paracel Islands reflects a long period in which their economic and strategic value was seen as slight. For that reason, cost-benefit analyses suggested that the claimants should avoid the burden of paying for the infrastructure that would sustain the kind of long-term occupation that would in turn support strong and believable claims. Because the islands were not generally considered important, they were not properly settled; because they were not properly settled, the historic sovereignty claims were weakened by an absence of that “effective control, administration and governance” that could decide ownership.³⁰ This only really began to change in the 1970s.

This came about first because of the shifts in the strategic environment already discussed, and second because the nature and strength of the motives of the claimants themselves began to change. The claimants’ motivation was always complex. It was never just a simple matter of the islands’ possible strategic, economic or symbolic value. These things intertwined. The putative military value of islands has actually competed with their commercial value. Illustrating the point,

it is hard to see how the possible oil and gas resources of the South China Sea could be properly exploited at a time when the area's strategic value was considered high and relevant. The Vietnam War, for example, severely circumscribed oil exploration of the western side of the Spratly island area, and the surge of interest in exploring the oil prospects of the area, as the Asian Cold War slowly came to its conclusion, is noteworthy.³¹

Shifting assessments of the economic value of the islands

For much of the time, the comparative lack of interest of the claimants to the islands reflected the sense that economically they had little to offer. The South China Sea, of course, was always a rich fishing ground, but until the concept of the Exclusive Economic Zone appeared on the legal horizon there was little connection between this fact and the ownership of the islands themselves.

The islands were regularly visited by turtle fishermen and a variety of crops, including coconut, breadfruit, papaya, pineapple, bananas and tung-oil trees were grown on a few of them. There were, moreover, significant guano deposits to be found in the area. Though useful, none of these economic benefits was of a scale sufficient for local authorities, distracted by much weightier matters elsewhere, to provide serious resources for their protection; this was even more true of distant metropolitan governments.

On the other hand, these economic opportunities were, or at least could seem, big enough to interest individual entrepreneurs and adventurers such as the Japanese Nishizawa Yoshiji who took over Pratas Island in 1907 or Sueji Hirato of Takao, Formosa, who was active in the interwar period, although the Dutch suspected that his commercial activities were just a front for the Japanese navy.³² Perhaps, but individual enterprise of this sort could sometimes drive state policy rather than reflect it. Certainly Philippine policy towards "Freedomland" [Kalaya'an] was much influenced by the Cloma brothers who, in the mid-1950s, seemed to want to set up a fishing centre there; at this time, the Philippine government itself was divided about the issue and tabled no specific claim until later.³³ Throughout the area, moreover, Chinese merchants of an earlier period and, later, large-boat fishermen from Hainan in their increasingly assertive search for fish, frequently made the running, setting up shelters and bases and falling foul of other fishermen and naval forces, in a manner which made it difficult for the PRC to disown them. It was not altogether clear who was in charge of policy towards the South China Sea – the metropolitan governments who frequently took a relaxed, if not lethargic, interest in such matters or much more activist commercial interests on the spot.

But this began to change, with the prospect of significant developments in the Law of the Sea, and, in particular, with the suspected existence of major oil and gas supplies in the area. Oil had been discovered as far back as 1897 in Borneo and companies and governments began to get increasingly interested from the late 1960s in such exciting and important possibilities. Moreover, competition for dwindling fish stocks gradually intensified through the period, with increasingly fierce

competitions between different sets of independent-minded fishermen and between them and local navies.³⁴ Such possibilities reinforced the developing interest of the countries most involved in the dispute in the concept of a rigorous Exclusive Economic Zone, the prospect of which encouraged a consolidation of their claims.

Shifting estimates of the strategic value of the islands

As Mahan, pointed out “Sea power consists, in the first place of a proper navy and a proper fleet; but in order to sustain a navy, we must have suitable places where a navy can be protected and refurnished.”³⁵ Annam made one of the earliest claims in the area, arguing that the Paracel Islands were “of great strategic importance to our maritime frontiers”.³⁶ On paper, it is easy to see why the Spratly and Paracel Islands, and the South China Sea generally, should be thought strategically important, as places to protect and refurnish naval forces. They could provide a means of maintaining a strong maritime presence in the area, and a route by which to advance on other regions. Cam Ranh Bay, if not a Singapore, was certainly a major *point d'appui* for naval forces. It served this purpose for the dispirited Admiral Rozhdestvensky on his way to the battle of Tsushima in 1905.³⁷ Much later, the Russians came back to Cam Ranh Bay, of course, when the Americans left, and for a while used it as a base for a modest maritime presence in the area. The Japanese established a small submarine base on Itu Aba during the Second World War and by 1990, the Chinese and the Vietnamese, in particular, had established a variety of military facilities including small ports and runways on the larger islands of the two groups. These could, at least in theory,³⁸ help support efforts to control the waters around them by sustaining a permanent presence in the shape of garrisons, patrol vessels and maritime patrol aircraft with a passing presence by visiting destroyers and frigates.

Moreover, crucial sea lines of communication between North East Asia, the Indian Ocean and beyond cross the South China Sea. Shortly after the occupation of the Paracels in 1974, a Chinese journal sought to summarise the position as the Chinese saw it:

As it lies between the Indian Ocean and the Pacific, the South China Sea is a vital strategic area. It acts as a gateway to the outside world for the mainland and the offshore islands of China. The [Paracel and Spratly] archipelagos occupy a position central to the shipping lanes connecting Canton, Hong Kong, Manila and Singapore. [Hence] their geographic position is extremely important.³⁹

Accordingly, the islands themselves can, on paper, be seen as stepping stones for a strategic advance from Japan and/or China towards Southeast Asia or *vice versa*. Bases and listening posts could be established on them both to facilitate and to warn against such advances.

Certainly there were those who used such arguments, and sometimes acted on them, even without official sanction. As has already been said, a fear that the

Japanese would use the islands as a staging post in their deadly advance on French Indo-China was of some concern to both the French and the British authorities in the interwar period. They might provide simple facilities for the refuelling of light forces, anchorages, advance listening posts or minor bases for the operation of sea-planes or submarines.⁴⁰ In fact, though, this would require extensive investment in infrastructure and would be a source of vulnerability unless the bases were heavily defended. In the event, the Japanese did build a small submarine base in Itu Aba and maintained listening posts in both island groups. But this apart, the islands served no useful military purpose during the Pacific War, as we have seen; both in their operations and their planning, the Americans ignored them. The Paracels, indeed, were not even shown on their maps.⁴¹ A postwar British document summarised the point exactly:

Strategically they [the islands] were found before the war to be generally unsuitable as bases although one lagoon offered a good stretch of smooth water for flying boats or float-planes. None seemed capable of being used by land-planes except at prohibitive costs; as posts for the observation of ship or aircraft movements they have potential value but are extremely vulnerable.⁴²

Much of this may be explained by the intrinsic characteristics of the islands themselves, especially their small size. For years much of the area had been treated and indeed labelled as “dangerous ground” that it was best to keep away from. Typically, one incentive for the early Annamite claim of 1816 was the valuable salvage rights of ships wrecked in the area.⁴³ On one occasion at least, the British even wondered whether it might not be a good ploy deliberately to lure unsuspecting adversaries to founder in this nightmare place of reefs, shoals and atolls – a fate their own superior seamanship would spare them from. The notion that the Spratlys straddle significant trade routes appears, at the least debatable; however conflict in the area could represent a threat to free navigation, and that might conceivably bring in outsiders.⁴⁴ The US State Department declaration of May 1995 made such possibilities clear: “Maintaining freedom of navigation is a fundamental interest of the United States,” it said.⁴⁵

But the real point was that, as Halsey’s foray showed, island bases in themselves do not confer the capacity to command the sea. That takes major naval/air forces able to operate out of, and, crucially, to protect, those bases. In their absence, the bases become a strategic liability as the British discovered in the case of Singapore in 1941–1942. In short the few larger features of the whole area that had “base potential” would prove of abiding value only to a country able to deploy and maintain major naval and air forces into the area. The British continued to believe that the strategic value of the islands was very limited for such reasons well into the Cold War period.

However the British military did at least think about using the area as an anchorage for a putative Hong Kong relief effort during the war scare of 1952–1953 and asked the French for hydrographic information about the area. The French Far Eastern Fleet navy also thought the islands could be of greater

military benefit in the Cold War given the rise in importance of electronic warfare and surveillance. Its senior officers wanted to maintain a French presence in an area they considered of strategic significance. They sought to stay at Cam Ranh Bay and, failing that, establish themselves in small bases elsewhere in the region. – but they did not have the resources, nor did the government have the interest, needed to achieve this.⁴⁶

These examples illustrate the general phenomenon of local navies taking rather more interest in the possible strategic importance of the islands than their more distant political masters. They tended to have their own agendas in the area and used the dispute to advance them. The PLA for example made much of their victory over the Vietnamese in 1974, conferring high honours on the forces who had conducted the operation and commissioning an epic-length poem to commemorate their victory and the valour and value of the PLA navy.⁴⁷ With the end of the Cold War and the end of any Soviet threat to the north, the Chinese navy has consistently argued that the defence of the country's maritime interests in the East and South China Sea are China's top and most immediate priority.⁴⁸ Hence the expanding academic interest in the growth of maritime power in the area, particularly of the Chinese navy.⁴⁹

In short, the more overseas trade came to dominate the economy of local countries, the more important their maritime frontiers and life-lines would become and the greater their strategic incentives to defend those interests with the kind of naval power that *could* make the most of the strategic potential of the islands and their waters.

Outside powers, particularly the United States and Japan, whilst maintaining strict neutrality on the substance of the dispute, have expressed considerable concern about its possible implications for general freedom of navigation through the area. Economically vital shipping passing through the area might be affected by possible archipelagic claims, piracy in ungoverned areas or, most dramatically, by conflict between the protagonists. Because “[t]he stakes are too high to permit a cycle to emerge,” the Americans have warned, “we cannot simply sit on the sidelines and watch.”⁵⁰ As we have seen, the US State Department had already issued a pointed warning to this effect in May 1995: “Unhindered navigation by all ships and aircraft in the South China Sea is essential for the peace and prosperity of the entire Asia Pacific region, including the US.”⁵¹

The differing symbolic value of the islands

Governments have always felt themselves to have fewer security resources (money, soldiers, etc.) than their full security commitments require. That being so, they tend to concentrate on the security of the land area nearest home and their power to determine the outcome of events on the periphery is greatly conditioned by the strategic realities and limitations of the situation at the centre. Islands are by definition remote from the centre and tend to be neglected, left to their own devices, economically underdeveloped, sparsely populated, indifferently administered and, as in the case of the Spratlys and the Paracels, ambiguously owned. The

very remoteness of islands tends to mean they are seen as indicators of a government's performance, a mark of national pride and sovereignty.⁵² Accordingly, claims to the sovereignty of islands can be important symbolically, perhaps especially in times of national difficulty.

When the French and British were essentially unchallenged in the area (except perhaps by each other) they did not feel it necessary to make substantive claims, only doing so when it seemed as though Japan would do so in the inter-war period. The Chinese, for their part, discovered the need to re-establish their authority in the area only in the wake of their defeat by the British in the two Opium Wars of 1839–1841 and by the French in 1884–1885. As one analyst has remarked: “The naval catastrophe and the loss of Vietnam, as it were, wrought one of the earliest attempts by China to assert legal title to oceanic space.”⁵³ It was almost as though gaining sea areas would partly compensate for losing land. The much-discussed Chinese “u-shaped line” in the South China Sea is probably an echo of the May 1947 decision by the badly battered China/KMT government definitively to “delimit” its territory in May 1947 in much the same kind of way.⁵⁴ Certainly, the symbolic value of Itu Aba appears important to the Taiwanese, although they have debated its abandonment from time to time.⁵⁵ The Philippine *démarche* and the need to maintain their status vis-à-vis the PRC seem to have persuaded them to hang on the commitment. The South Vietnamese decree of September 1973 that incorporated the Spratlys into Phuoc Thuy province seems to have been similarly motivated, and probably contributed to the dramatic air, naval and amphibious Chinese assault on South Vietnamese positions in the Paracels from 17 to 20 January 1974.

The history of the claims shows benign periods of calm being suddenly broken by a particular claim which in turn sparks a variety of responses and counter-claims of this sort, almost as though the claimants did not particularly want the islands themselves but were determined as matters of national pride that no one else would have them.

A new postmodern period?

But perhaps now, in the early twenty-first century, we are entering a third, new postmodern period where the traditional preoccupations of the Westphalian national state system become much less evident than they were and multilateral concerns for common security and common prosperity much more evident. Were this to be so, we would expect to see the perceived strategic and symbolic value of the islands to diminish and individual claims to sovereignty over disputed islands and sea areas increasingly subordinated to collective attempts to work round the problem by creating codes of conduct, explorations of a pooling of sovereignty and a sharing of possible resources instead. Such moves indeed became increasingly manifest in the 1990s.⁵⁶

But, paradoxically, if the postmodern age is dominated by globalisation, then the focus on maritime trade and everything that supports, sustains and might threaten it becomes increasingly important to individual countries, and the more

they are involved in the global economy, the truer this is. Accordingly energy, and so the putative oil of the South China Sea, becomes something to compete for. For such reasons, the situation in the South China Sea becomes of increasing *national* concern to all the claimants, and indeed to bystanders as well, and the developments in the international Law of the Sea and of their maritime power might be used to advance such national interests. Whether the result of this collision of assumptions about the twenty-first century will allow things to change in the South China Sea remains to be seen.

Notes

- 1 Marwyn S. Samuels, *Contest for the South China Sea* (London: Methuen, 1982), p. 6.
- 2 No position is taken at any stage in this chapter on the vexed question of who, if anyone, owns what in the South China Sea nor should one be inferred from the island names or particular forms of words used. This is an exploration of the international anatomy of the dispute not of the legal standing of any of the claims.
- 3 For example, Felix K Chang, "Beijing's Reach in the South China Sea", *Orbis* (Summer 1996), pp. 353–374. Ian Storey, "Creeping Assertiveness: China, the Philippines and the South China Sea", *Contemporary Southeast Asia* 21, 1 (April 1999), pp. 95–118.
- 4 Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-first Century* (London: Atlantic Books, 2004), pp. 37–43; Barry Buzan and Ole Waever, *Regions and Powers: The Structure of International Security* (Cambridge: Cambridge University Press, 2003), pp. 22–26.
- 5 Samuels, *op. cit.*, p. 9; see also Roderich Ptak, *China and the Asian Seas* (Aldershot: Ashgate, 1998), pp. 21–28, 35–44; Bruce Swanson, *Eighth Voyage of the Dragon: China's Quest for Seapower* (Annapolis, MD: Naval Institute Press, 1982), pp. 17–43, 54–72.
- 6 David Miller, "The Maritime Importance of the South China Sea", *Naval Forces* 14, 2 (1993), pp. 32–38.
- 7 Samuels, *op. cit.*, p. 51.
- 8 See Deng Gang's entry on Zheng He in John Hattendorf (ed.), *The Oxford Encyclopaedia of Maritime History* (Oxford: Oxford University Press, 2007), Vol. IV, p. 468. For fuller discussion see Deng Gang, *China's Maritime Activities and its Socio-Economic Consequences* (Westport, CT: Greenwood Press, 1997).
- 9 *Ibid.*, and for an excellent summary of this period see Samuels, *op. cit.*, pp. 9–30. Modern scholarship suggests there was something of a temporary revival in Chinese maritime endeavour in the eighteenth century, but not enough to reverse the trend. See also Ptak, *op. cit.*
- 10 Stein Tønnesson, "The South China Sea in the Age of European Decline", *Modern Asian Studies* 40, 1 (2006), pp. 1–57 at p. 2.
- 11 *Ibid.*, p. 3.
- 12 *Ibid.*, p. 6.
- 13 Martin Thomas, "Disaster Foreseen: France and the Fall of Singapore", in Brian Farrell and Sandy Hunter (eds), *Sixty Years On: The Fall of Singapore Revisited* (Singapore: Eastern Universities Press, 2003), pp. 68–93 at p. 81.
- 14 Tønnesson, *op. cit.*, p. 9.
- 15 Samuels, *op. cit.*, p. 64.
- 16 Tønnesson, *op. cit.*, pp. 13–14.
- 17 Brian Farrell, "1941: An Overview", in Brian Farrell and Sandy Hunter (eds), *Sixty Years On: The Fall of Singapore Revisited* (Singapore: Eastern Universities Press, 2003), pp. 173–182.

40 G. Till

- 18 Tønnessen, op. cit., p. 16.
- 19 E.B. Potter, *Bull Halsey* (Annapolis, MD: Naval Institute Press, 1985), pp. 324–327; William F Halsey, *Admiral Halsey's Story* (New York: Da Capo Press, 1976), pp. 244–246.
- 20 Ibid., p. 27.
- 21 John Zeng, "Focus China's South China Sea", *Asia Pacific Defence Reporter* (July–August 1995), pp. 10–13, provides an admirably brief chronology of this process.
- 22 Eric Morris, "Choppy Seas for ASEAN's Security Quest", *International Defence Review* 11 (1993), pp. 875–878.
- 23 Tønnessen, op. cit., pp. 42–43.
- 24 Minute by R.S. Milward, 30 December 1949, FO 371/76038, TNA cited in *ibid.*, p. 42.
- 25 Samuels, op. cit., p. 149.
- 26 Denis Warner, "Point Counterpoint in the South China Sea", *Asia Pacific Defense Reporter* (August 1984), pp. 53–54. For the prospects of a China–Russia maritime clash in this area see Michael McGwire, *Military Objectives in Soviet Foreign Policy* (Washington, DC: The Brookings Institution, 1987), pp. 208–210.
- 27 Lee Lai To, *China and the South China Sea Dialogues* (Westport, CT: Praeger, 1999), p. 5.
- 28 "Oil Drives Territorial Dispute in South China Sea", *International Herald Tribune*, 24 April 1995. Also "Creeping Irredentism in the Spratly Islands", London: The International Institute for Strategic Studies, March 1995, *Strategic Comments*.
- 29 Mark Valencia, *China and the South China Sea Disputes; Conflicting Claims and Potential Solutions in the South China Sea*, Adelphi Paper 298 (Oxford: Oxford University Press for the International Institute for Strategic Studies, 1995), pp. 26 ff.; Shee Poon Kim "China's Strategic Thinking and Policies Towards the South China Sea", *Contemporary Southeast Asia* 19, 4 (March 1998), pp. 103–105.
- 30 Captain Lee.G. Cordner, "The Spratly Islands Dispute and the Law of the Sea", *Journal of the Australian Naval Institute* (May/July 1994), p. 42.
- 31 Paul McDonald, "Scrambling for Oil in Asia", *The World Today* (October 1992), pp. 174–175; Chang Pao-Min, "A New Scramble for the South China Sea Islands", *Contemporary Southeast Asia* 12, 1 (June 1990), pp. 20–39.
- 32 Tønnessen, op. cit., pp. 13–14.
- 33 For the Cloma brothers' role in all this, see Samuels, op. cit., pp. 81–84.
- 34 Daniel Y Coulter, "South China Sea Fisheries: Countdown to Calamity", *Contemporary Southeast Asia* 17, 4 (March 1996).
- 35 Quoted in William E. Livezey, *Mahan on Sea Power* (Norman, OK: University of Oklahoma Press, 1981), p. 181.
- 36 Cited in Samuels, op. cit., p. 44.
- 37 For a full account of this extraordinary visit, when once again local French and Russian agents took a very different politico-strategic line from their masters back in Europe, see Wladimir Semenoff, *Rasplata: The Reckoning* (London: John Murray, 1910), pp. 417–435.
- 38 Gordon Jacobs, "Islands in Dispute", *Jane's Defence Weekly*, 9 June 1990.
- 39 *Kuang-ming jih-pao* (Canton) 24 November 1975, p. 2, cited in Samuels, op. cit., p. 139.
- 40 Tønnessen, op. cit., pp. 12–14.
- 41 Ibid., p. 17.
- 42 Minute by R.S. Milward 30 December 1949, FO 371/76038, TNA cited in *ibid.*, p. 33.
- 43 Samuels, op. cit., p. 43.
- 44 Daniel J. Dzurek, "China Occupies Mischief Reef in Latest Spratly Gambit", *IRBU Boundary and Security Bulletin* (April 1995), pp. 66–67.
- 45 "US Warns Against Restriction in South China Sea", *Straits Times* 12 May 1995.
- 46 Tønnessen, op. cit., pp. 49–50.
- 47 Samuels, op. cit., p. 108.

- 48 You Ji and You Xu, "In Search of Bluewater Power: The PLA Navy's Maritime Strategy in the 1990s", *Pacific Review* 4, 2 (1991), pp. 137–149.
- 49 "Marching Forward", *Jane's Defence Weekly*, 25 April 2007, pp. 24–30, usefully summarises common contemporary views of China's growth as a credible regional military power.
- 50 "Albright Makes Waves", *Guardian*, 27 July 1999.
- 51 "US Warns Against Restriction in South China Sea", *Straits Times*, 12 May 1995.
- 52 This was certainly the case as far as the Falkland Islands dispute was concerned. See Sir Lawrence Freedman, *The Official History of the Falklands Campaign* (London: Routledge, 2005), pp. 24–88 *passim*.
- 53 Samuels, *op. cit.*, p. 46.
- 54 Tønnessen, *op. cit.*, p. 29.
- 55 Gordon Jacobs, "Islands in Dispute", *Jane's Defence Weekly*, 9 June 1990.
- 56 Alan Shephard, "Maritime Tension in the South China Sea and the Neighborhood: Some Solutions", *Studies in Conflict and Terrorism* 17 (1993), pp. 181–211.

Annex 285

P. Brocheux and D. Hémerly, *Indochina: An Ambiguous Colonization, 1858-1954* (2009)

Indochina

An Ambiguous Colonization, 1858–1954

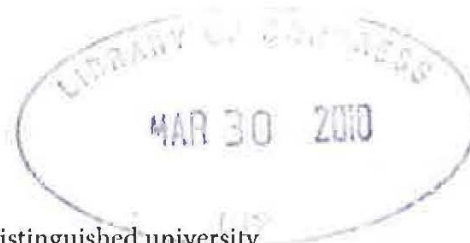
Pierre Brocheux and Daniel Hémery

*Translated by Ly Lan Dill-Klein, with Eric Jennings,
Nora Taylor, and Noémi Tousignant*



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University of California Press
Berkeley and Los Angeles, California

University of California Press, Ltd.
London, England

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Library of Congress Cataloging-in-Publication Data

Brocheux, Pierre.
[Indochine. English]

Indochina : an ambiguous colonization, 1858–1954 / Pierre Brocheux and Daniel Hémerly ; translated by Ly Lan Dill-Klein, with Eric Jennings, Nora Taylor, and Noémi Tousignant.

p. cm. — (From Indochina to Vietnam : revolution and war in a global perspective ; 2)

Translated from the French.

Includes bibliographical references and index.

ISBN 978-0-520-24539-6 (cloth : alk. paper)

1. Indochina—History—19th century. 2. Indochina—History—20th century. I. Hémerly, Daniel. II. Title.

DS548.B7613 2009

959.7'03—dc22

2008047365

Originally published as *Indochine: La colonisation ambiguë, 1858–1954*, © Éditions LA DÉCOUVERTE, Paris, France, 1995, 2001. This English-language translation includes additions and updates to the second French edition.

Manufactured in the United States of America

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10 9 8 7 6 5 4 3 2 1

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TABLE 3.13 Profits and salaries for five companies, 1939

Companies	Declared net profits	Estimated annual salary expense	Relation of profits to salaries
Société indochinoise forestière et des allumettes (Vinh-Ben Thuy and Hanoi; 2,000 workers paid 3.50 F per day)	1,020,000 F	2,100,000 F	48.57%
Société des papeteries de l'Indochine (Viet Tri and Dap Chau; 3,000 workers paid 3.50 F per day)	1,915,000 F	3,150,000 F	60%
Société des ciments Portland artificiels de l'Indochine (Haiphong; 4,000 workers paid 3.50 F per day)	13,965,000 F	4,400,000 F	3.6 times
Société des distilleries de l'Indochine (3 factories in Tonkin, 1 in Cholon, 1 in Phnom Penh; 2,500 workers paid 5 F per day on average)	18,606,000 F	3,825,000 F	almost 5 times
Société cotonnière du Tonkin (mills in Haiphong and Nam Dinh; 10,000 workers paid 3.50 F per day)	52,414,000 F	10,500,000 F	5 times

SOURCE: The salaries are based on the average salaries of unskilled workers in *Annuaire statistique de l'Indochine, 1941-1942*, p. 209; the profits are the figures given in *Répertoire des sociétés anonymes indochinoises* (Hanoi, 1944).

Foreign Trade

In the final analysis, foreign rather than domestic trade was undoubtedly the principal source of colonial development. Domestic trade was, nonetheless, substantial. In 1909, the value of goods transported along the Cambodian and Vietnamese coasts—179.4 million francs—represented 34% of the total value of foreign trade.¹¹⁷ Yet the tonnage transported by coastal traffic and the railroads remained lower than the amount exported (2.5 million tons as opposed to 4 million in 1935, for example). Foreign trade was the great “transformer” of the wealth produced in the peninsula into commodities that could be inserted into a global circulation of currency, products, and capital. In 1910, it had already reached the considerable sum of 519 million francs, a quarter of the total commerce of the French colonial sphere, which amounted to 2 billion francs. Certainly, the amount per capita (around 180 francs per inhabitant in 1937) was low compared to France (1,570 francs), the Dutch East Indies (310 francs), the Philippines (470 francs), and espe-

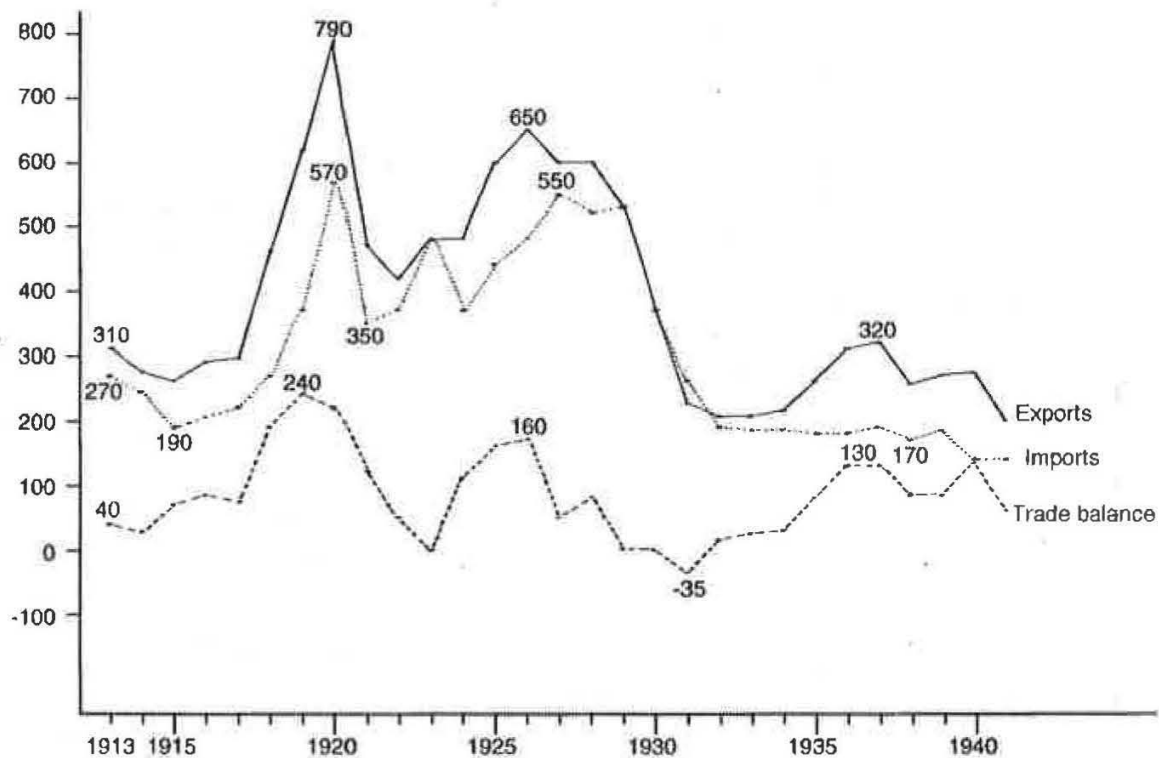


FIGURE 3.7. Indochina's foreign trade, 1913–1941 (in millions of 1913 francs). (Based on *Annuaire statistique de l'Indochine 1941–1942*, p. 296. Beginning in 1933, these figures incorporate the value of merchandise declared for temporary admissions or reexported, but this value is always less than 6% of the total foreign trade value.)

cially British Malaya, including Singapore (5,100 francs), but it was equivalent to Siam's and surpassed China's and India's. In fact, the regional intensity of foreign trade was very unequal, since it was in the rice trade and plantations of Cochinchina and in the mining and industrial zones of Tonkin, for the most part, that the Indochinese economy's internationalization took place. In 1928, foreign trade represented around 600 francs per inhabitant in Cochinchina, as opposed to 125 in Tonkin and northern Annam.¹¹⁸

At least in Cochinchina, this commercial development dates back to the last two decades of the nineteenth century; it reached its historic peak during the 1915–29 period, apart from a brief crisis in 1921–23. The recovery of 1935–37 took place at a level much lower than that of 1929 (see fig. 3.7). What characterized this commercial development was the size of its surpluses. Indochina's trade balance was always favorable from 1891 to 1945, except from 1900 to 1906, during the infrastructure construction phase, and in 1922, 1930, and 1931. Exports pulled colonial economic growth as a whole forward, in particular during World War I: in four years, the trade balance reached a surplus of 442 million gold francs, with a peak of 240 million in 1919.

This situation was exceptional for a long time in the French colonial empire, with the exception of the Maghreb. Indeed, between 1913 and the start of the 1940s,

the foreign trade of most French colonies was mired in deficits. Their cumulative trade balance became positive only from 1934,¹¹⁹ and even then it was not positive with respect to foreign countries. In 1938, the value of Indochinese exports stood at 51% of Algerian exports and 9.48% of those of metropolitan France.¹²⁰ In 1932, they were equivalent to 42% of Ceylon's, 18.5% of the Dutch East Indies', and 33% of rich British Malaya's.¹²¹ Thus, from 1928 to 1938, the balance of Indochinese foreign trade generated a positive cumulative balance of 3.8 billion current francs, as opposed to only 791 million for the rest of the colonies, except the Maghreb.¹²² According to official Gouvernement général statistics, from 1913 to 1941, Indochina's foreign trade produced a total profitable balance of 2,325 million gold francs,¹²³ which was admittedly far from compensating for the deficit in France's trade balance. However, this cannot be regarded as negligible if one considers that the Indochinese commercial surplus represented around 23.2% of the French commercial deficit in 1928 and was still 7.30% in 1935 and 5.5% in 1937.

The result was that, placed in the larger framework of France's economic relations with the rest of the world, the surplus of Indochinese trade contributed to the balancing of France's foreign accounts. This is borne out by an examination of the geography of the foreign exchange and account balance. First, contrary to what a number of authors have written, these exchanges were characterized, early on, by their incomplete integration into the French system of protectionism, which was established starting in the 1880s. After 1887, Indochina was placed under the Méline law of 1892, which defined the regime of customs assimilation (a reciprocal customs franchise between the metropole and the colony and a common tariff, at least in principle); the sales of French industries in the colonies were strongly protected. But in practice, starting in 1921, and then with the derogation to the customs law instituted on April 13, 1928 (the "Kircher tariff," which reinforced customs assimilation between France and its colonies), and the special tariff adopted for Indochina by the texts of December 1928 and July 1929, completed by the Franco-Chinese trade treaty of May 1930, Indochina enjoyed a certain customs autonomy.¹²⁴

Second, a distinct imbalance existed in the flow of commodities between the colony and its different commercial partners. Until 1930, Indochinese commerce with the Far East was greater than that with the metropole: exports to Hong Kong, China, Singapore, Japan, and the Dutch East Indies represented 58% of the total in 1913, 66% in 1929, and the purchases of East Asia from the colony greatly surpassed its sales (by 46% between 1908 and 1912 and 134% between 1924 and 1929). In fact, Indochina's principal markets were southern China (including imports to Hong Kong), which was the first outlet for Cochinchinese rice; the Dutch East Indies, which imported rice and exported gasoline to Indochina; Singapore, a market for fish, tin, and Indochinese rubber, which from there was sent on to the United States, Japan, and France; the Philippines, a market for Cambodian livestock and

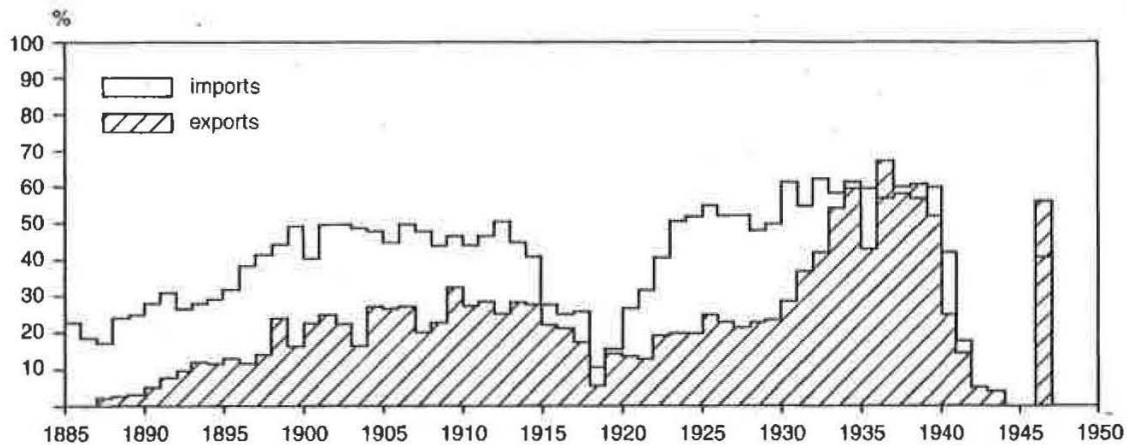


FIGURE 3.8. Trade between Indochina and France, 1885–1950 (percent of Indochinese exports and imports shipped to or from France and its colonies). (From I. Nørdlund, “The French Empire, the Colonial State in Vietnam, and Economic Policy: 1885–1940,” *Australian Economic History Review*, no. 1 [March 1991], special issue, “Exploring Southeast Asia’s Economic Past.”)

Cochinchinese rice; and Japan, which purchased rice and especially coal and rubber. Indochina’s sales to Japan were close to five times higher than its purchases between 1913 and 1932.¹²⁵ But China’s role was essential. It was by far the primary market for Indochina, which was its most important supplier of rice. It also provided Indochina with traditional articles (umbrellas, earthenware, silk cloths, vermicelli, objects for religion and celebrations, tea, medicines). On the eve of the crisis of the 1930s, Indochinese sales represented 4% to 6% of total Chinese imports. Through Indochina, the French share in the Chinese import market was at least doubled.¹²⁶

Finally, the United States absorbed an increasing amount of the rubber output after 1930: 34,000 tons out of 72,000 produced in 1940. In fact, in the long term, one effect of colonization was to integrate the Indochinese economy into the Far Eastern market and, more generally, to integrate Indochina, more so than any other French colony, into the global economy.

The Great Depression and the implementation of the idea of “imperial autarchy” through the close integration of the colonial empire into a French economic space, in the wake of the economic *Conférence économique de la France d’Outre-mer* (Economic Conference of Overseas France) of 1934,¹²⁷ certainly disrupted the geography of Indochinese foreign trade for some time. In parallel with the rise of the colonial market to the rank of France’s primary commercial partner starting in 1928, Indochinese exports to France (57% of the total value of its exports between 1934 and 1938, as shown in fig. 3.8) surpassed those to the Far East (34%). A real, though temporary, disconnection between Indochina and East Asian economic space took place, which resulted in the preservation of profits of both Indochinese exporters

and the Banque de l'Indochine during a phase of the global market's contraction. This also resulted in the maintenance of Indochina's capacity to absorb French industrial products. It was, however, a precarious situation, which was ended by the war: the law of October 15, 1940, granted customs autonomy to Indochina.

The essential factor was the asymmetry between the Indochinese–East Asian and Indochinese–French trade balances. The former was very favorable to Indochina until World War II. In contrast, as many works, notably those of Irene Nørlund, have shown, the customs assimilation instituted starting in 1887, reinforced by the Méline tariff of 1892 and further deepened by the Kircher tariff of 1928, which started a customs war with China from 1929 to 1935, enabled France to export much more to Indochina than it bought from it—over 60% more on average, for example, from 1908 to 1912. These were essentially manufactured products with a large added value, sold at prices generally much higher than those of identical foreign products. In 1934, Paul Bernard estimated that the prices of French imported merchandise surpassed those of equivalent foreign products by an average of 15%, and that the “Indochinese taxpayer paid an annual tithe of around 12 million piastres [30 million 1914 francs] to the exporters of France, with the sole purpose of offering them a privileged place in its market.”¹²⁸

So, throughout the period, Indochina played a role as a regulator of France's trade. The terms of exchange were largely unfavorable to Indochina, though this was probably less true during the crisis of 1930, because of the decrease in the price of imported consumer goods; the metropole's percentage of the value of imports into the colony continually increased until 1940. Imports from the metropole and those, less important, from the other French colonies, represented 29.6% on average of the total value of Indochinese imports from 1911 to 1920, and 43.2% from 1921 to 1930, whereas Indochinese exports to the metropole—rice, corn intended for consumption by livestock (whose rates were tied to those of oats), rubber, tea, a little coffee, pepper—leveled out at 19.6% of the total amount of Indochinese exports from 1911 to 1920, and 20.9% from 1921 to 1930.

Except during the Great Depression, profits from Indochina's balance of foreign trade rose steadily, far outstripping its equally growing deficits with the metropole and generating a considerable transfer of value to France, at the price of maintaining a very low standard of living among the colonized. Assimilation “obliged the indigenous peoples, who could have inexpensively acquired what they needed among their neighbors, to pay high customs and to have their imports sent from France burdened with transportation expenses on 15,000 kilometers.”¹²⁹

Indochina thus became, from the years 1908–12 on, one of the important foreign markets of French products—cotton fabric and, to a lesser extent, cotton threads of Rouen and the Vosges, rayon fabrics of Lyon, light and heavy metals, and automobiles. In 1938, fabrics (cotton and rayon), which were 90% French except from 1915 to 1922, represented 22.5% of Indochinese imports, and infrastructure

goods, 21.3%. Indochina was, after Algeria, the principal colonial outlet of the French economy, notably for industries with lessening momentum like textiles; it accounted for 3.1% of the total exports of France and 4.1% of its imports. The case of cotton is especially revealing. As early as 1885, French threads and fabrics led Indochinese imports: 33% in 1911, 39% in 1913, 27% in 1922, and around a quarter from then on.¹³⁰ Indochinese imports of cotton fabrics absorbed 6% of France's production in 1913,¹³¹ and up to 22% of French cotton fabric exports in 1938.¹³² When the total of all products is considered, French sales to Indochina, around 500 million current francs in the low year of 1933, came just after sales to the United States (868 million), and before sales to Italy (492 million). They were equivalent in 1938 to 22.8% of the French sales to the Belgian-Luxembourg Union, France's largest client, 27% of sales to England, and 44% of those to Germany. The following year, Indochina was eighth among France's clients.¹³³

Placed in a highly unequal relationship of exchange with France due to colonial domination, Indochina was definitely one of the important pieces of the complex system of external regulations that French capitalism constructed for itself during the nineteenth century, a system of "colonial regulation" that was so influential and yet has been so misunderstood in the writing of its history. The price of this situation for Indochina was its underindustrialization. Indochina constituted the eastern section of this global system that functioned through the compensation of regional balances (of products, currencies, capital). Its pole was Saigon, which was the center of a vast network of exchange whose other axes were the three emporiums of Hong Kong, Singapore, and Marseille. The scheme of this compensation was simple but effective: Indochina could buy from France more than it sold to it because it sold to Asia more than it bought from it. Thus, in 1930, the profit margin of its trade balance with Hong Kong, China, Singapore, Siam, the Dutch East Indies, and Britain's Asian colonies was 780.7 million francs, which more than compensated for the deficit of its balance with France and the other French colonies (592.8 million). Furthermore, the surplus in the Indochinese trade balance with countries of the Far East allowed the colony to buy in francs and, additionally, appreciably to attenuate the deficit in France's general trade balance. These surpluses, achieved in strong currencies (dollars, sterling, florins), also contributed somewhat to the balancing of French accounts.

Through Indochina, French capitalism appropriated a part of the profits produced by the Far Eastern market that Britain had organized since the nineteenth century. It was a phenomenon that we cannot fully measure, in the absence of any reliable reconstruction of Indochinese balances of accounts and payments.¹³⁴ We know that the Indochinese balances of accounts and payments in the years 1934–39 were negative,¹³⁵ because of the multiple and often elusive transfers of profits to France, but we can glean little more. These transfers included civil servants' salaries, the savings of the French in Indochina, profits of companies, annuities for

TABLE 3.14 Funds from Indochina brought back to France, 1928–1931 (in millions of current francs)

	1928	1929	1930	First half of 1931
Dividends; taxes, business overhead	200	150	100	50
Personal savings	400	350	300	150
TOTAL	600	500	400	200

SOURCE: *Note sur la situation monétaire de l'Indochine, 1930–1931*, CAOM, Affaires politiques, 2645 (5).

loans, the profits from speculation on the difference between the official rate and the commercial rate of the piastre, and on the fluctuations of monetary exchange, movements of funds executed by Asians to China and Southeast Asia. We possess only very partial assessments of all of these transfers in the 1930s (table 3.14), which doubtless were substantial. The profits derived from global investment in Indochina were largely sent back to France. The repatriated capital was valued at 600 million current francs in 1928, 500 million in 1929, and 400 million in 1930.¹³⁶ In 1939, Smolski estimated its total at 314 million in 1935, 241 million in 1936, and 764 million in 1937;¹³⁷ the drain therefore perhaps rose to more than 520 million 1914 francs for these six years.

These considerable figures give us only a partial indication of the value of the net transfers of capital from Indochina to France, but they demonstrate the truth of the following judgment on the part of the *Dépêche coloniale* in 1934: “Indochina is an essential part of France’s equilibrium.”¹³⁸

Annex 286

S. Heileman, "South China Sea", *Large Marine Ecosystems of the World*, Brief No. 36 (2009)

VIII-15 South China Sea: LME #36

S. Heileman

The South China Sea LME is bordered by China, Indonesia, Malaysia, Philippines, Taiwan and Vietnam. It covers an area of 3.2 million km², of which 0.31% is protected, and contains 7.04% and 0.93% of the world's coral reefs and sea mounts, respectively (Sea Around Us 2007). Coastal waters are relatively shallow (less than 200 m) and are influenced by marine as well as by river and terrestrial inputs. The South China Sea Basin and Palawan Trough are deeper than 1,000 m. Numerous rivers (120) drain a total catchment area of 2.5 million km² into the LME. Most of the region lies within the sub-tropical and equatorial zones and the climate is governed by the northeast and southwest monsoon regimes. The northern and central parts of the region are affected by typhoons during the southwest monsoon months, bringing intense rains and destructive winds to coastal areas. This LME is particularly sensitive to ENSO, which has caused significant changes in rainfall patterns, for example, in Indonesia and Malaysia. Major oceanographic currents include those generated by the seasonal monsoons. Waters from the LME may flow seasonally into the Sulu Sea and Java Sea, contributing to the Indonesian Throughflow. The component subsystems of this LME have been documented in Pauly & Christensen (1993). Other reports pertaining to this LME are listed in the references (see also Talaue-McManus 2000, UNEP 2005).

I. Productivity

The South China Sea LME is a biologically diverse marine ecosystem with a tropical climate. It is considered a Class II, moderate production ecosystem (150-300 gCm⁻²yr⁻¹). The Indo-West Pacific marine biogeographic province, which includes the South China Sea LME, is well-recognised as a global centre of marine shallow-water, tropical biodiversity (Spalding *et al.* 1997, Tomascik *et al.* 1997). Over 450 coral species have been recorded from the Philippines. Recent estimates suggest that approximately 2 million ha of mangrove forest or 12% of the world total are located in the countries bordering the South China Sea LME (Talaue-McManus 2000). Six species of marine turtles, all considered as either Endangered or Vulnerable by the IUCN, the dugong and several other species of marine mammal included on IUCN's Red List of Threatened Animals occur in this LME. Many of these exhibit transboundary migratory behaviour, which presents major challenges for their conservation.

Oceanic fronts: Fronts observed within this LME (Figure VIII-15.1) are quite diverse (Belkin & Cornillon 2003). The South China Inner Shelf Front (SCISF) and South China Outer Shelf Front (SCOSF) extend along southern China coast from Hainan Island into Taiwan Strait. The Gulf of Tonkin Front (GTF) is of the estuarine origin; the salinity differential across this front is controlled by a massive river discharge into the Gulf, mostly by the Red River. The Vietnam Coastal Front (VCF) is largely caused by wind-induced coastal upwelling and is thus strongly monsoon-dependent. The West Luzon Front (WLF) appears as a relatively broad frontal zone southwest of the Luzon Strait; it is likely caused by the inflow of the Pacific waters; the wind-induced upwelling also contributes to frontal maintenance.

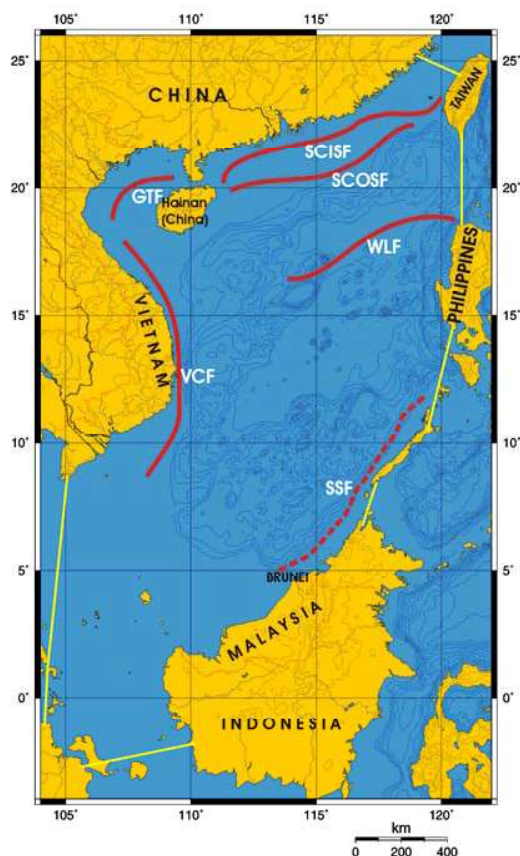


Figure VIII-15.1. Fronts of the South China Sea LME. GTF, Gulf of Tonkin Front; SCISF, South China Inner Shelf Front; SCOSF, South China Outer Shelf Front; SSF, Shelf-Slope Front (the most probable location); VCF, Vietnam Coastal Front; WLF, West Luzon Front. Yellow line, LME boundary. After Belkin et al. (2009) and Belkin and Cornillon (2003).

South China Sea SST (Belkin, 2009)

Linear SST trend since 1957: 0.80°C.

Linear SST trend since 1982: 0.44°C.

The thermal history of the South China Sea (Figure VIII-15.2) is strongly correlated with the Gulf of Thailand LME and largely decorrelated from other neighboring LMEs. The all-time maximum of 1998 is an exception since this event was linked to the global El Niño 1997-98. Interannual and decadal variability in the South China Sea are relatively small. The observed stability of the South China Sea can be partly explained by the existence of the so-called South China Warm Pool (Li et al., 2007); such warm pools are known to be relatively stable owing to anticyclonic circulations that enclose them; a good example of a large-scale warm pool is a gyre in the western part of the Sargasso Sea. The South China Warm Pool changes seasonally and interannually (He et al., 2000): it grows in summer and shrinks and retreats to the southwest in winter, and it is modulated by the ENSO (El Niño-Southern Oscillation).

A recent study of the ERA-40 reanalysis and other data sets, including HadISST and SODA (Simple Ocean Data Assimilation), has shown that “due to the impact of global climate warming, the winter and summer monsoon flows became weak over the offshore area of China and its adjacent ocean after 1976, which caused the weakening of winter and summer sea surface wind stresses, especially the meridional sea surface wind stresses, and obvious increase of SST in the area.” (Cai et al., 2006, p. 239).

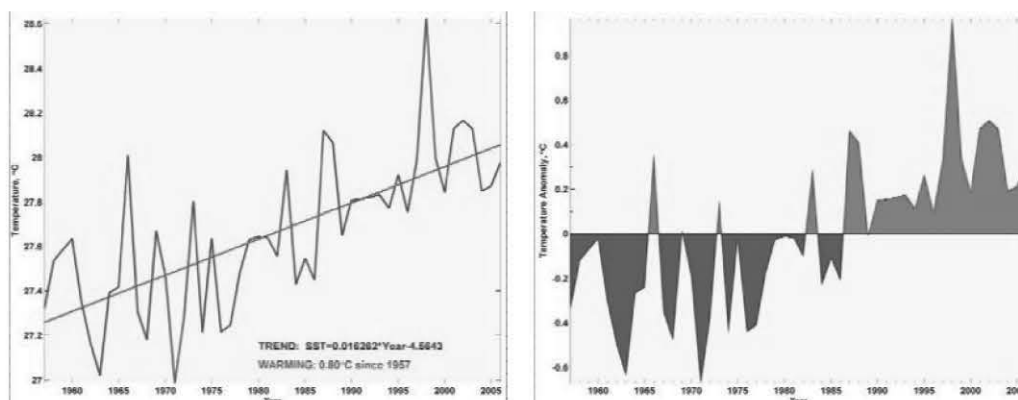


Figure VIII-15.2. South China Sea LME annual mean SST (left) and SST anomalies (right), 1957-2006, based on Hadley climatology. After Belkin (2009).

South China Sea LME Chlorophyll and Primary Productivity: South China Sea LME is considered a Class II, moderate production ecosystem ($150\text{-}300\text{ gCm}^{-2}\text{yr}^{-1}$).

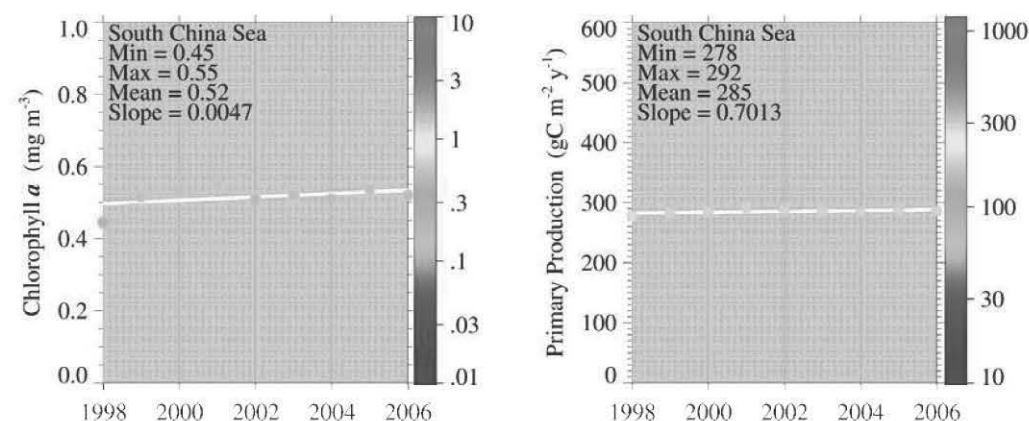


Figure VIII-15.3. South China Sea trends in chlorophyll a (left) and primary productivity (right), 1998-2006. Values are colour coded to the right hand ordinate. Figure courtesy of J. O'Reilly and K. Hyde. Sources discussed p. 15 this volume.

I. Fish and Fisheries

Reported landings from the South China Sea LME are in the order of 6 million tonnes (Figure VIII-15.4), although substantial uncertainty is associated with these figures. The marine fisheries are important to the food security and economy of the bordering countries and targeted groups include flying fishes, tunas, billfishes, mackerels and sharks for the pelagic species, and a large array of demersal fish and invertebrates, especially penaeid shrimps. There is also a high percentage of reef fish and other small coastal pelagic fishes such as herring, sardine and anchovy in the landings. Like

adjacent LMEs, the status and future viability of fish stocks of this LME are not well understood, and there are significant gaps in the available data with many fisheries that may be classified as Illegal, Unreported and Unregulated (IUU; UNEP 2005). The steady increase of the reported landings, from 600,000 tonnes in 1950 to over 6 million tonnes in 2004 (Figure VIII-15.4) is primarily due to a significant increase in the landings of unidentified fishes (included in 'mixed group'), which account for two-third of the landings in recent years. In general, a high proportion of unidentified catches in landings statistics is a symptom of deficiencies in a reporting system, and therefore, we should be wary of the large, continuous increases reported in this LME. Due to the large increase in the reported landings, the value of the landings also rose steadily, reaching US\$6 billion (in 2000 US dollars) in the early 2000s (Figure VIII-15.5).

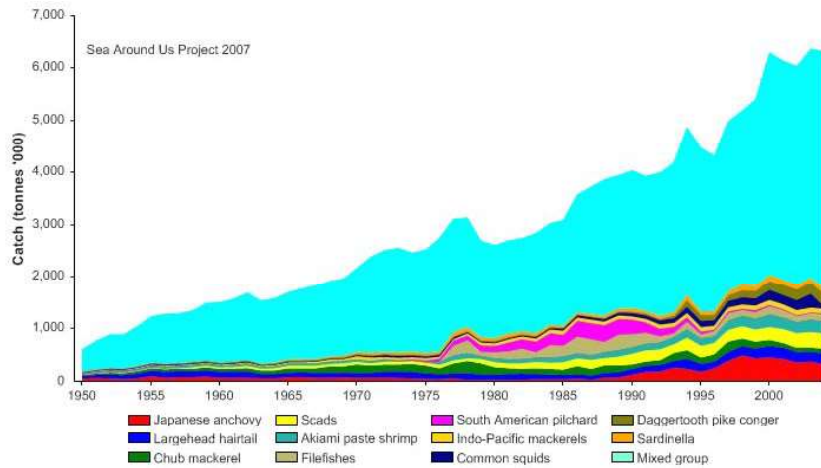


Figure VIII-15.4. Total reported landings in the South China Sea LME by species (Sea Around Us 2007).

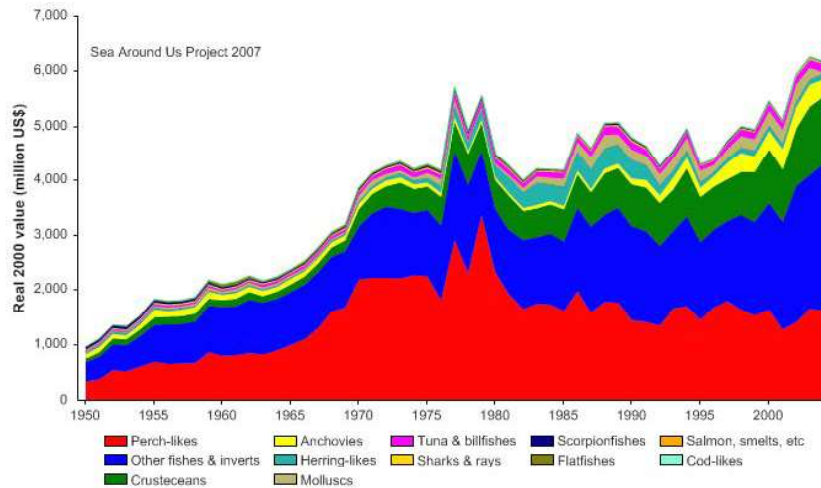


Figure VIII-15.5. Value of reported landings in South China Sea LME by commercial groups (Sea Around Us 2007).

The primary production required (PPR; Pauly & Christensen 1995) to sustain the reported landings in this LME is increasing with the reported landings, and is presently over 60% of the observed primary production (Figure VIII-15.6)--yet another indication that the reported landings from this LME may be unrealistically high. China accounts for the largest share of the ecological footprint in this LME.

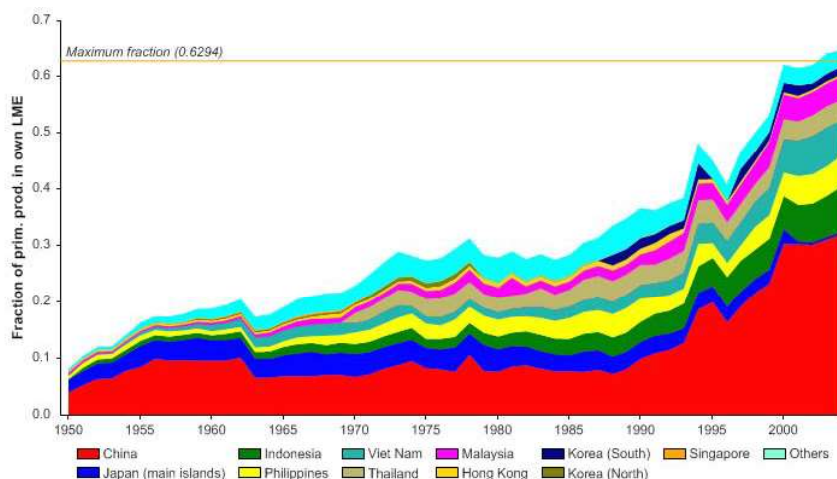


Figure VIII-15.6. Primary production required to support reported landings (i.e., ecological footprint) as fraction of the observed primary production in the South China Sea LME (Sea Around Us 2007). The 'Maximum fraction' denotes the mean of the 5 highest values.

The trends of both the mean trophic level (i.e., the MTI; Pauly & Watson 2005; Figure VIII-15.7 top) and the FiB index (Figure VIII-15.7 bottom) until the mid-1980s are both suggestive of a 'fishing down' in the food web (Pauly *et al.* 1998) with a limited geographic expansion of fisheries with the MTI declining and and the FiB index showing a limited increase.

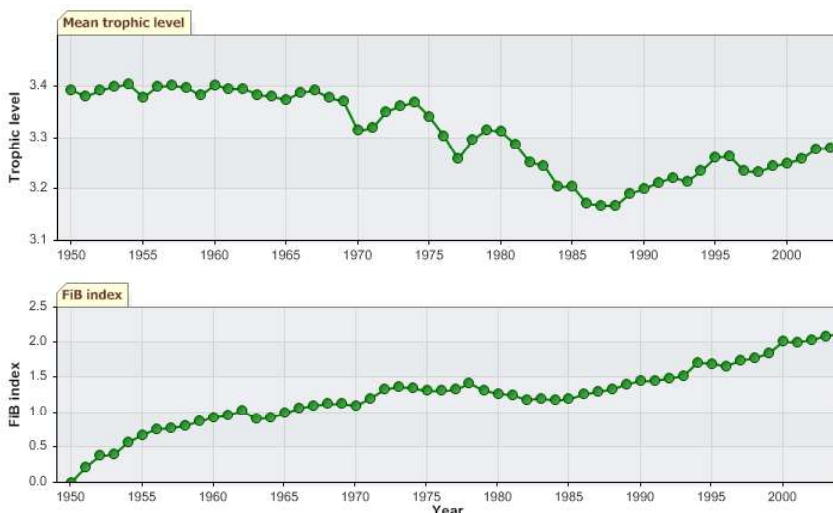


Figure VIII-15.7. Mean trophic level (i.e., Marine Trophic Index) (top) and Fishing-in-Balance Index (bottom) in the South China Sea LME (Sea Around Us 2007).

The trends of these indices from the mid-1980s on, however, is hard to interpret, as the increase in the MTI does not seem to be caused by development of high trophic fisheries such as tuna fisheries (time series of the MTI without tuna catches can be examined at www.seararoundus.org). Another, more likely explanation for such trends is that the landings statistics for the LME include either catches made outside the LME or exaggerated values. This would also explain why the PPR for the fisheries in the LME is improbably high (Figure VIII-15.6). The Stock-Catch Status Plots indicate that about 40% of the stocks in the LME are collapsed or overexploited (Figure VIII-15.8, top), however, with the majority of the catches supplied by fully exploited stocks (Figure VIII-15.8, bottom). Such diagnosis is probably optimistic, and is again likely a result of the high degree of taxonomic aggregation in the underlying statistics.

While masked in recent years, 'fishing down' of the food web is widespread in most, if not all, countries of the South China Sea LME (UNEP 2005). Moreover, catch per unit effort in most fisheries has declined steadily, an indication of severe overexploitation. The increase was accompanied by a change in the major species in the catch, an indication of massive selective fishing pressure (Yanagawa 1997). Intensive fishing is the primary driving force of biomass change in this LME (Sherman 2003). The South China Sea TDA has identified loss of fisheries productivity as a major transboundary issue (Talaue-McManus 2000) and most of the conventional species have been fully exploited at the basin level (Yanagawa 1997).

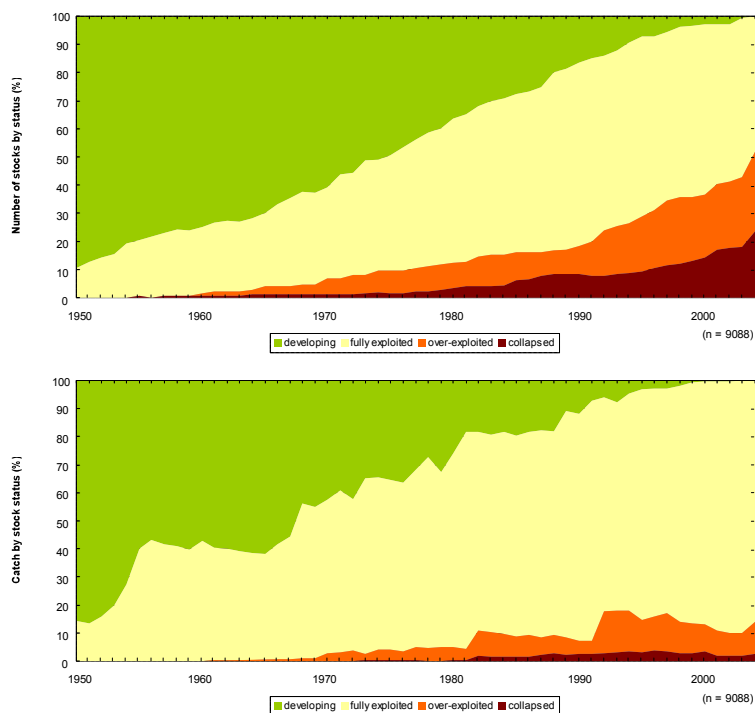


Figure VIII-15.8. Stock-Catch Status Plots for the South China Sea LME, showing the proportion of developing (green), fully exploited (yellow), overexploited (orange) and collapsed (purple) fisheries by number of stocks (top) and by catch biomass (bottom) from 1950 to 2004. Note that (n), the number of 'stocks', i.e., individual landings time series, only include taxonomic entities at species, genus or family level, i.e., higher and pooled groups have been excluded (see Pauly *et al*, this vol. for definitions).

Because of their proximity to shore, fringing reefs are heavily exploited by subsistence fishers and about 70% of the coral reefs in the broader region (including Sulu-Sulawesi Sea and Indonesian Seas) is heavily depleted, producing less than 5 tonnes per km² per year in comparison with the remaining 30% of reefs that produce about 15 - 20 tonnes per km² per year. Moreover, adult fish are scarce in some reefs in the region (McManus 1994). Reduction and loss of reef fish populations may have transboundary consequences if reef interdependence between oceanic shoals and highly exploited fringing reefs of the South China Sea LME is considered (Talaue-McManus 2000).

Oceanic migratory species such as tuna, billfish, sharks and other pelagic species are also overexploited, with potential transboundary impacts (UNEP 2005). Some shark species that migrate throughout the South China Sea LME, are also targeted and often caught as bycatch in the tuna and swordfish fisheries. Currently, high demand for shark products for exotic food, medicinal and ornamental markets (Chen 1996) is causing concern about overexploitation of sharks in the region (Talaue-McManus 2000). Invertebrate species such as holothurians, molluscs and crustaceans are considered to be heavily exploited, partly through overinvestment and encroachment of large-scale commercial operations, including illegal and unreported incursions of vessels from countries outside the South China Sea LME.

Excessive bycatch is a severe problem in this LME (UNEP 2005). The lack of bycatch exclusion devices has resulted in massive overexploitation of species regarded as bycatch in other regions. However, the quantity of discards in the region's fisheries is insignificant, as virtually all of the bycatch, including turtles, sharks and whales, are utilised. There is also a widespread capture, either intentional or accidental, of rare, threatened and endangered species such as turtles and dugong, by traditional and commercial fisheries. Substantial, though unquantified, levels of bycatch are produced by distant waters fleets, through use of blast fishing and poisons, as well as in the shrimp fry fisheries, where juveniles of all other species are discarded. Destruction by reef bombing and use of poisons is severe, particularly on coral reefs (Bryant *et al.* 1998, Talaue-McManus 2000, UNEP 2005). Massive habitat destruction and fragmentation and changes in population and community structure are occurring from destructive fishing methods in the region. Based on present consumption patterns and population growth rates, the region will have to produce significantly more fish in the future just to meet domestic demand. Pressure on the coastal resources is therefore likely to increase significantly in the near future.

III. Pollution and Ecosystem Health

Pollution: Pollution in the South China Sea LME can be attributed to rapid economic development and population growth in the coastal zone. Overall, pollution was assessed as moderate, but severe in some localised areas (UNEP 2005). Wastes from domestic and industrial sources, agricultural and aquaculture, as well as sediments and solid wastes are the major land-based pollutants affecting coastal areas (Koe & Aziz 1995, Talaue-McManus 2000, Fortes 2006). Inadequate sewage treatment and disposal has led to high faecal coliform bacteria levels in some areas (e.g., Manila Bay). Industries release an estimated minimum of about 430,000 tonnes of Biological Oxygen Demand (BOD) into aquatic systems interacting with the LME (Talaue-McManus 2000). If this is not significantly reduced, the coastal waters of the Sunda Shelf from the Indo-China Peninsula to Malaysia and Indonesia, across to the western Philippine shelf, could become eutrophic. In enclosed bays, harbours, lagoons and in the immediate vicinity of river mouths there has been frequent occurrence of non-toxic algal blooms and HABS, as well as cases of paralytic shellfish poisoning in parts of the region (Talaue-McManus 2000).

High levels of suspended solids are found in coastal waters throughout most of the region. This has resulted from activities such as extensive deforestation in many watersheds, logging, mining, land reclamation, dredging and urban development, compounded by high rates of erosion (Naess 1999). There have been major changes in turbidity and levels of suspended sediments in Malaysia, Vietnam, Philippines, Indonesia (Sumatra and Kalimantan) and Thailand. Suspended solids have caused major changes in biodiversity of benthic communities (UNEP 2005). Pollution from solid waste is severe in localised areas, particularly around many towns and villages where waste management is poor or non-existent.

Data provided on heavy metals, though incomplete, show high levels in localised areas. Vietnam, whose major rivers are all transboundary, reports an annual load of heavy metals of about 100,000 tonnes. In the Northern Economic Zone of Vietnam, the concentration of lead, zinc and copper are 7-10 times the allowable limits. The LME contains some of the world's busiest international sea-lanes and two of the busiest ports in the world, Singapore and Hong Kong (Coulter 1996). This has led to moderate pollution from spills, with episodic discharges from shipping and occasional spills from oil exploration and production. International trade is expected to triple by 2020, much of which will be through the sea, increasing the potential for spills.

Habitat and community modification: Ecological goods and services provided by mangrove systems are estimated to be worth about US\$16 billion per year (Naess 1999, UNEP 1999). Southeast Asian reefs are estimated to be worth more than US\$2.4 billion per year, based on their contribution to food security, employment, tourism, pharmaceutical research and shoreline protection (Burke *et al.* 2002), while the estimated value of seagrass and coastal swamp areas in the South China Sea region is about US\$190 billion per year (UNEP 1999).

Growing coastal populations and development, destructive fishing practices, pollution and siltation have resulted in severe habitat and community modification in this LME (UNEP 2005). Significant expanses of coral reefs have already been degraded or are under severe threat (Chou *et al.* 1994, Bryant *et al.* 1998, Burke *et al.* 2002). Coral reefs are most extensive and also the most threatened in Indonesia and the Philippines, with 50% of Indonesian reefs and 85% of Philippines reefs at high risk (Bryant *et al.* 1998). Recent studies suggest that degraded reefs have incurred reductions in biodiversity and at worse, species extinctions (Talaue-McManus 2000).

The reversing monsoonal pattern of wind and surface circulation facilitates connections between oceanic shoal reefs and those fringing the coastal states. McManus (1994) suggests that planktonic larvae of many coral reef biota from the oceanic shoals of the South China Sea can recruit in the fringing reefs of Sabah, the Philippines, Taiwan, coastal China, the Paracell Islands, Vietnam or in the Natuna Islands (Indonesia), depending on the direction of water circulation. Degradation of the coral reefs in the South China Sea LME will have a major impact on the global heritage of reef biodiversity (Bryant *et al.* 1998).

The original area of mangroves has decreased by about 70% during the last 70 years, with millions of hectares of land, mostly mangroves, having already been converted for shrimp mariculture, industrial development and tourist resorts. A continuation of the current trend would result in all mangroves being lost by the year 2030 (UNEP 1999). The disappearance of mangrove systems on such a large scale has led to sediment erosion, water pollution, loss of biodiversity and a critical loss of nursery habitat for young fish and shellfish. Despite the continuing destruction, significant areas supporting good quality coastal and marine habitats still remain (e.g., Spratly and Paracel Islands; western Palawan, Philippines; Con Dao Islands, Vietnam), both within and outside MPAs.

There is evidence of widespread modification of seagrass habitats throughout the region, with 20% to 50% of seagrass beds having been damaged (Talaue-McManus 2000). Sediments from coastal development, destructive fishing methods and land-based pollution are among the major threats to the region's seagrass habitats. Like coral reefs and mangroves, seagrass beds possess high biodiversity and a number of endangered species like sea cows and marine turtles are known to feed in these areas. Numerous species spend various stages of their life cycles among adjacent mangrove, seagrass and coral reef habitats. Degradation and loss of these critical habitats have led to reduction in the essential ecosystem services they provide in maintaining the high biodiversity and fisheries production of this region.

The health of the South China Sea LME may deteriorate further as a consequence of the expected future increase in pollution and habitat modification (UNEP 2005). Despite increasing measures for pollution mitigation and control, environmental quality is likely to worsen, primarily because of the predicted increase in deforestation and agriculture, as well as a major increase in population overriding the improvements in infrastructure (UNEP 2005). Some positive steps are being taken to address habitat modification, including mangrove rehabilitation programmes, watershed protection and establishment of MPAs.

IV. Socioeconomic Conditions

About 270 million people live in the coastal areas of the South China Sea LME. This population is expected to double in the next three decades. The South China Sea LME contributes to the livelihood of millions of people engaged in trade, tourism, industry, fisheries and oil exploitation. Fisheries remain a significant source of revenue and food. Economic activities include fisheries, mariculture, tourism and mining. The region is a globally important source of minerals, with considerable reserves of oil and gas.

The socioeconomic impacts of unsustainable exploitation of fisheries and environmental deterioration are significant for the newly developed economies of this region (Talaue-McManus 2000, UNEP 2005). There have been reduced economic returns and loss of employment as well as of livelihood from the fisheries collapse. In many areas, fisher families' children are malnourished, as fish consumption has declined from approximately 36 kg person⁻¹yr⁻¹ to 24 kg person⁻¹yr⁻¹, with consequent high levels of malnutrition (UNEP 2005). The socioeconomic impacts of pollution are mainly related to poverty in the major urban centres (UNEP 2005). Impacts include economic losses to mariculture and the shellfish industry through regular advisories of high levels of toxicity (e.g., Philippines, Vietnam, Indonesia, Thailand), as well as HABs and cases of mercury poisoning. Other impacts are associated with the costs of clean-up and coastal restoration. There have also been losses in recreational value in parts of the Philippines and land use conflicts in Philippines, Thailand and Malaysia.

Habitat modification has resulted in reduced capacity of local populations to meet basic human needs and loss of employment throughout the LME (UNEP 2005). Other impacts include loss or reduction of existing and future income and foreign exchange from fisheries and tourism, loss of charcoal production, economic conflicts between investors and local users, national and international conflicts and increased risks to capital investment (e.g., failure of coastal aquaculture projects in many parts of the region), costs of restoration of modified ecosystems and intergenerational inequity (UNEP 2005).

V. Governance

Most South China Sea nations recognise that their fisheries resources are threatened, but they also need the fishery products to feed their human populations and to sustain

industries based on fisheries (Naess 1999). Thus, there is constant competition between socioeconomic and environmental concerns, where the former often win (Naess 1999). Fishing fleets of individual countries are depleting the common resources of the LME, reaping short-term benefits at the cost of others. There are multilateral attempts at improving the current situation of regulation of fisheries, to an ecosystem-wide approach to which all littoral states commit themselves. Management of the goods and services of the South China Sea LME is presently the focus of a Global Environment Facility and World Bank financed effort to support a country driven project for protecting the environment and living marine resources of the South China Sea LME (www.gef.org).

The losses related to overexploitation and habitat degradation, both in biodiversity and in fisheries yield, are important transboundary issues, not only from a biological point of view (i.e. nursery areas, recruitment of larvae, etc.) but also from an economic perspective where the drivers are international demand for aquarium fish, live food fish and prawns, as well as coastal tourism (Talaue-McManus 2000). The present situation and future prognosis indicate that more extensive and intensive intervention is required, including direct on-the-ground community-based conservation programmes. One of the Policy recommendations is the development of a functional, integrated regional network of MPAs (UNEP 2005). Bordering countries already have many legally designated MPAs and some multilateral conservation agreements have been established. Approximately 125 MPAs have already been gazetted (Spalding *et al.* 2001, Cheung *et al.* 2002) and there are also two World Heritage sites: Halong Bay, Vietnam and Puerto Princesa Subterranean River National Park, Philippines. However, insufficient resources for management and enforcement of fisheries and other regulations in many MPAs limit their effectiveness. Just 10-20% of MPAs are considered as effectively managed (Cheung *et al.* 2002).

The South China Sea LME is included as part of the UNEP-administered East Asian Regional Seas Programme. The GEF-World Bank supported projects underway are moving toward an integrated country based ecosystem approach to recover depleted fish stocks, restore degraded habitats, reduce coastal pollution and nutrient over-enrichment, conserve biodiversity and adapt to the effects of climate change.

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Annex 287

Victor Lieberman, *Strange Parallels: Southeast Asia in Global Context, c. 800-1830*, Vol. 2 (2009)

Strange Parallels

Southeast Asia in Global Context, c. 800–1830

Volume 2

*Mainland Mirrors: Europe, Japan, China,
South Asia, and the Islands*

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 **CAMBRIDGE**
UNIVERSITY PRESS

CAMBRIDGE UNIVERSITY PRESS
Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore,
São Paulo, Delhi, Dubai, Tokyo

Cambridge University Press
32 Avenue of the Americas, New York, NY 10013-2473, USA

www.cambridge.org

Information on this title: www.cambridge.org/9780521530361

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First published 2009

Printed in the United States of America

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication data

Volume 1 was cataloged as:

Lieberman, Victor B., 1945–

Strange parallels : Southeast Asia in global context, c. 800–1830 / Victor Lieberman.
p. cm. – (Studies in comparative world history)

Includes bibliographical references and index.

ISBN 0-521-80086-2 ISBN 0-521-8049605 (pb.)

1. Asia, Southeastern – Historiography. 2. Asia, Southeastern – History.

I. Title. II. Series

DS524.4L54 2003

959-dc21 2002071481

ISBN 978-0-521-82352-4 Hardback

ISBN 978-0-521-53036-1 Paperback

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CHAPTER SEVEN

*Locating the Islands*OVERVIEW: THE RELATION OF MARITIME
TO MAINLAND SOUTHEAST ASIA

As a historian of mainland Southeast Asia, I began this project in order to compare my region to other sectors of Eurasia. Having considered protected-zone realms and parts of the exposed zone, in this, the final chapter, I return to Southeast Asia to examine its island, or maritime, component.¹ By some yardsticks, mainland and maritime Southeast Asia together constituted a reasonably coherent, distinctive sphere. But while cultural commonalities endured, after 1511 political trends began gradually to assimilate the island world, hitherto part of Eurasia's protected zone, to exposed-zone status. The mainland, by contrast, remained sheltered for another 300 to 350 years, with all that implied for indigenous agency and political continuity. As a region that completes our inquiry into Southeast Asia and bridges both of our main analytical categories, the archipelago, then, seems a particularly fitting area with which to conclude.

¹ Whereas mainland Southeast Asia consists of present-day Myanmar, Thailand, Laos, Cambodia, and Vietnam, island – also variously termed “archipelagic” or “maritime” – Southeast Asia comprises the contemporary states of Malaysia, Singapore, Indonesia, Brunei, the Philippines, and Timor Leste (East Timor). Although obviously not an island, peninsular Malaysia is conventionally included in “island” Southeast Asia because a) its economy relied on maritime trade and, along with island areas, attracted sustained European involvement far earlier than the mainland; b) its language is in the same Austronesian family as island languages; c) it helped to generate the Muslim identity that now dominates Malaysia, Indonesia, Brunei, and the southern Philippines.

Consider first cultural and social parallels between mainland and islands. Compared to Europe, China, or India, all of Southeast Asia is fragmented, whether by mountains, jungle, or seas; and stretches of fertile land are modest. Ecological heterogeneity and poor communications ensured that linguistic variety was pronounced and ethnicity was relatively local. Moreover, whether because of limited arable, high mortality, weak immigration, or chronic warfare, population densities in the region at large in 1600 may have averaged only a sixth or seventh those of South Asia and China.² By extension, across Southeast Asia labor was usually a more critical resource than land, and far-flung population clusters mandated decentralized state structures in which provincial planets revolved around an imperial sun whose gravitational pull ebbed rapidly with distance. On the farthest margins of each “solar polity”³ or indeed outside the state’s purview entirely, that is to say, in the hills of the mainland, in the interior of most islands, and in many small islands, dwelled tribal peoples whose animism, illiteracy, shifting cultivation, and nonagricultural pursuits distinguished them from settled agrarian populations. If in 1800 such groups still had counterparts in China and South Asia, in western Europe the last holdouts from world religions and state impositions had disappeared centuries earlier.

With some exceptions,⁴ kinship across Southeast Asia was cognatic, which meant that descent was reckoned through both male and female lines and that women retained substantial inheritance rights and autonomy, at least compared to China or India. Political authority typically depended less on lineage than personal charisma, what O. W. Wolters termed “soul stuff.”⁵ Southeast Asians sought security by enlisting influential patrons: in the visible world, men of prowess, and in the invisible world, ancestor and spirit agents of illness, fertility, and wealth. Propitiation rites, central to what Anthony Reid called “Southeast Asian religion,” flourished long after the introduction of textual faiths – Theravada Buddhism, Islam, Christianity, Neo-Confucianism – that were

² An estimated 5.5 people per square kilometer compared to 32 in South Asia and 37 in China, excluding Tibet. *AC*, vol. I, 13–15.

³ *SP*, 33 and Ch. 1 *supra*. “Solar polity” is more descriptively apt than “galactic polity” or “mandala.”

⁴ Including Minangkabau, Chams, and elite Vietnamese.

⁵ O. W. Wolters, *History, Culture, and Region in Southeast Asian Perspectives* (rev. ed., Ithaca, 1999), 18–19, 93–95. On female roles in Southeast Asia, Barbara Watson Andaya, *The Flaming Womb* (Honolulu, 2006).

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concerned more with postdeath status or issues of social harmony than with control of quotidian events.⁶ Other region-wide features included tattooing, betel-chewing, cockfighting, debt bondage, a rice–fish diet, and a maritime/riverine orientation.

Of course, such features were not uniformly distributed, while individual traits also could be found in Southeast China, South India, or Oceania. And yet this complex was sufficiently widespread and distinctive to render the area east of modern India, south of China, west of New Guinea, and north of Australia a moderately distinct cultural zone.⁷

Any consideration of Southeast Asian political chronology and agency must enhance this sense of regional coherence. In a word, for much of their history both mainland and islands were protected-zone realms whose rhythms, though hardly in lockstep, remained broadly coordinated. Like northern Europe and Japan, all of Southeast Asia was sufficiently isolated that bronze, iron, and writing appeared quite late. But by importing religious/political complexes from older centers, local peoples compressed a process that, were it to proceed entirely by trial and error, would have been far more leisurely. Thus as in northern Europe and Japan, across Southeast Asia in the mid- and late first millennium C.E., Indian contacts joined local dynamics to engender complex charter states. Between 1300 and 1500 all such polities disintegrated, in part because economic growth overstrained still weak central institutions. In familiar fashion from 1400/1450 to c. 1650 such disorders yielded to a fresh phase of consolidation that drew strength from textual religions, expanding long-distance trade, firearms, intensifying warfare, and local experiment. The formation of Islamic polities in the archipelago after 1400/1450 thus paralleled the consolidation of new mainland states, not to mention Muscovy and Valois France. Until the 16th or 17th century in the islands and until 1824 on the mainland, northern mountains and encompassing seas ensured that political and

⁶ AC, vol. II, 136–40; Anthony Reid, *Charting the Shape of Early Modern Southeast Asia* (Chiang Mai, 1999), 17–22. Also Barbra Watson Andaya and Yoneo Ishii, “Religious Developments in Southeast Asia, c. 1500–1800,” in *CHSEA*, 508–13.

⁷ Andaya, *Flaming Womb*, 11–41, 226–31, and *passim* offers an articulate formulation of Southeast Asian distinctiveness. Cf. AC, vols. I and II, 136–40 and *passim*; Wolters, *History, Culture, and Region*, esp. 11–40, 107–25; and comments by that famed iconoclast Sanjay Subrahmanyam, “Notes on Circulation and Asymmetry in Two Mediterraneans, c. 1400–1800,” in Claude Guillot et al., eds., *From the Mediterranean to the China Sea* (Wiesbaden, 1998), 21–43.

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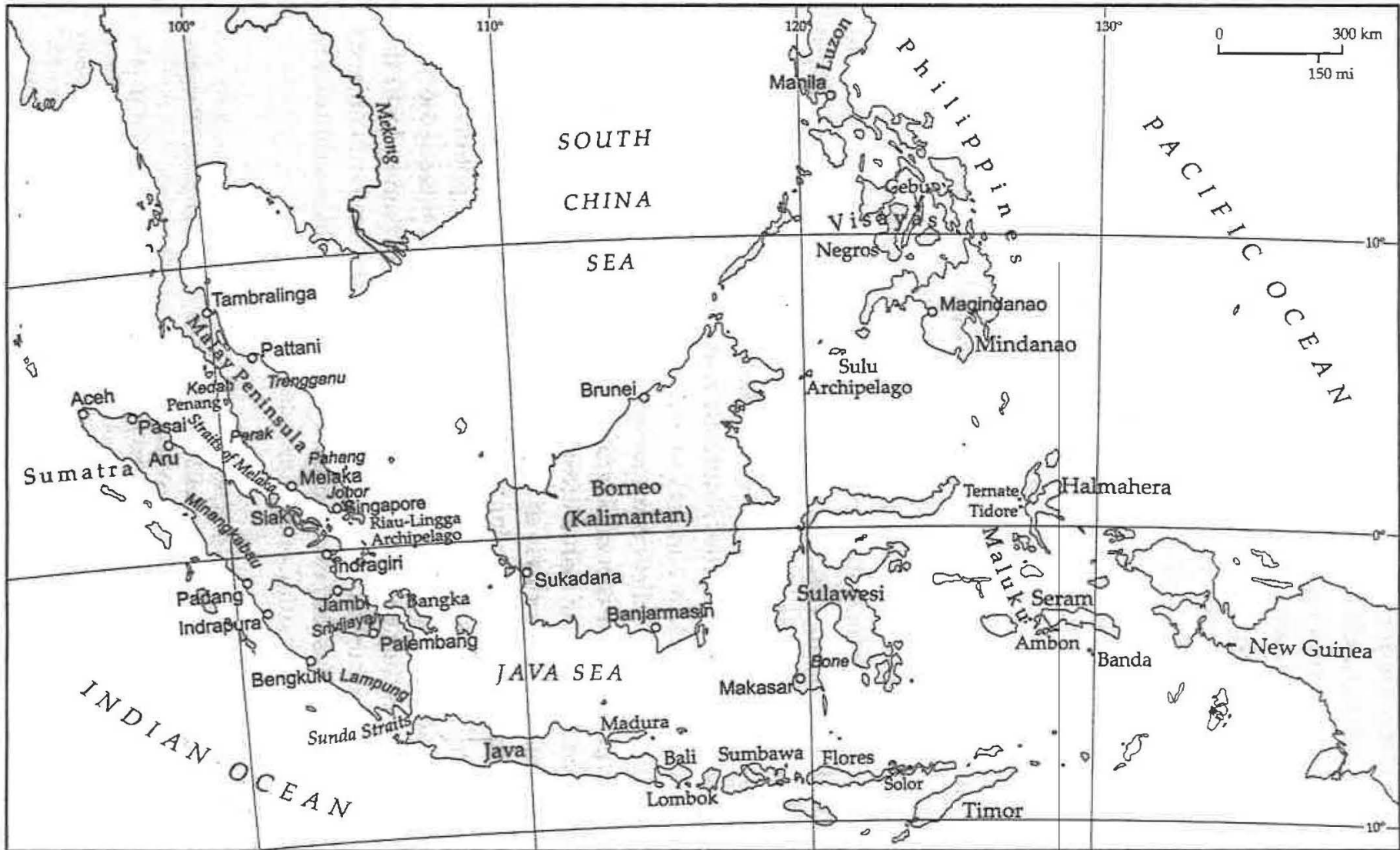


Figure 7.1. Archipelagic Southeast Asia.

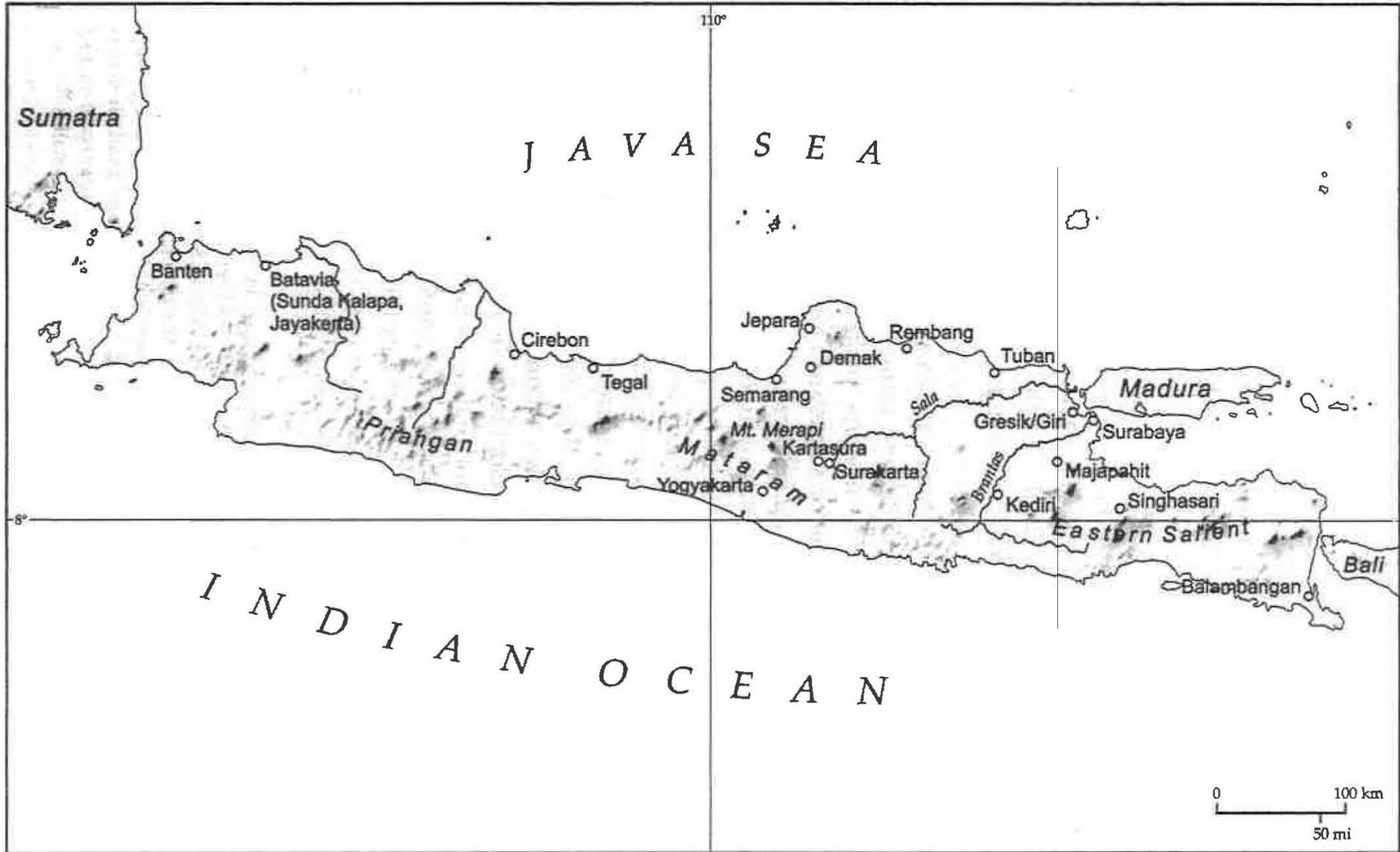


Figure 7.2. Java.

cultural integration remained entirely in the hands of indigenous, not external, agents.

Despite these shared features, mainland and maritime Southeast Asia differed in at least three basic respects, all in part a function of geography. First, the peninsula and archipelago were inherently more fragmented than the mainland's north-south corridors and therefore supported weaker, less historically continuous polities. Because export-producing zones in the islands often lay at considerable physical and cultural distances from ports, far-flung coastal cities could have closer contact, via the sea, with one another than with the interior of their own islands. Moreover, outside Southwest Sulawesi and Central and East Java, easily leached soils and excessive rainfall deprived ports of rich agrarian hinterlands. Nowhere was this more obvious than in the western archipelago, including the Malay peninsula, eastern Sumatra, West Java and West Borneo, an area Reid terms Southeast Asia's "empty center."⁸ The core populations of some major archipelagic states did not equal 10 percent of those of Burma or Dong Kinh. Their ensuing reliance on mainland or Javanese rice left such states vulnerable to blockade and precluded those demographic densities that let mainland valleys overawe interior districts and recover from periodic defeat with relative ease. Central and East Java, with rich volcanic soils, did support populations comparable to those of Burma, Siam, or Vietnam.⁹ But Java's population was divided into more or less isolated pockets, separated by mountains and swamps; and although the Brantas and Sala were major riverine arteries, neither drained a catchment as large or populous as the Irrawaddy or Chaophraya. In short, whereas Volume 1 traced the progressive consolidation of three overarching political-cultural systems in mainland Southeast Asia, this chapter must consider the kaleidoscopic fortunes of 10 to 15 small polities – which unfortunately makes for a far less tidy narrative. Indeed, continuities in name,

⁸ Anthony Reid, "Negeri," in Mogens Herman Hansen, ed., *A Comparative Study of Thirty City-State Cultures* (Copenhagen, 2000), 417–29. Cf. David Henley, "Population and the Means of Subsistence," *JSEAS* 36 (2005): 337–72; Charles Fisher, *South-East Asia: A Social, Economic and Political Geography* (London, 1964), ch. 7. Much as in the interior mainland, low population densities correlated with high levels of ethnic/linguistic heterogeneity.

⁹ This was true also of Bali and Southwest Sulawesi. In parts of Java and Bali demographic densities actually exceeded those on the mainland, but because areas of intense agriculture were limited, the total population of Java and of Bali was smaller than or similar to those of Burma, Siam, or Vietnam. *AC*, vol. I, 14.

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territory, dynasty, institutions, and elite culture may have been even less marked in archipelagic Southeast Asia than in India.

Second, again with the chief exception of Central and East Java, which seem to have followed an internal dynamic partly independent of maritime trade, island political economies tended to be more sensitive to international commercial currents than their mainland counterparts. Such receptivity reflected not only the islands' more modest agrarian base, but also the unique presence of pepper and fine spices and the fact that virtually all seaborne traffic between West and East Asia necessarily passed through the western straits and the South China Sea. An orientation to Indian Ocean trade helps to explain archipelagic acceptance of Islam, which in turn favored a more pronounced postcharter cultural rupture in much of the island world than on the mainland.

A third distinction, closely related to the second but more critical for Eurasian perspectives, is that maritime Southeast Asia lay open to European interventions appreciably earlier than the mainland. After several pendulum swings, as Volume 1 suggested, the debate between "externalist" historiography, emphasizing the European impact, and "autonomous" views, which minimize that contribution, now has settled closer to the former position.¹⁰ By seizing the archipelago's key commercial ganglion at Melaka in 1511, the Portuguese provided major, if quite unintended, spurs to local state formation. From 1571 the Spanish began to transform what is now the central and northern Philippines, which to that point had resisted the pull of world religions and had known only local polities. Finally, with episodic but cumulative force, from the early 1600s to 1830 the Dutch emasculated the archipelago's chief Muslim polities.

In other words, from the 16th century the sea, which had protected island Southeast Asia from sustained attack by external actors, became an avenue for such incursions.¹¹ By subjecting local societies to novel political, and in the Philippines cultural, demands, Iberians and

¹⁰ Externalist vs. autonomous debates concern not only the European period, but early Indianization. *SP*, 6–15; M. A. P. Meilink-Roelofs, *Asian Trade and European Influence in the Indonesian Archipelago Between 1500 and About 1630* (The Hague, 1962), 1–12.

¹¹ Alan Strathern, "Sri Lanka in the Long Early Modern Period" (ms) argues that Sri Lanka underwent a similar transition in the 16th and 17th centuries. See Ch. 6, n. 224 *supra*. This is to deny neither that the Colas in 1025 and the Mongols in 1293 raided Sumatra and Java, nor that Southeast Asian port cities were constantly subject to seaborne attack from within the region. I claim merely that until the 16th century no actors from outside Southeast Asia launched a sustained, successful seaborne invasion.

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Dutch – “white Inner Asians” – became agents of early modern transformation in somewhat the same way that Inner Asians influenced China and South Asia, or the British eventually altered Indian trajectories. The Spanish project began at the same time as Mughal expansion and was even more revolutionary in its cultural and political effects. Dutch interventions started later, were more halting, more commercial, far less culturally ambitious, and less territorially cohesive. Yet by 1830, indeed the late 1600s, the Dutch too had moved beyond a spoiler role to lay the foundations for an unprecedentedly extensive territorial and commercial system. *Mutatis mutandis*, those assemblages begun by alien conquest elites in the 16th and 17th centuries provided a foundation for the contemporary states of the Philippines, Indonesia, China, and India. By contrast, limited vulnerability to naval power, larger populations, and fewer commercial attractions delayed at least until 1824 European penetration of the mainland, where Europeans were obliged to preserve, with only minor modifications, states and ethnicities that had been developing since the 10th century.

1. THE CHARTER ERA IN THE ARCHIPELAGO, C. 650–1350/1500

Early State Formation

Inadequate information about the protohistoric period joined a fascination with the Sanskrit inscriptions and Indic monuments that “suddenly” appeared in the mid- and late first millennium to foster an early scholarly conviction that Southeast Asian state formation depended entirely on Indian initiatives. In curious contrast to the aforementioned debate on early European influence, recent archeology has modified those “externalist” understandings. In the archipelago, for example, it is now appreciated that some areas supported advanced chiefdoms, stratified societies, and complex systems of symbolic legitimation long before the domestication of Indian culture, and that Southeast Asians pioneered trade circuits across the Bay of Bengal and the South China Sea by using vessels built not with foreign, but distinctively local techniques.¹²

¹² Including V-shaped dowed hulls, keels, quarter rudders, and sewn planks. On early archipelagic state formation, Peter Bellwood, *Prehistory of the Indo-Malaysian Archipelago* (rev. ed., Honolulu, 1997), chs. 5, 9; John Miksic, “The Classical Cultures of Indonesia,” in Ian Glover and Peter Bellwood, eds., *Southeast Asia from Prehistory to History* (London, 2004), 234–56; Elisabeth Bacus, “The Archaeology of the Philippine Archipelago,” *ibid.*, 257–81; Pierre-Yves Manguin, “The Archaeology of Early Maritime Polities of

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Such processes notwithstanding, recent studies also point to the archipelago's late civilizational genesis and its reliance on external motifs once rapid development got underway. North China was producing bronze by 2200–1900 B.C.E. and iron by 800–600 B.C.E., while in North India the comparable dates were roughly 2500 B.C.E. and 1200–600 B.C.E. But in the islands we do not find bronze or iron until c. 300–200 B.C.E., and when these metals appeared, they apparently did so together, almost certainly as a result of contacts with mainland Southeast Asia and more especially India.¹³ This same combination of historical lag and substantial reliance on South Asia characterized state formation. From at least the early first millennium Indian religious and political motifs began to modify indigenous conceptualizations and to provide them with a prestigious overlay.

Given the islands' trade links to China and China's strong imprint on *ritsuryo* Japan, why did Southeast Asia look to South Asia rather than China for inspiration? Until the early second millennium C.E. Chinese traders were far less active in Southeast Asian waters than Indians. China's logographic script was inherently more difficult to master than Indian alphabets, while Confucianism, as a civil cult, probably was less mobile or sympathetic to local deities than were Hinduism or Buddhism. Prehistoric Southeast Asian cultures also may have been closer to those of coastal India than of South China.¹⁴

Having become familiar with the work of brahmans, monks, and artisans during visits to India, Southeast Asians either acquired Indian expertise *in situ* or invited specialists to return with them to glorify local courts and temples. Not only Hinayana and Mahayana Buddhism,

Southeast Asia," *ibid.*, 282–313; Jan. Wisseman Christie, "State Formation in Early Maritime Southeast Asia," *BKI* 151 (1995): 235–88; Himanshu Ray, *The Winds of Change* (Delhi, 1994), chs. 4, 5; Michel Jacq-Hergoualc'h, *The Malay Peninsula* (Leiden, 2002), chs. 3–8; O. W. Wolters, *Early Indonesian Commerce* (Ithaca, 1967), chs. 9–13. On ships, Pierre-Yves Manguin, "Trading Ships of the South China Sea," *JESHO* 36 (1993): 253–80; *idem*, "The Southeast Asian Ship," *JSEAS* 11 (1980): 266–76; Leonard Andaya, "Interactions with the Outside World and Adaptations in Southeast Asian Society, 1500–1800," in *CHSEA*, 372–76.

¹³ Cf. Ch. 5, n. 208 *supra*; CIHC, 22; Charles Maisels, *Early Civilizations of the Old World* (London, 1999), 216, 222, 237–38, 252–56, 311–13; Glover and Bellwood, *Southeast Asia*, 36–38, 68–83, 91; Bellwood, *Prehistory*, ch. 9; Charles Higham, *The Bronze Age of Southeast Asia* (Cambridge, 1996), 301–304, 308.

¹⁴ Hermann Kulke, "Indian Colonies, Indianization or Cultural Convergence?," in H. Schulte Nordholt, ed., *Onderzoek in Zuidoost-Azie* (Leiden, 1990), 8–32; *idem*, "The Early and the Imperial Kingdom in Southeast Asian History," in David Marr and A. C. Milner, eds., *Southeast Asia in the 9th to 14th Centuries* (Singapore, 1986), 1–22.

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with their strong commercial sympathies, but Vaisnava and Saivite *bhakti* sects became popular.¹⁵ At the same time, as Wolters emphasized, Southeast Asians constantly reshaped Indic motifs to express local understandings of sacred space, "soul stuff," and spirit propitiation.¹⁶ In substance and broad chronology, these processes of borrowing and localization paralleled the rise of urban, literate societies in Kiev, *ritsuryo* Japan, Burma, and Angkor, and the expansion in India of Sheldon Pollock's "Sanskrit cosmopolis." Or to follow Hermann Kulke, social convergence produced "universal" Indian kingship on both sides of the Bay of Bengal.¹⁷

An Archipelagic Charter State: Srivijaya

Evidence of Indianized state formation has been found scattered around the archipelago. On Borneo's east coast, for example, 5th-century inscriptions recorded gifts to brahmins by a *maharaja* whose grandfather, without Sanskritic dignity, probably had been a petty chief.¹⁸ One would expect that the Malay peninsula, athwart the route from India to China, also supported early kingdoms, and in fact Chinese sources from the 2nd to 7th centuries refer to at least three harbor polities on the east peninsular coast and another near Kedah on the west. Some of these towns, which sent regular envoys to China and India, reportedly contained hundreds of brahmins and large communities of Indian and Persian traders.¹⁹

However, the most powerful pre-1400 archipelagic states lay neither on Borneo nor the peninsula, but in Southeast Sumatra and Central and East Java. The former controlled access to the Straits of Melaka, the main chokepoint for Indian Ocean–South China Sea traffic to which peninsular ports served merely as feeders. The great strength of Central and East Java was its ability to combine the archipelago's richest agrarian

¹⁵ Ray, *Winds of Change*; Manguin, "Archaeology of Early Polities," 303–305; Wisseman Christie, "State Formation," 279.

¹⁶ Wolters, *History, Culture, and Region*, 58–95; 155–76; idem, "Khmer 'Hinduism' in the Seventh Century," in R. B. Smith and W. Watson, eds., *Early South East Asia* (Oxford, 1979), 427–42.

¹⁷ See Ch. 6, nn. 14, 19, 69 *supra*; Glover and Bellwood, *Southeast Asia*, chs. 3, 5–9; *SP*, 88–119, 216–33, 348–67.

¹⁸ *HM*, 31–32, 60; J. G. de Casparis, *India and Maritime South East Asia* (Kuala Lumpur, 1983), 3–5.

¹⁹ Jacq-Hergoualc'h, *Malay Peninsula*, 100–231; Manguin, "Archaeology of Early Polities," 294–96; Paul Wheatley, *The Golden Khersonese* (Kuala Lumpur, 1961), 14–60.

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base with access to specialized east archipelagic products. One could argue that discontinuities associated with the introduction of Islam in the island world after c. 1400 rendered pre-1400 charter legacies weaker than on the mainland. But to the extent that the islands did boast charter legacies, they derived chiefly from the famed thalassocracy of Srivijaya in Southeast Sumatra, whose traditions were recast in 15th-century Melaka, and from Javanese Majapahit (1293–1527?), which adumbrated the last great Javanese state of Mataram (founded c. 1575).

Consider first Srivijaya. Recent research has animated what for long remained a ghostly conjecture. In 1918 George Coedes brought together inscriptions, Chinese and Arab texts, Tamil charters, and a few archeological finds to postulate the existence from c. 650 of a long-lived maritime state known as Srivijaya centered at Palembang, on the Musi River, in Sumatra. The difficulty of interpreting early records and the discovery on the peninsula of archeological remains richer than those around Palembang led many scholars either to doubt the existence of such a polity or to place its capital far from the Musi.²⁰ But subsequent studies of Chinese sources, including Wolters' work on Srivijayan origins and Billy K. L. So's examination of Fujian records, have joined Franco-Indonesian archeology to confirm, and at the same time greatly to amplify, the basic story provided by Coedes.²¹

Southeast Sumatra's prosperity probably began in the 4th and 5th centuries when political difficulties in North China and the expanding South China market combined to favor the shipment by sea of West Asian luxuries that had been entering China overland via Inner

²⁰ For Coedes' early scholarship, George Coedes and Louis-Charles Damais, *Srivijaya: History, Religion and Language of an Early Malay Polity*, Pierre-Yves Manguin, ed. (Kuala Lumpur, 1992). For Arab sources, G. R. Tibbetts, *A Study of the Arabic Texts Containing Material on South-East Asia* (Leiden, 1979), 43–60, 100–28; Gabriel Ferrand, ed. and tr., *Relations de Voyages et Textes Géographiques Arabes, Persans et Turcs Relatifs à l'Extrême-Orient du VIII au XVIII Siècles*, 2 vols. (Paris, 1913–1914), vol. I, 22–30, 64–66, 78–100 *passim*, 107–11, 144, 175; and vol. II, 297–98, 310, 342.

²¹ Major works in the last 40 years of Srivijayan scholarship include Wolters, *Early Indonesian Commerce*; idem, *The Fall of Srivijaya in Malay History* (London, 1970); idem, "Restudying Some Chinese Writings on Srivijaya," *Indonesia* 42 (1986): 1–41; Billy K. L. So, *Prosperity, Region, and Institutions in Maritime China* (Cambridge, MA, 2000), 220–26; idem, "Dissolving Hegemony or Changing Trade Pattern?," *JSEAS* 29 (1998): 295–309; SEAMEO Project in Archaeology and Fine Arts, *Final Report: Consultative Workshop on Archaeological and Environmental Studies on Srivijaya* (Bangkok, 1985); Pierre-Yves Manguin, "Le programme de fouilles sur les sites de Srivijaya," *BEFEO* 79 (1992): 272–77; idem, "Palembang and Srivijaya," *JMBRAS* 66 (1993): 23–46; Hermann Kulke, "Kadatuan Srivijaya' – Empire or Kraton of Srivijaya?," *BEFEO* 80 (1993): 159–80.

Asia. Although West Javanese and Malay harbors profited, Sumatran ports drew the lion's share, in part because they were able to dominate the Straits, the most practicable route for east–west bulk trade, but also because they learned to supplement Persian/Arab drugs and fumigants prized in China with similar local products. What is more, because Chinese did not sail oceangoing vessels before the 8th or 9th century and Arab shipping east of Sri Lanka was yet limited, transport from the Straits to China continued to rely on Indian and, more especially, Indonesian ships.²² By the 500s an Indianized port called Gantoli in Chinese sources and vaguely located in Southeast Sumatra had taken the lead in collecting forest products and transshipping goods to China. Although a subsequent trade slump apparently eclipsed Gantoli, Wolters argues that its policies of commercial coordination and Chinese alliance paved the way for Srivijaya when trade revived in the mid-600s.²³

Srivijaya, so far as we know, was the first island Southeast Asian polity to command widespread attention outside the region. The wealth of its ruler, who figured in some Mideastern accounts as among the great kings of the world, and its patronage of Buddhism were recognized from Baghdad to Tang and Song China.²⁴ Like Gantoli before it presumably, and like the Portuguese 800 years later, Srivijaya sought not a territorial empire, but control over strategic points on the main trade routes. Dependencies were obliged to supply specified goods for export and to divert vessels to Srivijaya's harbor. Old Malay inscriptions from the 680s refer to bloody conquests of rival ports. In 695 a Chinese pilgrim reported that Kedah had become a vassal, while a 775 inscription has been interpreted as showing Srivijayan authority over part of the east peninsula as well.²⁵ An 11th-century Chinese account described

²² Wolters, *Early Indonesian Commerce*, 145–58, 250; Manguin, "Southeast Asian Ship," 275–76; J. V. Mills, "Arab and Chinese Navigators in Malaysian Waters in about A.D. 1500," *JMBRAS* 47 (1974): 7–8.

²³ Wolters, *Early Indonesian Commerce*, chs. 5–14; Manguin, "Archaeology of Early Polities," 303–307; Leonard Andaya, *Leaves of the Same Tree* (Honolulu, 2008), 49–54; and Pierre-Yves Manguin, "City States and City-State Cultures in pre-15th-Century Southeast Asia," in Hansen, *Comparative Study*, 409–16, pointing to Malay city states as early as 500–300 B.C.E. that resembled Srivijaya.

²⁴ Manguin, "Archaeology of Early Polities," 305; Wolters, *Early Indonesian Commerce*, 16–17, 207–10, 237–41; So, "Dissolving Hegemony"; and Mideastern sources in n. 20 *supra*.

²⁵ Jacq-Hergoualc'h, *Malay Peninsula*, 240–48; Wolters, *Early Indonesian Commerce*, 15–18, 239–40; Manguin, "Archaeology of Early Polities," 305–308; Andaya, *Leaves*, 54–68.

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Srivijaya as “uncontested master of the Straits,” receiving tribute from 14 cities, including harbors in North Sumatra.²⁶ From the 9th through the 11th century, great quantities of Chinese and Mideastern ceramics in the Musi basin also attest to the region’s prosperity.²⁷ More obviously than in Kiev, not to mention Pagan, Angkor, Dai Viet, or Japan, international trade thus provided the primary stimulus to charter state florescence.

Eventually this very prosperity encouraged external powers to challenge Srivijaya’s commercial restrictions and vassals to assert a more complete autonomy. Java invaded Southeast Sumatra c. 992. In 1025 the Colas of South India sacked Srivijaya/Palembang, seizing the *maharaja*. The 11th and 12th centuries also may have seen Burmese and Khmer efforts to capture the trade of the Malay isthmus.²⁸ Meanwhile Palembang began to lose control over planets in what from the start had been a weak solar polity. In 1079–1082 Malayu-Jambi, whose location in the Batang Hari River system offered more direct access than the Musi system to gold from the Minangkabau highlands, displaced Palembang as imperial capital. By the 1370s, if not earlier, Malayu-Jambi and Palembang were sending separate missions to China.²⁹ From the late 11th century small North Sumatran ports and Kedah also began to trade independently and, in some cases, to send envoys to China.³⁰

²⁶ Wolters, *Fall of Srivijaya*, 9–10; *HM*, 24; Nik Hassan Shuhaimi Bin Nik Abd. Rahman, “The Kingdom of Srivijaya as Socio-Political and Cultural Entity,” in J. Kathirithamby-Wells and John Villiers, eds., *The Southeast Asian Port and Polity* (Singapore, 1990), 61–82.

²⁷ Manguin, “Archaeology of Early Polities,” 308; Jan Wisseman Christie, “The Medieval Tamil-Language Inscriptions in Southeast Asia and China,” *JSEAS* 29 (1998): 239–68, esp. 250–52; Jacq-Hergoualc’h, *Malay Peninsula*, 255; and archeological references in n. 21 *supra*.

²⁸ On external competition, Wolters, *Early Indonesian Commerce*, 250–51 (erroneously dating the Javanese attack to 922); G. Coedes, *The Indianized States of Southeast Asia* (Honolulu, 1968), 132; Herman Kulke, “Rivalry and Competition in the Bay of Bengal in the 11th Century and Its Bearing on Indian Ocean Studies,” in Om Prakash and Denys Lombard, eds., *Commerce and Culture in the Bay of Bengal, 1500–1800* (New Delhi, 1999), 17–35; *HM*, 29.

²⁹ Malayu-Jambi was later known simply as Jambi. See O. W. Wolters, “A Note on the Capital of Srivijaya During the Eleventh Century,” *Essays Offered to G. H. Luce, Artibus Asiae*, vol. I (1966): 225–39; idem, *Fall of Srivijaya*, 2, 90; John Miksic, “Urbanization and Social Change,” *Archipel* 37 (1989): 17, discussing Jambi; *HM*, 28–33; Leonard Andaya, “The Search for the ‘Origins’ of Melayu,” *JSEAS* 32 (2001): 315–30; Manguin, “City States,” 409–16.

³⁰ Miksic, “Classical Cultures,” 248; Wolters, *Fall of Srivijaya*, 43–44; *HM*, 30–32; So, “Dissolving Hegemony,” 297.

Underlying these centrifugal trends was rising post-1050 demand for Indonesian produce in the Indian Ocean and in China, with the latter paying for forest goods and other exotica through massive exports of bronze cash and ceramics. Starting c. 1050 but more especially after 1127, when the Southern Song tried to compensate for its loss of North China by encouraging private overseas trade, the number of Chinese merchants in Southeast Asian waters rose sharply. Rather than operate entirely through Palembang or Malayu-Jambi, many preferred to tap products closer to their source.³¹ In short, a single dominant entrepot no longer seemed feasible.

Yet if this dynamic, to which we shall return, promoted devolution, So's recent work shows – *pace* earlier scholars who argued for Srivijaya's terminal illness by 1100 – that it persevered into the 13th century. Not only did Chinese and Arab travelers continue to write glowing accounts, but as late as 1225 "Srivijaya" (foreigners generally retained this term after the capital shifted to Malayu-Jambi) still exercised substantial control over the Straits and reportedly dominated 14 tributary ports from North Sumatra to West Java.³²

What, then, were the sources of Srivijayan longevity? How, despite frequent oscillations, could the system exhibit some degree of coherence for over 600 years? Srivijaya's strengths were sixfold.

First, geography. Although Southeast Sumatra lay at some distance from the Straits, it was well placed to police the southern approaches. Located at "the end of the monsoons," Palembang and Malayu-Jambi were natural stopping points where merchants from the South China Sea and the Indian Ocean could await the annual change of winds either to continue further or to return homeward. Within Sumatra the Musi and the Batang Hari provided links to interior jungle produce and gold. To the west, moreover, the Sumatran piedmont was relatively fertile, although Srivijaya's dependence on rice from that area and from Java must have represented a strategic liability. To the east, a thick belt of mangrove swamps protected against sudden naval attack, while tidewater bays and inlets offered local collection and transshipment

³¹ Wolters, *Fall of Srivijaya*, 4, 42–48; idem, "Restudying Chinese Writings"; idem, *Early Indonesian Commerce*, 248–50; John Miksic, "Archaeology, Ceramics, and Coins," *JESHO* 39 (1996): 287–97; idem, "Urbanization"; So, "Dissolving Hegemony," 298–308 and his 298 n. 15; Ch. 5, n. 128 *supra*.

³² So, *Prosperity, Region*, 220–26; idem, "Dissolving Hegemony," 298–308, incl. tributary list on 302, from which I exclude Ceylon; Tibbetts and Ferrand in n. 20 *supra*.

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points easily accessible from the peninsula and the nearby Riau-Lingga archipelago.³³

Second, the value of these same waterways was dramatically enhanced by the support of local sea and riverine peoples, the *orang laut*. In return for material rewards (including assured markets for their goods) and marks of royal favor, these feared warriors supplied Srivijaya with marine exports (pearls, turtle shells), piloted ships on the treacherous approaches to Palembang or Malayu-Jambi, guarded the Straits, and enforced royal restrictions on chosen lines of trade.³⁴

Third, Srivijaya's reputation for cultural refinement attracted both regional elites and foreign visitors, although to different audiences the ruler directed distinct appeals. Pierre-Yves Manguin points to competition between Buddhist and Vaisnava trading networks in the western archipelago, where Mahayana Buddhism won out.³⁵ Commercial pre-eminence thus may have had a religious component insofar as Srivijaya, which in the late 600s reportedly had over a thousand monks, became a center of Mahayana scholarship and a patron of Buddhist endowments in India.³⁶ Among tributaries, including *orang laut* leaders, Srivijaya's rulers sought to inculcate loyalty and stigmatize "treason" (*derhaka*) by emphasizing their magical potency (*sakti*), by presenting themselves as Bodhisattvas and Tantric adepts, and by invoking wrathful tutelary deities. Commercial ties and Srivijayan prestige produced widespread imitation of the court's linguistic and ritual practices. Inscribed in Srivijaya as early as the 680s, Old Malay became the lingua franca of inscriptions as far afield as Java and the Philippines, but increasingly "Malayu" referred to the speech and culture of people in the Musi and Batang Hari basins. Perhaps by the late 11th century and more probably by the 13th, Southeast Sumatrans loyal to Srivijaya called themselves *orang Malayu* – "the people of Malayu" (a term derived either from

³³ John Miksic, "Traditional Sumatran Trade," *BEFEO* 74 (1985): 423–67, esp. 438–42; Wolters, *Early Indonesian Commerce*, 225–28; idem, *Fall of Srivijaya*, 8–9; *HM*, 19, 25.

³⁴ On *orang laut*, Wolters, *Early Indonesian Commerce*, 227, 242; idem, *Fall of Srivijaya*, 11–17; *HM*, 26; Andaya, *Leaves*, ch. 6.

³⁵ Manguin, "Archaeology of Early Polities," 303–305. Also J. G. de Casparis and I. W. Mabbett, "Religion and Popular Beliefs of Southeast Asia Before c. 1500," in *CHSEA*, 311, 318–20.

³⁶ Jacq-Hergoualc'h, *Malay Peninsula*, 238–40, 246, 254, 346. But see Pisit Charoenwongsa, "A Confusing Picture of Srivijaya History," in SEAMEO Project, *Final Report*, App. 5A, 105–12, arguing that self-interest led at least one Chinese monastic visitor to exaggerate Srivijaya's scholarly reputation.

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Malayu-Jambi or from a Malayu site near Palembang).³⁷ From this Srivijayan origin, Malay ethnicity would evolve in later centuries.

A fourth strength, to the 12th century at least, was Srivijaya's use of Chinese diplomacy. Until the Southern Song (1127–1276), imperial refusal to sanction private trade meant that overseas goods could enter China legally only through tribute missions. Other archipelagic polities obviously knew this, but none was so skillful in manipulating the system as Srivijaya, whose missions began in the late 600s and, after an apparent 9th-century break, continued intermittently to the late 1300s. Not only did privileged entrée to the imperial court strengthen the *maharaja's* commercial position in the archipelago, but tribute missions increased Chinese interest in Srivijayan goods, while raising the prospect of Chinese diplomatic support against local challengers.³⁸

But how could Srivijaya survive the post-1127 proliferation of Chinese merchants across the archipelago? According to So, working with hitherto ignored Chinese materials, a policy shift in the late 1000s or early 1100s provided Srivijaya's fifth asset. Recognizing that it could no longer control the export of widely dispersed forest and marine products, Srivijaya, centered now in Malayu-Jambi, decided to concentrate on the purchase and transshipment of only the most valuable Indian Ocean commodities, including frankincense and ivory. *Orang laut* naval power could still enforce these claims, while for their part, tributary ports were willing to cooperate insofar as they could trade freely in unreserved goods, send their own envoys to China, and perhaps share the profits from the *maharaja's* privileged lines of trade. According to

³⁷ Whereas early Chinese sources associated "Malayu" with Jambi, the *Sejarah Malayu* chronicle identified "Malayu" as a river near a sacred hill Bukit Siguntang in Palembang. In 1515 Tome Pires also identified "the land of the Malays" (*tana Malayu*) as an area near Palembang. *HM*, 47; Armando Cortesao, ed., *The Suma Oriental of Tome Pires and the Book of Francisco Rodrigues*, 2 vols. (London, 1944), vol. I, 158. On Srivijaya's cultural/religious appeals and early Malayu identity, Andaya, *Leaves*, 58–64, 77–79; idem, "Search for Melayu," 319–30; Anthony Reid, "Understanding Melayu (Malay) as a Source of Diverse Modern Identities," *JSEAS* 32 (2001): 295–313, esp. 297–98; Kulke, "Kadatuan Srivijaya," 166–67 n. 30, 171; *HM*, 27–28; Wolters, *Fall of Srivijaya*, 11–13, 17. At the same time, Jacq-Hergoualc'h, *Malay Peninsula*, 190, 270, 494–95 is at pains to deny a distinctive Srivijayan style of art.

³⁸ Wolters, *Early Indonesian Commerce*, 224; idem, *Fall of Srivijaya*, 33–48; *HM*, 20, 25; Jacq-Hergoualc'h, *Malay Peninsula*, 270; Jan Wisseman Christie, "Javanese Markets and the Asian Sea Trade Boom of the 10th to 13th Centuries," *JESHO* 41 (1998): 344–81, esp. 344–46; So, *Prosperity, Region*, 222.

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So, this compromise allowed Srivijaya to maintain substantial tributary allegiance well into the 13th century.³⁹

Finally, Srivijaya survived in one form or another for over six centuries because its decentralized, gelatinous, minimalist administrative system easily reconstituted itself after recurrent dislocations. In this respect it resembled Angkor, the Frankish kingdom, and Kiev, which were also decentralized but surprisingly durable and, in the case of Angkor and the Franks, remarkably long-lived. In lieu of the once popular image of a unified territorially bounded empire, Kulke has argued that Srivijaya was organized into four zones of increasingly attenuated royal influence: a) the palace area, where the *maharaja*, his wives, and staff resided, b) an extended semi-urban zone around the palace under chiefs often related to the royal family, c) secondary and tertiary centers upriver in the Musi or Batang Hari basin, which, under local lords with their own family networks, served as stapling and trading posts for the capital, d) tributary ports in the peninsula and coastal Sumatra under local families who had been subdued by the capital or, in a few cases, under princes who had been sent from the capital. Although tied to the royal seat through kinship, sacred oaths, trade, and fear of chastisement, these ports, each with its own satellite centers, replicated in miniature the structure of the central basin. Reflecting the irreducible autonomy of small population clusters in a vast forested landscape, such arrangements provided scope for local ambition and rendered Srivijaya's *maharaja* merely *primus inter pares*. Because relations between the capital and the third and fourth zones were continuously renegotiated, and because leaders in those zones lacked collective voice, individual defections rarely threatened the system as a whole. Thus too the system easily survived the shift from Palembang to Malayu-Jambi. In Kulke's words, "the longevity . . . of Srivijaya was based on the very non-existence of those structural features which historians regard as a prerequisite of a genuine empire."⁴⁰

³⁹ So, *Prosperity, Region*, 220–26; idem, "Dissolving Hegemony." I have yet to find a direct critique of So's theory, but Leonard Andaya, pers. commun., Sept. 21, 2008 suggests that this policy, roughly coincident with the shift of capital to Malayu-Jambi, was as much a sign of weakness as of flexibility.

⁴⁰ Kulke, "Kadatuan Srivijaya," 176. On territorial organization, idem, "Early and Imperial Kingdom," 122; Andaya, *Leaves*, 63–68; Pierre-Yves Manguin, "The Amorphous Nature of Coastal Polities in Insular Southeast Asia," *Moussons* 5 (2002): 73–99; Wolters, "Restudying Chinese Writings"; Jan Wissesman Christie, "Trade and State Formation in the Malay Peninsula and Sumatra, 300 BC.– AD 700," in Kathirithamby-Wells and

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We shall find that five of these six features – a location near the Straits, *orang laut* support, Malay cultural appeals, Chinese imperial patronage, and fluid, relatively amorphous political structures – passed intact to Srivijaya's primary heir, Melaka.

Charter States and Civilization in Pre-Muslim Java

We turn now to the second archipelagic zone of charter state formation, Central and East Java. That fertile island, as noted, boasted both active ports and a formidable wet-rice economy. Despite tensions between mercantile coast and agrarian interior reminiscent of conflicts in Burma and Angkor, for long periods before 1500 Java succeeded in wedding the two spheres under a single authority.

Lacking significant deposits of tin or iron, Java from an early date was obliged to seek metals through long-distance trade, which facilitated the entry of Indian scripts and culture. Archeology and Chinese records from the 5th century point to three polities on the north coast, of which at least one eventually seems to have been absorbed into the emergent south-central Javanese state of Mataram.⁴¹

This latter polity relied on the fertile uplands around modern Yogyakarta, an area suitable for wet-rice cultivation, albeit also favored by trade routes to the north coast.⁴² Why in the 8th and, more especially, the 9th and 10th centuries Java's center of gravity came to focus on interior ricelands is an issue I shall defer until we consider agrarian dynamics. Suffice it for now to note: a) The rise of south-central Java coincided with an economic shift from the coast to the interior in Cambodia.⁴³ b) In Java as in Cambodia, Burma, and Vietnam, the 9th and 10th centuries also inaugurated a phase of demographic and

Villiers, *Port and Polity*, 39–60. Outside the "realm" (*bhumi*) of Srivijaya, but economically tied to it, were *swidden* tribesmen and highland chiefs who, in return for salt, metal tools, and cloth, funneled forest goods to riverine collecting centers.

⁴¹ On early ports, Miksic, "Classical Cultures," 237–38; F. H. van Naerssen and R. C. de Jongh, *The Economic and Administrative History of Early Indonesia* (Leiden, 1977), 24–25; Antoinette Barrett Jones, *Early Tenth Century Java from the Inscriptions* (Dordrecht, 1984), 26; Wisseman Christie, "State Formation," 263–74.

⁴² Jan Wisseman Christie, "Revisiting Early Mataram," in Marijke Klokke and Karel van Kooij, eds., *Fruits of Inspiration* (Groningen, 2001), 33; idem, "States Without Cities," *Indonesia* 52 (1991): 27. Mataram bore the same name as, and its heartland lay close to that of, the Muslim realm of Mataram, founded c. 1575, but the two were discontinuous. Poor harbors and treacherous seas minimized trade on Java's south coast.

⁴³ *SP*, 216–18; Glover and Bellwood, *Southeast Asia*, 96–101. Burma may have experienced a similar, if less pronounced, shift.

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economic expansion that would continue at least to the early 1300s. c) Southeast Asian vitality to 1300/1350 was part of that great Eurasian upsurge we have encountered in virtually every chapter. d) West Java could rarely compete with more agriculturally well-endowed Central and East Java.⁴⁴

With the rise of Mataram begins what I would designate the charter period, but which is conventionally termed the Classical period, of Javanese history, in turn subdivided into the Early (716–930), Middle (930–1222), and Late Classical (1222–1527?) eras.⁴⁵ Clearly, Java's charter civilization survived longer than that of Upper Burma, Angkor, Dai Viet, or indeed Srivijaya, all of which were in serious trouble by 1350 – just as classical Java was entering its period of greatest prosperity. As we shall see, this longevity reflected, in large part, Java's ability to combine maritime with agrarian wealth at a time when surging coastal commerce was tearing apart other polities. And yet, divergent post-1350 chronologies aside, in Java as on the mainland the classical/charter era supported a distinctive Hindu-Buddhist religious culture together with sustained trends toward territorial integration, agrarian expansion, and commercialization. Moreover, insofar as Angkor, despite growing vicissitudes, remained a premier regional center for some 640 years (from 800 to the 1430s or 1440s), it was not dramatically less long-lived than classical Java.

During the Early Classical period (716–930), the center of gravity remained in south-central Java under Mataram. This era is best known for its monumental architecture, including the famed Mahayana step-pyramid of Borobudur and the Hindu complex of Candi Loro Jonggrang at Prambanan.⁴⁶ Mataram's grand shrines and smaller temples preceded by two centuries the major phase of Pagan construction, but were coeval with the onset of large-scale temple projects at Angkor. As in mainland Southeast Asia and India, temples were funded though

⁴⁴ At least in part, because of excessive rains in the west. Naerssen and Jongh, *Economic History*, 28; Mason Hoadley, *Towards a Feudal Mode of Production: West Java, 1680–1800* (Singapore, 1994), 26–29.

⁴⁵ Cf. periodization at Jan Fontein, ed., *The Sculptures of Indonesia* (Washington, DC, 1990), 70; Miksic, "Classical Cultures," 234; CHSEA, 202–29.

⁴⁶ On dynasties, temples, and religious affiliations c. 700–930, Wisseman Christie, "Revisiting Early Mataram," 25–55; Soekmono, "The Archaeology of Central Java Before 800 AD," in Smith and Watson, *Early South East Asia*, 457–71; Luis Gomez and Hiram Woodward, Jr., eds., *Barabudur* (Berkeley, 1981); Fontein, *Sculptures of Indonesia*, 67–95; Mary-Louise Totton, "Weaving Flesh and Blood into Sacred Architecture" (Univ. of Michigan, PhD diss., 2002).

permanent transfers of tax rights on specified lands – known in Java as *sima* grants – awarded by the king or lesser lords. By collecting and marketing produce from these lands and by using bonded labor to build not only new religious edifices, but water control systems, bridges, and roads, Javanese temples, like their counterparts in mainland Southeast Asia and in India, became foci of economic development and agrarian reclamation.⁴⁷

Recall from Chapter 6 Kulke's evolutionary schema for South India from 500 to 1300 that began with tribal chiefs' transforming themselves into petty Hindu kings. Kings then annexed adjacent realms but treated them as self-sufficient tributaries, until finally regional kingdoms reduced tributary states to more closely controlled provinces. In this scenario, which Kulke has extended to Southeast Asia,⁴⁸ Srivijaya never became more than a loose assemblage of far-flung tributary ports. But Java's relatively dense markets and population allowed 9th-century Mataram, like Pagan and Angkor (at later dates), to pursue more effective centralization. Mataram grew by absorbing on its flanks tributary kingdoms that were originally comparable to Mataram but that were now converted into *wateks*, or apanages, awarded to middle-tier officials and relatives of the Mataram ruler. Gradually, as Jan Wisseman Christie, the leading authority on early Java, has shown, *watek*-holders were drawn into the status system of the central state, even as *watek* holdings and revenue rights became ever more fragmented. Such fragmentation reflected complex inheritance patterns, but more particularly, royal policy designed to inhibit territorially cohesive challenges. Thus in contrast to Srivijaya, revolts in Mataram rarely sought to revive fallen polities.⁴⁹

⁴⁷ Jan Wisseman Christie, "Texts and Textiles in 'Medieval' Java," *BEFEO* 80 (1993): 181–211; idem, "Negara, Mandala, and Despotic State," in Marr and Milner, *Southeast Asia*, 65–93; idem, "Raja and Rama," in Lorraine Gesick, ed., *Centers, Symbols, and Hierarchies* (New Haven, 1983), 9–10, defining *sima* grants; Peter Boomgaard, "From Riches to Rags?," in Greg Bankoff and Peter Boomgaard, eds., *A History of Natural Resources in Asia* (New York, 2007), 188–90; and Ch. 6, nn. 17, 131 *supra*. On inscriptions to 898, Jan Wiseman Christie, "Register of the Inscriptions of Java," 2 vols. (ms, 2002).

⁴⁸ See Ch. 6, nn. 14–17 *supra* and Kulke's elaboration in Southeast Asian context, "Early and Imperial Kingdom," 1–22. Kulke's three stages prior to 1300 should not be confused with the Early, Middle, and Late Classical eras. See discussion *infra*.

⁴⁹ Wisseman Christie, "Negara, Mandala," esp. 69–84; idem, "State Formation," esp. 274–76; idem, "Revisiting Early Mataram." See too J. G. de Casparis, "Some Notes on Relations Between Central and Local Government in Ancient Java," in Marr and Milner, *Southeast Asia*, 49–63; Jones, *Early Tenth Century Java*, ch. 4; Naerssen and Iongh, *Economic History*, 46–52.

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In the 930s the royal palace/capital – the *kraton* – moved east from Central Java to the Brantas River basin, where the transplanted dynasty continued this policy of absorbing local statelets. Although massive eruptions of Mt. Merapi in 928–929 may have provided the immediate spur,⁵⁰ in a larger sense this shift climaxed decades of growing royal interest in the Brantas basin. That swampy but fertile region, whose wet-rice potential had barely been tapped, promised not only to broaden the kingdom's agrarian base, but to improve its maritime access via ports on the northeast coast. Indeed, Brantas basin rice became Java's major export, and until Chinese merchants arrived in force in the 1100s, Javanese, with Srivijayans, apparently dominated archipelagic trade.⁵¹

The Middle Classical era (930–1222) thus saw a number of critical reorientations. East Java, focusing on the Brantas and Sala basins and the northeast coast, now rendered Central Java a backwater. As maritime income came to supplement agrarian income, the state became more of a hybrid entity.⁵² Commercial ambition sparked conflict with Srivijaya and contributed to the temporary extension of Javanese control over Bali.⁵³ By 1178 a Chinese writer claimed Java was richer than Srivijaya and in wealth second only to Arab countries.⁵⁴ Larger surpluses were now invested in trade and luxury imports than in stone temples, which, Wisseman Christie argues, therefore decreased markedly in size and number.⁵⁵ In mainland Southeast Asia as well, a maritime-aided shift in religious donations from land to money and movable goods contributed to the virtual cessation of stone temple construction in Cambodia after c. 1220 and in Burma after c. 1350.⁵⁶

⁵⁰ Boechari, "Some Considerations on the Problem of the Shift of Mataram's Centre of Government from Central to East Java in the 10th Century," in Smith and Watson, *Early South East Asia*, 473–91; Jan Wisseman Christie, "Money and Its Uses in the Javanese States of the Ninth to Fifteenth Centuries," *JESHO* 39 (1996): 243–86, esp. 249. Some sources continue to refer to the post-930 state as Mataram, but most limit that usage to the pre-930 Central Javanese kingdom.

⁵¹ Wisseman Christie, "Javanese Markets"; idem, *Theatre States and Oriental Despotisms* (Hull, 1985), 34–35; idem, "Revisiting Early Mataram"; idem, "Asian Sea Trade Between the 10th and 13th Centuries and Its Impact on the States of Java and Bali," in Himanshu Ray, ed., *Archaeology of Seafaring* (Delhi, 1999), 221–70.

⁵² Wisseman Christie, "Asian Sea Trade," 245–48.

⁵³ Java's aforementioned attack c. 992 produced a Srivijayan counterattack in 1016. See n. 28 *supra*, and Wisseman Christie, "Asian Sea Trade," 223. As early as the 11th century Javanese had begun to replace Old Balinese as the official court language of Bali.

⁵⁴ Wolters, *Early Indonesian Commerce*, 251.

⁵⁵ Wisseman Christie, "Javanese Markets," 346.

⁵⁶ After c. 1500 South Asia apparently saw similar trends; see Ch. 6, n. 166 *supra*. Moreover, in Burma, Angkor, and Java alike, after the charter/classical period lithic inscriptions

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Within the lower Brantas core of the new East Java empire, the *watek* system continued to evolve, providing the same benefits as had aided 9th-century Mataram. Yet despite these features and despite its commercial access, the new realm proved curiously unstable. Whether this represented a retreat in Kulke's evolutionary schema is a definitional problem that need not delay us,⁵⁷ but clearly the territorial momentum of the period c. 930–1050 began to falter. After c. 1050 not only did the court lose control over Central Java and Bali, but the East Javanese state itself split, as coastal regions hived off from the agrarian interior.⁵⁸

It was not for another 200 years, at the start of the Late Classical period (1222–1527?), that a sustained countermovement finally took hold. In brief, the kingdom of Singhasari (1222–1292) subdued all rival centers in East Java, reuniting coastal and interior districts, and proceeded to mount successful expeditions against Bali and the Straits of Melaka. But it was only under Singhasari's heir, the celebrated empire of Majapahit (1293–1527?), again centered in the lower Brantas basin, that the residual autonomy of independent East Javanese states was finally extinguished. A massive 1293 Mongol invasion of Java, apparently designed to seize control of the pepper trade to China, unwittingly facilitated this transition from Singhasari to Majapahit. Coinciding with Mongol defeats in Burma, Dai Viet, and Japan, this failed invasion confirmed that the islands remained part of Eurasia's protected zone.⁵⁹

ended or decreased dramatically. See Glover and Bellwood, *Southeast Asia*, 105, 168; *SP*, 109, 121–22, 140–49, 159–60, 240, 254–56; Victor Lieberman, "The Political Significance of Religious Wealth in Burmese History: Some Further Thoughts," *JAS* 39 (1980): 753–69.

⁵⁷ Kulke, "Early and Imperial Kingdom," 8 describes Mataram's 9th-century efforts and those of Airlangga (r. 1016–1045) as "temporarily successful attempts" at centralization. Cf. the stronger linear emphasis in Wisseman Christie, "Raja and Rama," 18, 20, and idem, *Theatre States*, 37: "The process of integration and growth of the early [900–1300] states . . . [was] largely linear rather than cyclic. Rights ceded to the centre seem not to have been regained . . . New states picked up where their predecessors left off."

⁵⁸ On Middle Classical history, Kulke, "Early and Imperial Kingdom," 9; Wisseman Christie, "Javanese Markets," 346, 368; idem, "States Without Cities," 27; Max Nihom, "Ruler and Realm," *Indonesia* 42 (1986): 78–100; Denys Lombard, *Le Carrefour Javanais*, 3 vols. (Paris, 1990), vol. III, 18–19.

⁵⁹ On Mongol motives and impact, Coedes, *Indianized States*, 198–201; Christie, "Tamil-Language," 261; Anthony Reid, "Flows and Seepages in the Long-Term Chinese Interaction with Southeast Asia," in Reid, ed., *Sojourners and Settlers* (St. Leonards, Australia, 1996), 17–21.

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Continuing the work of Mataram and Singhasari, but on a grander scale, in the early and mid-1300s the new kingdom of Majapahit replaced tributary rulers with apanage-holders, generally princes and princesses of the central dynasty. Again, the fragmentation of apanage lands and the assimilation of apanage-holders to a central status hierarchy eroded territorial identities in a process that has been termed the “dynastification” of East Java.⁶⁰ In its East Java core the court also collected taxes both directly and via tax farms-, awarded *sima* grants, and undertook regular royal tours. Here the network of temples and title-holders dependent on royal certification was most dense. Beyond the core, in Central Java and Java’s Eastern Salient, autonomous tributaries replicated on a smaller scale the structure of the Majapahit *kra-ton*. All were said to be part of *yawadwipamandala*, the “circle of the island of Java.” “Over all of Java-land,” an inscription declared, “the Illustrious Great King” of East Java was “the one sunshade.”⁶¹ But wretched transport meant that to retain outlying dependencies, the center had to combine marriage alliances, spies, supernatural sanctions, and military threats with acceptance of extensive autonomy. Moreover, island-wide claims aside, over West Java Majapahit apparently had no authority.

Beyond Java, again in the footsteps of Singhasari, Majapahit in the mid-1300s subdued Bali and Madura and, by exploiting north coastal shipping and trade restrictions, established a loose, indirect ascendancy, what has been termed “punitive influence,” over archipelagic ports ranging from North Sumatra in the west to Sulawesi and Maluku (the Spice Islands) in the east. Courts in the outer islands frequently looked to Majapahit for cultural, even dynastic legitimation. Given 14th-century disarray on the mainland, Majapahit had become Southeast Asia’s most brilliant and influential polity, not least because it proved better able than other charter states (with the possible exception of Champa) to combine agrarian with new mercantile sources of wealth. Yet ultimately

⁶⁰ Term from Kulke, “Early and Imperial Kingdom,” 8–11. On Late Classical administration, see *The Legacy of Majapahit* (Singapore, 1995), 7–8; Naerssen and Iongh, *Economic History*, 62–70; Wisseman Christie, “Raja and Rama,” 9–44; idem, “Negara, Mandala,” 70–74; Slametmuljana, *A Story of Majapahit* (Singapore, 1976), 87–149; Theodore G. Th. Pigeaud, *Java in the 14th Century*, 5 vols. (The Hague, 1960–1963), vol. IV, 3–115, 219–343.

⁶¹ Inscription from 1269 describing King Kertanagara, said to be the prototype for Majapahit rulers. Kulke, “Early and Imperial Kingdom,” 15; Wisseman Christie, “Raja and Rama,” 32.

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its archipelagic dominance proved quite fragile, lasting only to the early 1400s.⁶² Pulsating outer zones of authority, of course, were also typical of the mainland.

No less familiar to students of mainland Southeast Asia or indeed of the Frankish kingdom, Kiev, or Heian, was the initially derivative, elitist, socially encapsulated quality of classical Javanese court culture. From an early period Javanese architects looked to South Asia, while Siva, Visnu, Brahma, Durga, and Ganesa images employed standard Indian iconography.⁶³ Majapahit kings patronized four religious communities – Saivas, Vaisnavas, Mahayana Buddhists, and Rsis – the first three of which were obviously Indic and the last of which included brahmins. Royal consecration and funerary rites also were decidedly Hindu, with many 12th-century kings, for example, described as incarnations of Visnu. Courts endorsed a modified form of the fourfold *varna* system and almost certainly practiced suttee (widow-burning).⁶⁴ As part of Sheldon Pollock's "Sanskrit cosmopolis," Java to the early 800s tailored Sanskrit inscriptions to Indian norms of royal eulogy. Thereafter Javanese became the sole language of official texts and literature, but continued to rely on Sanskrit lexicography, meters, and genres.⁶⁵ In an overwhelmingly illiterate society where the court made few, if any, religious demands on villagers and where, ascetics aside, there seems to have been little rural religious infrastructure and no centrally approved textual corpus, these practices tended to insulate literate elites from the general population. To the extent that the court's Hindu-Mahayana complex lacked deep local roots and a sense of exclusive orthodoxy such as postcharter Theravada Buddhism and Neo-Confucianism were beginning to develop on the mainland, Javanese – along with Malay – culture may have been particularly open to Islamic penetration.⁶⁶

⁶² Keith Taylor in *CHSEA*, 179, using the term "punitve influence"; Slametmuljana, *Story*, 59–66, 132–43; Pigeaud, *Java*, vol. III, 16–19 and vol. IV, 29–39; J. Noorduyn, "Majapahit in the Fifteenth Century," *BKI* 134 (1978): 208. "Outer islands" refers to those beyond Java. On Champa, a maritime-oriented polity from the outset that in the late 1300s devastated Dai Viet, *SP*, 348–52, 371–72.

⁶³ Fontein, *Sculptures of Indonesia*, 67–70 and following note.

⁶⁴ Casparis and Mabbett, "Religion," 304–29; Casparis, *India and Maritime*, 16–17; *HMI*, 22; Pigeaud, *Java*, vol. III, 94–95 and vol. IV, 468, 479–93. On suttee c. 1510, Cortesao, *Suma Oriental*, vol. I, 167, 176, 198. On court sects, Hariano Santiko, "Early Research on Sivaitic Hinduism During the Majapahat Period," *Legacy of Majapahit*, 55–70.

⁶⁵ Sheldon Pollock, *The Language of the Gods in the World of Men* (Berkeley, 2006), 130–32, 387–90.

⁶⁶ Cf. *SP*, 135–39, 258–63; Alan Strathern, "Transcendentalist Intransigence," *CSSH* 49 (2007): 358–83, noting shallow pre-Muslim Indic religious roots in Malaya and Sumatra;

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It is also obvious, however, that in Java as in other pre-1400 protected-zone realms, elites selectively reinterpreted donor norms, while localization joined economic growth to open a space, however modest by later standards, for elite–mass interaction. Even the earliest Indic architecture and sculpture exhibited idiosyncratic Javanese features that only grew more pronounced in later centuries.⁶⁷ Javanese pantheons – including the Goddess of the Southern Ocean and Brahma as volcano deity – reflected visions distinct from those of India. The same was true of ancestor veneration, which provided a principal rationale for royal temple cults, and of the peculiar relation at court between Buddhists, Saivite, and Rsi clerisies. The debt that literary Javanese owed Sanskrit was less remarkable than the development from the 9th to the 15th century of Old Javanese as an independent literary vehicle suitable *inter alia* for epic court poetry (*kakawins*). As such, Java offers an early and lusty example of the vernacular revolution that spread across South Asia, Southeast Asia, and Europe, as discussed in Chapter 6.⁶⁸ What is more, if local practices infused royal religion, vertical acculturation cut both ways. Saivite teachings spread from the *kraton* to secondary centers and thence to the countryside. Village music, shadow puppet plays, and masked dances drew on Hindu epics and in some cases may have been sponsored by the court. As such, they helped to disseminate elite understandings of hierarchy, sanctity, and cosmic order. That downward communication occurred is suggested by the large number of Sanskritized personal names in *sima* charter lists – 20 to 25 percent at lower social levels, more at higher levels. From the 11th century *kraton*–village links may be seen as well in the proliferation of court-defined ranks and sumptuary privileges among local officials.⁶⁹

Wisseman Christie, *Theatre States*, 36, on ceremonial distance between village and court; and M. C. Ricklefs, “Six Centuries of Islamization in Java,” in Nehemia Levtzion, ed., *Conversion to Islam* (New York, 1979), 100–28, esp. 102, on nonexclusivity. But see too Pigeaud, *Java*, vol. III, 36–37, 64, 94, and Cortesao, *Suma Oriental*, vol. I, 177 on rural ascetic networks.

⁶⁷ Fontein, *Sculptures of Indonesia*, 67–108. Borobudur, in particular, had no Indian analogue.

⁶⁸ Note 65 *supra* and Ch. 6, n. 235 *supra*; plus Pigeaud, *Java*, vol. IV, 219; P. J. Zoetmulder, *Kalangwan: A Survey of Old Javanese Literature* (The Hague, 1974), pt. 1; Slametmuljana, *Story*, 105–109, 115–32; Thomas Hunter, “The Body of the King,” *JSEAS* 38 (2007): 27–54; Helen Creese, “Old Javanese Studies,” *BKI* 157 (2001): 3–33. Presumably vernacularization expanded literacy, but I find no data.

⁶⁹ Wisseman Christie, “Raja and Rama,” 15, 21–22, 33–35; idem, *Theatre States*, 17, 35–36; idem, “Negara, Mandala,” 83–84; idem, “Wanua, Thani, Paraduwan,” in Wolfgang Marschal, ed., *Texts from the Islands* (Berne, 1989): 27–42. On court–local cultural

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In short, classical Java exhibited a number of features familiar from other charter polities not only in mainland Southeast Asia but across Eurasia's protected zone during the late first and early second millennia – including unprecedented territorial authority, a novel administrative and ritual integration, an idiosyncratic reworking of religious and literary themes imported from older Eurasian cores, weak notions of religious orthodoxy, and a substantial, if diminishing, cultural gap between court and countryside.

Most basic perhaps, in Java as in much of Eurasia in this period, political/cultural dynamism coincided with a marked economic upsurge. From c. 850 to 1300 legal records, monuments, and *sima* references to forest clearing point to a sustained expansion of cultivation, especially in the Brantas and Sala basins, and of population, which may have exceeded 3,000,000 island-wide.⁷⁰ By the early 1400s double-cropping of rice was common in advanced areas of East Java.⁷¹ Recent excavations at Trowulan, Majapahit's probable capital, have unearthed a sophisticated urban commercial complex.⁷² But as a general rule, settlement on the fringes of established communities led not to urban hierarchies or larger taxpaying units, but to village fissioning, the multiplication of taxpaying units, reclamation, and population dispersal. With agrarian extension came an increase in periodic and permanent markets, to which pedlars and wholesalers fed rice and other foodstuffs, livestock, local textiles and pottery, along with Chinese and Indian metals and handicrafts. Monetization grew apace. In the 10th century a medley of local exchange media were supplemented by Javanese silver coins. But these yielded to Chinese bronze cash, which, becoming insufficient during the Southern Song and Yuan eras, were supplemented by Javanese imitations.⁷³

exchange, see too Casparis and Mabbett, "Religion," 311; Slametmuljana, *Story*, 142–43; Pigeaud, *Java*, vol. IV, 480.

⁷⁰ Cf. Wisseman Christie, "States Without Cities," 29, crediting a 5,000,000 "guess" for 1350 by P. MacDonald; *AC*, vol. I, 14, claiming 4,000,000 in 1600 and 5,000,000 in 1800; M. C. Ricklefs, n. 285 *infra*, with an estimate, he considers suspect, that in 1795 the north coast and south-central Java together had not much more than 3,000,000. On agrarian and demographic expansion, Wisseman Christie, "States Without Cities," 23–40; *idem*, "Wanua, Thani"; *idem*, "The Agricultural Economies of Early Java and Bali" (ms); *idem*, "Water and Rice in Early Java and Bali" (ms); N. V. van Setten van der Meer, *Sawah Cultivation in Ancient Java* (Canberra, 1979); Lombard, *Carrefour Javanais*, vol. III, 17–25.

⁷¹ Ma Huan, *Ying-yai Sheng-lan*, J. V. G. Mills, tr. (Bangkok, 1970), 91.

⁷² *Legacy of Majapahit*, 19–41; Miksic, "Archaeology, Ceramics," 292–93.

⁷³ On local trade and coinage, previous note, plus Wisseman Christie, "Javanese Markets"; *idem*, "Weaving and Dyeing in Early Java and Bali," in Wibke Lobo and Stefanie

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How did agrarian and commercial vigor aid Javanese charter expansion? Majapahit's wealth let it equip those "expeditionary forces" that a contemporary account boasted "annihilated altogether" "commandment-breakers" in the seas beyond Java, while its rice surplus let it supply food-deficit ports around the archipelago, especially in the east, where it sought to access spices. To follow Wisseman Christie, Majapahit's rich agrarian base also let it weather commercial downturns more easily than Srivijaya, which relied wholly on trade.⁷⁴ Within Java, agrarian/manpower superiority undergirded eastern hegemony and, along with trade revenues, magnified royal patronage. In the East Java core itself an "explosive growth of affluence"⁷⁵ multiplied economic niches and intermediate social groups. The ambition of many such groups, neither royal nor truly aristocratic, to acquire new status markers and to gain tax exemption for family temples obliged the crown to regulate local ranks, sumptuary privileges, and tax rights. All such measure eroded village autonomy and absorbed local elites in external, *kraton*-defined status systems. Insofar as upwardly mobile groups imbibed court culture and theatrical troupes moved along trade networks, commerce also aided cultural circulation.

But if economic growth was a precondition for charter florescence, what caused economic growth, especially between c. 900 and 1350? This question, of course, has haunted virtually every chapter of this book. Again, none of the usual explanations – state initiatives, foreign trade, or climate – seems entirely satisfactory, at least not by itself.

State and Elite Initiatives. To augment their income, East Javanese kings and subordinate apanage-holders undertook a variety of measures that had the effect, if not also the intent, of raising agrarian output. They decreed severe penalties for anyone impeding reclamation and ratified shifts from communal to private land tenures, thereby

Reimann, eds., *Southeast Asian Archaeology 1998* (Hull, 1999), 17–27; idem, "Trade and Value in Pre-Majapahit Java," *Indonesian Circle* 59–60 (1992–1993): 3–17; idem, "Money and Its Uses"; idem, *Theatre States*, 28–35; Lombard, *Carrefour Javanais*, vol. II, 139–41; *Legacy of Majapahit*, 99–105, 158; A. van Aelst, "Majapahit Pisis," *BKI* 151 (1995): 357–93; Robert Wicks, *Money, Markets, and Trade in Early Southeast Asia* (Ithaca, 1992), 243–300; Derek Thiam Soon Heng, "Export Commodity and Regional Currency," *JSEAS* 37 (2006): 179–204; Ma Huan, *Ying-yai*, 96; Pigeaud, *Java*, vol. IV, 496–500.

⁷⁴ Wisseman Christie, "Javanese Markets," 346. Cf. *HMI*, 22; Pigeaud, *Java*, vol. IV, 500–503. Quoted references to naval expeditions at *ibid.*, vol. III, 19. Cf. *ibid.*, vol. IV, 39; Slametmuljana, *Story*, 61–63, 139.

⁷⁵ Wisseman Christie, "Trade and Value," 5. Discussion also follows nn. 69, 73 *supra*.

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perhaps enhancing market involvement.⁷⁶ On occasion they endowed lands to maintain dams and flood-barriers. Most critical, kings and apauge-holders awarded agrarian tax rights to temples on the understanding that the latter would convert shifting cultivation (*swidden*) and wasteland to wet rice (*sawah*). Fiscal privileges and bonded labor let temples, as noted, become foci of reclamation, but residual tax claims meant that the crown also benefited. At the same time, the conversion of *swidden* to wet rice and the retreat of jungle promised to reduce brigandage and strengthen royal control over the population.⁷⁷ Arguing that wet rice was far less productive per man-hour than *swidden*, Peter Boomgaard suggests that without these coercive interventions by rulers and allied temples, large-scale wet-rice expansion was unlikely to have occurred.⁷⁸

But Robert Hunt claims that wet-rice labor productivity exceeded *swidden*, which presumably weakens the argument for elite coercion.⁷⁹ Yet even if we follow Boomgaard's reasoning, state interventions and temple endowments still provide only a partial explanation for economic dynamism, first, because Majapahit saw more vigorous agrarian growth, but far more modest temple endowments, than earlier East Javanese states; and second, because state-temple actions per se say nothing about the problem of coordinated prosperity across Eurasia, or even between Srivijaya, which lacked such landed endowments, and Java.

⁷⁶ I follow Wisseman Christie, "*Wanua, Thani*"; idem, "Water and Rice," 1–6; Lombard, *Carrefour Javanais*, vol. III, 35.

⁷⁷ See Pigeaud, *Java*, vol. IV, 470–71; H. J. de Graaf and Th. G. Th. Pigeaud, *Chinese Muslims in Java*, M. C. Ricklefs, ed. (N. Melbourne, 1984), 185. *Carrefour Javanais*, vol. III, 21–24 identifies five major East Java reclamation projects between 804 and 1486, but does not contradict Wisseman Christie's insistence that waterworks, except in rare circumstances, remained in local, rather than royal hands. Wisseman Christie, *Theatre States*, 25–26; idem, "State Formation," 275; idem, "Water and Rice," 6–12.

⁷⁸ Boomgaard, "Riches to Rags?," 188–90, citing Michael Dove, and identifying six factors conducive to wet-rice expansion, of which the first three focus on forms of elite coercion and the latter three are ready availability of work animals, export demand, and enhanced security stemming from concentrated settlement.

⁷⁹ Robert Hunt, "Labor Productivity and Agricultural Development: Boserup Revisited," *Human Ecology* 28 (2000): 251–77. I am at a loss to explain the difference with Boomgaard. Hunt defines *swidden* as long-fallow technique with slash and burn, planting by dibble stick, many cultivars, and extensive hand weeding; whereas *sawah* is annual rice cropping on level valley land, with animal-drawn plows and harrows, irrigation, seed beds, and seedling transplantation.

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Foreign Trade. Maritime stimuli promise to address the issue of coordination. As Wisseman Christie has shown, the Eurasian trade boom of the 10th to 13th centuries, drawing on an economic surge in Fatimid/early Mamluk Egypt, Cola India, and Song China, stimulated East Javanese agriculture, handicrafts, and monetization alike. To Maluku and archipelagic ports flowed Javanese rice, beans, salt, garlic, and sugar, most of which were collected by itinerant traders through periodic markets. To China went black pepper, safflower dye, coriander, sugar, and medicinal herbs. Java imported archipelagic goods for reshipment to China and Srivijaya, plus Indian textiles and Chinese porcelain and silks for local consumption. Chinese ingots supplied Javanese ironmongery. Chinese and Indian techniques transformed local artisanry, and Chinese cash and local imitation coins revolutionized commodity exchange.⁸⁰

Yet for all this, there is no evidence, even in the Majapahit era, that more than a small fraction of East Java's population depended for their livelihood on foreign markets, which alone therefore seem inadequate to explain a general demographic/agrarian upsurge. If we project David Henley's work on colonial Sulawesi to an earlier era, proliferating markets eroded customary restraints on agrarian productivity while improving food distribution in rice-deficit areas. Better nutrition in turn raised female fertility and lowered child mortality. But again, although Wisseman Christie has shown that foodstuffs and livestock did enter a thickening network of local markets, there is no way to disentangle foreign from domestic stimuli to commodification, much less assess pre-1350 fertility implications.⁸¹ Nor, if archipelagic trade helped to spur region-wide vitality, is it clear why East Java began to flourish only some 300 years after Srivijaya arose.

Conceivably, as in later periods, more regular trade contacts with India and China helped Java to domesticate smallpox and other epidemic diseases, but again this is mere speculation.⁸²

⁸⁰ See n. 73 *supra*, plus Wisseman Christie, "Agricultural Economies"; idem, "Asian Sea Trade, 226–27; *Legacy of Majapahit*, 91–97, 200.

⁸¹ Henley, "Population and Subsistence"; idem, *Fertility, Food, and Fever* (Leiden, 2005), 466–67, 606–10 emphasizes for post-1700 North Sulawesi the role of markets in raising incentives to food production, weakening slave- and kin-based barriers to agrarian productivity and human fertility, and thus breaking open demographic restrictions characteristic of subsistence economies.

⁸² Cf. *SP*, 97–98, 224; and evidence that 18th-century smallpox was most devastating in the most isolated areas of Java and Sumatra: Peter Carey, "Waiting for the 'Just King,'"

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Climate. In dry years rice yields for Java as a whole now average about one half those of normal years.⁸³ But because rainfall diminishes as one moves east from Central Java, East Java is significantly more sensitive to fluctuations than the rest of the island. Repeated studies point to strong correlations between El Nino events and Javanese droughts, which tend to correlate with droughts in South Asia, parts of mainland Southeast Asia, and North (but not necessarily South) China. On present evidence, between 700 and 1900 El Nino events were weakest and most infrequent from c. 820 to 1270, during the Medieval Climate Anomaly, which suggests that monsoons in that era were especially strong and contributed to East Java's agricultural expansion. Between 800 and 1300, as the economic center of gravity shifted to the drier eastern part of Java, Cambodia saw a similar shift from the coast to the normally dry interior, while the 10th and 11th centuries also brought rapid agrarian development in dry-zone Burma.⁸⁴ Lest one embrace climatic determinism too enthusiastically, however, note that climate necessarily operated in synergy with elite initiatives and foreign trade; that early climatic reconstructions rest largely on proxy records; and that when lower Brantas reclamation took off in the 10th century, the last thing that swampy domain may have needed was more water.⁸⁵

MAS 20 (1986): 106–107; Barbara Watson Andaya, *To Live as Brothers* (Honolulu, 1993), 228.

⁸³ This is true despite the stabilizing effects of modern chemical fertilizers, pesticides, and scientifically selected seeds. I. Amien et al., "Effects of Interannual Climate Variability and Climate Change on Rice Yield in Java, Indonesia," *Water, Air, and Soil Pollution* 2 (1996): 29–39.

⁸⁴ On historic drought-famine links, Peter Boomgaard, "Crisis Mortality in 17th-Century Indonesia," in Ts'ui-jung Liu et al., eds., *Asian Population History* (Oxford, 2001), 191–220; Wisseman Christie, "Water and Rice," 2. On correlations between ENSO-related drought in South Asia, mainland Southeast Asia, and Indonesia, see *SP*, 103–12, 224–27, 362–65; Ch. 6, n. 143 *supra*; Nick Salafsky, "Drought in the Rain Forest," *CC* 27 (1994): 373–96; David Bachiochi et al., "The Effect of Indian Ocean Warming on the Indian Monsoon," *Mausam* 152 (2001): 151–62; Boomgaard, "Riches to Rags?," 193–94. Also R. P. Kane, "El Nino Timings and Rainfall Extremes in India, Southeast Asia and China," *Intl. Jl. of Climatology* 19 (1999): 653–72, acknowledging discrepancies between the incidence of ENSO and drought. See too Ch. 1, nn. 98, 99 and Ch. 2, n. 90 *supra*, pointing to increased solar radiation during the Medieval Climate Anomaly and exploring links between solar radiation and ENSO oscillations.

⁸⁵ Note too that to some extent farmers could modify crop types in response to climate shifts. Thus in the 1700s Javanese responded to droughts by planting rice varieties requiring less water. Barbara Andaya, "The Unity of Southeast Asia," *JSEAS* 28 (1997): 167.

*Locating the Islands**Charter State Collapse in the Straits and in Java, c. 1300–1500*

If the roots of Java's charter prosperity remain tangled, the dynamics of Srivijaya's and Majapahit's eclipse are somewhat less impenetrable. At various times between 1200 and 1350, recall, sustained economic growth began to destabilize charter polities in both mainland Southeast Asia and Europe. Pagan, Angkor, Dai Viet, and France all suffered from growing shortages of quality arable land. In the first two realms and Kiev we found too a tendency for outlying dependencies to profit from commercial elaboration more than the capitals to which they were nominally subject.⁸⁶ Once political devolution began, in both Europe and mainland Southeast Asia 14th-century economic woes dimmed the prospects of reintegration.

Broadly comparable dynamics helped to undermine both of the archipelago's main charter states, starting with Srivijaya. I noted that Song trade expansion stoked local resistance to Srivijaya's commercial claims. Although the decision to refocus on a handful of prized Indian Ocean goods let that maritime polity retain a measure of prosperity into the 13th century, centrifugal pressures continued to mount. By the mid-1200s, with Kedah and North Sumatran ports attracting Chinese and Indian Ocean trade, the northern economic sector of the Melaka Straits effectively separated from the southern sector still focused on Malayu-Jambi. After a Javanese fleet sacked Malayu-Jambi in 1275, a political vacuum opened in the south as well. Java claimed suzerainty over Southeast Sumatra,⁸⁷ but with Malayu-Jambi and Palembang disputing preeminence, with rival Sino-Indonesian commercial networks supporting different local rulers, and with Java too distant to exert systematic authority, the Straits no longer had an acknowledged center. Supplying a limited number of products rather than the complete array such as Srivijaya had offered in its heyday, local ports either went their own way or sought protection from whatever power seemed most sympathetic. As if to dramatize centrifugal pulls, in the late 1200s, in order to escape Javanese pressure and to control gold and camphor from

⁸⁶ Likewise, although Champa was not tributary to Dai Viet, attacks from Champa, which was more commercially oriented than Dai Viet, contributed to the latter's 14th-century collapse. See *SP*, 119–23, 236–42, and Ch. 2 *supra*.

⁸⁷ This is a claim that gained credence with the spread to that region of Javanese currency and weights. Heng, "Export Commodity," 193–202; *HM*, 32–33.

the interior, Malayu-Jambi's ruling family moved from the coast to the upper Batang Hari River.⁸⁸

Ironically, if commercial expansion thus helped to fragment Srivijaya, Reid and others argue that by decreasing port revenues, commercial contraction from c. 1280 to 1400 further reduced the chances of recentralization. As manifest in declining Chinese pottery exports, this disruption grew from population losses in China and other key Eurasian markets, the Mongol diversion of traffic across Inner Asia, bullion shortages, and crippling early Ming curbs on private trade. Insofar as the Pax Mongolica contributed to archipelagic localization, we have yet another instance of Mongol-mediated Eurasian rupture.⁸⁹

Despite – or more probably because of – these manifold problems, leaders in Southeast Sumatra drew heart from the 1371 decision by the new Ming Dynasty to expand Chinese tributary trade in lieu of now prohibited overseas private trade. Might the imperial patronage that had nourished early Srivijaya now return? Thus hopeful, from 1371 to 1377 both Malayu (now based in the interior) and Palembang apparently sent envoys to the Ming court. And in 1391, in an effort to revive Palembang's ancient claims, its ruler declared himself independent of

⁸⁸ In the 1300s their capital would move yet farther inland near the headwaters of the Indragiri and Batang Hari, from where Adityavarman (r. 1347–1375?), the first Minangkabau king, may have exercised some sort of authority over much of central Sumatra. On this interior progression, Andaya, *Leaves*, 83–88, 93; idem, "Unravelling Minangkabau Ethnicity," in Leonard Blussé and Felipe Fernandez Armesto, eds., *Shifting Communities and Identity Formation in Early Modern Asia* (Leiden, 2003), 117–38, esp. 121–23; Wolters, *Fall of Srivijaya*, 57–58, 75, 90, 94, 169; Jane Drakard, *A Kingdom of Words* (Oxford, 1999), 19–24.

⁸⁹ The decline in pottery exports is known from its late-14th-century intensification as the early "Ming gap." AC, vol. II, 10–53, esp. 13–21; Reid, *Charting the Shape*, 63–64; idem, "Flows and Seepages," 17–37; David Bulbeck et al., comps., *Southeast Asian Exports Since the 14th Century* (Leiden, 1998), 1–106 *passim*. Evidence supporting Reid appears in William Atwell, "Time, Money, and the Weather," *JAS* 61 (2002): 83–114; Geoff Wade, "Ming China and Southeast Asia in the 15th Century," in Wade, ed., *Southeast Asia in the 15th Century* (Singapore, forthcoming); Pierre-Yves Manguin, "New Trends in Shipbuilding and Shipping in the South China Sea Starting in the 15th and 16th Centuries," in *ibid.*; Roxanna Brown, "A Ming Gap?" in *ibid.*; Geoff Wade, "An Early Age of Commerce in Southeast Asia: 900–1300 C.E." (ms); Christie, "Tamil-Language," 247, 259–61; Ch. 5, nn. 153, 155, 157 *supra*; Ch. 6, n. 155 *supra*; Richard von Glahn, "Towns and Temples," in SYMT, 176–211; Wolters, *Fall of Srivijaya*, 187–90. But note that Miksic, "Archaeology, Ceramics," 287–97; Kenneth Hall, "Local and International Trade and Traders in the Straits of Melaka Region: 600–1500," *JESHO* 47 (2004): 213–60; and Roderich Ptak, "From Quanzhou to the Sulu Zone and Beyond," *JSEAS* 29 (1998): 269–94 argue for a gradual, persistent rise in Sino-Southeast Asian trade from 1100 to 1500.

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Java and overlord of Southeast Sumatra. These ambitions ended in utter disaster: the Javanese, now under Majapahit, again invaded Palembang and expelled the ruler. By 1397, Ming records noted tersely, Srivijaya “was a ruined country.”⁹⁰

Majapahit thus outlasted Srivijaya. But Majapahit’s overseas authority, such as it was, also began to unravel because renewed trade expansion favored independent Muslim ports in the Straits and North Java, and more immediately because the Ming court, whose eunuch admiral Zheng He from 1405 headed seven massive trading expeditions to Southeast Asia, encouraged port-cities to enter into direct relations with China. Thus in the early 1400s erstwhile dependencies from Sumatra to Brunei to Sulu and Maluku sent their own tribute-cum-trade missions to China and left Majapahit’s sphere of influence.⁹¹

Thereafter problems mounted within Java itself. To be sure, the picture of unalloyed 15th-century decline can be overdrawn. Contrary to earlier scholarship, Aoyama Toru has shown that a civil war in 1405–1406 did not pit eastern and western polities against one another, merely factions within a still unified Majapahit kingdom.⁹² In the same spirit, J. Noorduyne has argued that putative dynastic upheavals in 1437 and 1453 either did not occur or were less traumatic than was assumed. Likewise, religious patronage, Sanskrit scholarship, and Old Javanese belles lettres flourished for most of the 15th century as they had in the 14th.⁹³ Such limited materials as survive, however, also point to growing political troubles, if not from the mid-1450s, then surely from 1468, which saw a major princely rebellion. At an uncertain date between 1486 and 1512 the *kraton* shifted to Kediri, possibly under a new dynasty. Denys Lombard speculates that the unchecked economic power of religious institutions reinforced the devolutionary effects of endemic princely competition.⁹⁴ To some degree, climatic deterioration in the late 1300s and 1400s

⁹⁰ *HM*, 33. Thereafter Palembang came under the control of Chinese traders/pirates. I rely too on Wolters, *Fall of Srivijaya*, 39–107, 120, 125, 147; and Anthony Reid, “Hybrid Identities in the 15th-Century Straits” (ms), 10–14, exploring the Sino-Indonesian background to regional rivalries.

⁹¹ *AC*, vol. II, 15–16; Reid, “Flows and Seepages,” 23–25, 31–33; Andaya, *Leaves*, 69–70; Wade, “Ming China and Southeast Asia”; and nn. 62 *supra* and 99 *infra*.

⁹² Aoyama Toru, “A New Interpretation of the ‘East-West Division of Java’ in the Late 14th Century,” *Acta Asiatica* 92 (2007): 31–52.

⁹³ Noorduyne, “Majapahit in the Fifteenth Century,” 207–74. Cf. Zoetmulder, *Kalangwan*, 21–24, and an earlier scholarly tradition represented by Slametmuljana, *Story*.

⁹⁴ Lombard, *Carrefour Javanais*, vol. III, 26–35. He and Hunter, “Body of the King” also suggest that political devolution encouraged and reflected the rise of *kidung* literature,

aggravated Majapahit's problems.⁹⁵ By 1500 the Hindu-Buddhist power of East Java was in an advanced state of decay, beset by internal disputes and subject to attacks by newly risen Muslim trading ports on the north coast. About 1527 the most powerful of these north coast city-states, Demak, captured both Kediri and the kingdom's chief port, Tuban. Thus ended the charter/classical era of Javanese history – even though, as befit a charter polity, Majapahit inspired the rulers of Demak and later Muslim states to preserve its high culture and to depict themselves as Majapahit's legitimate heirs.⁹⁶

In itself, the rise between c. 1400 and 1550 of Demak and other towns on Java's north coast – an area known as the *pasisir* – climaxed a commercially driven process that differed in precise chronology, but not centrifugal thrust from that which weakened Srivijaya and mainland charter states. Rather than attempt to rule directly Javanese port-cities, from the outset Majapahit relied on tax farms run by resident foreign (Malay, South Asian, Chinese) and local traders. Although for generations such arrangements let Majapahit benefit from mercantile expansion more directly than Pagan, Angkor, or Dai Viet, as trade expanded in the mid-1400s, these coastal enclaves, already semidetached, finally became too wealthy and powerful to remain subservient. Even as alien traders in the *pasisir* adopted local clothing, food, and language and aped Majapahit court ritual and aesthetics, Islam reflected and encouraged a growing sense of cultural and political independence from the interior.⁹⁷ In short, on present evidence, commercial expansion weakened both Srivijaya and Majapahit, but during different phases of the Asian trade cycle. The first expansion, c. 1050–1280, undermined Srivijaya, but East Java, in part because of its ability to combine agrarian

sympathetic to princely entourage and local autonomy, at the expense of *kakawin* poetry championing royal power. Cf. Zoetmulder, *Kalangwan*, chs. 1, 16.

⁹⁵ Noorduyn, "Majapahit in the Fifteenth Century," 208 and n. 84 *supra*.

⁹⁶ *HMI*, 22, 41–42, 46; M. C. Ricklefs, *Mystic Synthesis in Java* (Norwalk, CT, 2006), 63; idem, *The Seen and Unseen Worlds in Java, 1729–1746* (Honolulu, 1998), xix–xx.

⁹⁷ Previous note, plus Ricklefs, *Mystic Synthesis*, 17–29; idem, "Six Centuries," 104–105; Wisseman Christie, "States Without Cities," 27, 37; idem, "Trade and Value," 16; Pigeaud, *Java*, vol. IV, 501–504, 522–23; Graaf and Pigeaud, *Chinese Muslims*, 183. Although Islam was not a factor on the mainland, these fissures closely paralleled the 14th-century breakaway of the Mon coast from Upper Burma and of Siamese Ayudhya from Angkor. But, as noted, Champa survived longer than Pagan or Angkor, probably because it, like Majapahit, was better able to profit from maritime commercial expansion. See n. 86 *supra*.

Locating the Islands

with maritime wealth, remained vital. However, the second expansion, 1400/1450–1527, collapsed Majapahit.

To recapitulate the broader argument of Part 1: During their first eight historic centuries, the islands absorbed Indian influences and gave birth to two principal charter realms, Srivijaya, c. 650–1397, and classical Java, c. 716–1527. Overlapping with Pagan, Angkor, Dai Viet, Kiev, Capetian France, and Heian Japan, these polities, like other charter states, benefited from expanding Eurasian trade, easier contacts with older Eurasian centers, local political experiments, and in the case of East Java from agrarian intensification that may have owed something to improved climate. In typical charter fashion, both island realms exercised a superficial, unstable hegemony and patronized a relatively elitist, encapsulated court culture (although in Java *kraton*-rural links seem to have been more ramified in 1400 than in 800). Finally, at various points between 1250 and 1527 long-distance trade empowered dependencies whose waxing strength joined long-standing institutional weaknesses to collapse both Srivijaya and Majapahit.

2. TRADE, NEW STATES, AND ISLAM, C. 1350–1511

Problems of Periodization and Regional Coherence

Convenient though it would be to find political history closely synchronized across Southeast Asia, reality did not always oblige. As we just saw, the unraveling of Pagan, Angkor, Dai Viet, and Srivijaya coincided with Majapahit's glory. Well before Majapahit collapsed, the western archipelago had adjusted to Srivijaya's demise and had entered a fresh phase of consolidation, whose most celebrated pre-1511 example was the city-state of Melaka.

Yet in a wider sense, Melaka symbolized deep postcharter transformations that affected the entire archipelago. Notwithstanding political disjunctures between the Straits and Java, three broad changes gave island development between c. 1350 and 1511 (after which Europeans began to modify its main lines) a reasonably coherent character. First, from the early or mid-1400s, in response to revived demand in China, Europe, Southwest Asia, and India, transit trade and local exports rose notably. Second, quickening commerce nourished a network of essentially new coastal states extending from North Sumatra through Melaka and the *pasisir* to Maluku and the Philippines. Third, through contact

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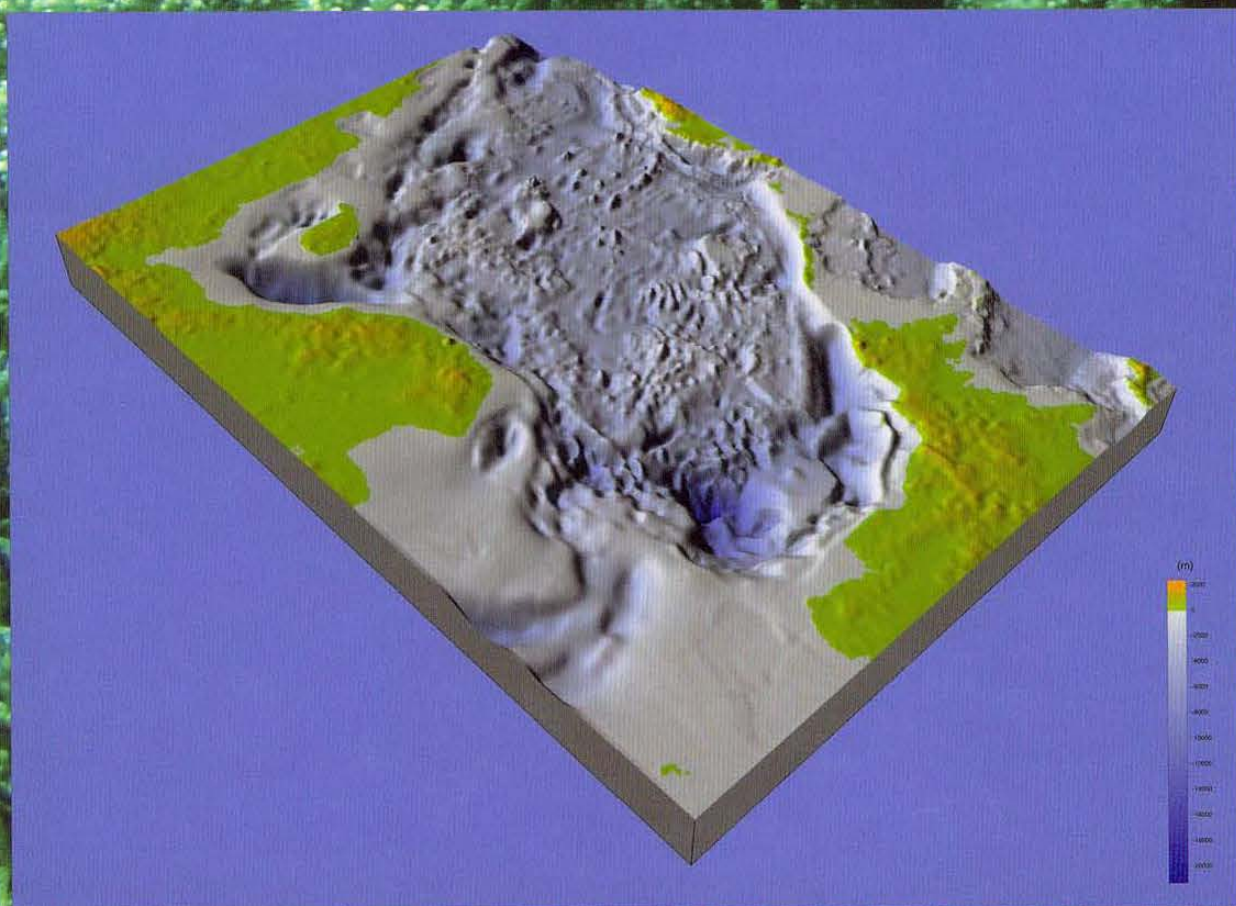
Z. Liu, et al., "Sedimentology" in *The South China Sea: Paleoceanography and Sedimentology* (P. Wang and Q. Li, eds., 2009)

The South China Sea

Paleoceanography and Sedimentology

Volume 13

Edited by
Pinxian Wang and Qianyu Li



Chapter 4 Sedimentology

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Kefu Yu and Jianxin Zhao

Introduction

The South China Sea (SCS) receives approximately 700 million tons of deposits annually in modern times, including about 80% of terrigenous matters provided by surrounding rivers and 20% of biogenic carbonate and silicates and volcanic ash. A similar scenario has been indentified also in the geological past. Since the early Oligocene, the sea has accumulated about 14.4 thousand trillion tons of deposits,

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Taiwan Island lies in relatively high-latitude area of the SCS, but it is affected along its southern and eastern edges by the warm Kuroshio Current, resulting in well-developed coral reefs. The best-known and developed reefs of this region are the fringing reefs on Hengchun Peninsula. These reefs occur along a coastline of about 100 km with their reef flats varying from several meters to 250 m wide. Because the coastline along this Peninsula is often broken up by sand channels, the fringing reefs form a discontinuous structure. About 300 reef-building corals representing over 55 genera have been recorded in this reef region (Dai 1991; Nie et al. 1997c; Spalding et al. 2001). The estimated coral reef area in this region is about 940 km² (Spalding et al. 2001). Significant progress has been made over the last decade in the study of coral reefs in Taiwan, especially in the field of biology and ecology. For example, Soong and Chen (2003) investigated coral generation using fragments of *Acropora* corals in southern Taiwan; other researchers (Fan et al. 2005; Liu P.J. et al. 2005; Twan et al. 2006) studied coral mass spawning in southern Taiwan; Tsai et al. (2004) investigated the macroalgal assemblage structure on a coral reef in Nanwan Bay (southern Taiwan); and Wallace and Dai (1997) reviewed *Acropora* coral genus across the entire Taiwan Island. Soft corals in Taiwan were also well studied (Benayahu et al. 2004; Benayahu and Perkol-Finkel 2004; El-Gamal et al. 2004).

Atolls

Most coral reefs developed on Dongsha Islands, Zhongsha Islands, Xisha Islands and Nansha Islands (Fig. 4.46) are atolls.

Coral reefs on Dongsha Islands mainly cluster around Dongsha Atoll, which is a circular-shaped atoll with a length of 25.6 km in the NE-SW direction and a width of 20.4 km in the NW-SW direction, and is enclosed by discontinuous reef flats (1.6 to 5.0 km in width). A lime-sand island with an area about 1.7 km² is standing on its northwest reef flat. The total coral reef area for this region is 424.5 km², including about 292 km² as lagoon, 125 km² as reef flat and 7.5 km² as the fore-reef area (Table 4.5). Forty-four reef-building coral genera have been reported for this region (see review of Nie et al. 1997c).

The coral reefs in Zhongsha Islands include coral reefs on Zhongsha Atoll and those of Huangyan Island. Zhongsha Atoll is a huge ellipse-shaped submerged atoll, with a length of 140 km in the NE-SW direction and a width of 61 km in the NW-SE direction and covers an area about 8540 km². The enclosed lagoon has a water depth of 75–85 m. The patched reefs in the lagoon have summits of 15–20 m tall and are well covered by reef-building corals. The submerged reef flats (rim) are 13–20 m deep, and dominated by massive reef-building corals (*Porites*, *Favia*, *Goniastrea*, *Cyphastrea*) at water depth less than 60 m. The area >60 m water depth on the rims is dominated by coralline algae (Corallinaceae), followed by reef-building corals (*Favia*, *Montipora*, *Galaxea*, *Alveopora*, *Leptastrea*, *Lobophyllia*, *Echinophyllia*, *Leptoseria*, *Acropora*, *Pocillopora*, *Seriatopora*, *Acrhelia*), and a few other organisms including non-reef building corals (*Caryophyllia* and *dendrophyllia*) (Nie et al. 1992). A large area of well-developed coral reefs at water depth of 10–20 m was

also discovered in May 2004. The coral reef area for this atoll has never been estimated, although the coral reefs are well developed. Considering the fact that lagoons often make up a large proportion of the coral reef systems worldwide (Kennedy and Woodroffe 2000) (e.g., making up 90% of Enewetak Atoll (Yamano et al. 2001)) and $\sim 82.5\%$ of the coral reef systems in Nansha area (Zhao and Yu 1999), we assume 17.5% of the whole area, or 1495 km^2 , as shallow-water reef flat area. The fore-reef and the lagoon areas cannot be estimated as they are submerged. Huangyan Island is an isosceles triangle-shaped atoll with a perimeter about 46 km. The reef flat emerges at low tide, with a width varying from tens to hundreds meters, and covers about 53 km^2 . The enclosed lagoon has a water depth around 9–11 m (20 m at most) and covers about 77 km^2 . The coral reef area on Huangyan Island is about 133.2 km^2 including $\sim 3.2 \text{ km}^2$ fore-reef area. Therefore, the total reef flat area in this region, including Dongsha Atoll and Huangyan island, is about 1628.2 km^2 . Thirty-four reef-building coral genera were reported for this region (see review of Nie et al. 1997c). Xisha Islands consist of 29 lime-sand islands, with Yongxing Island ($15^\circ 50' \text{N}$, $112^\circ 20' \text{E}$) (Fig. 4.49a), $\sim 1.8 \text{ km}^2$ of exposed area, being the largest. Some atolls were described by Wang G. (2001). The total coral reef area (including low tide emerged reef flat and the enclosed shallow water lagoon) in this region is about 1836.4 km^2 . 127 species from 38 reef-building coral genera

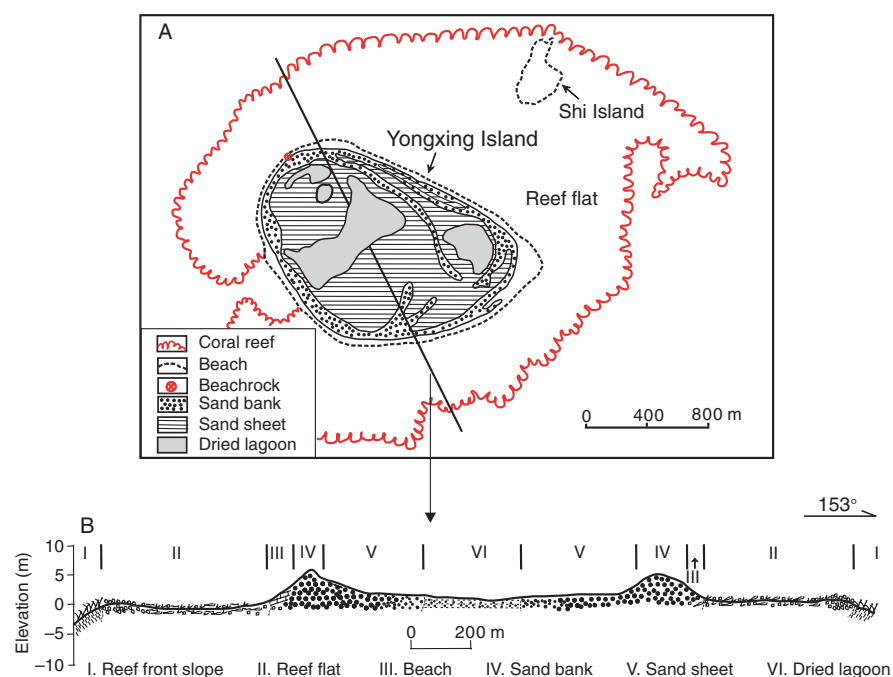


Fig. 4.49 (A) Map and (B) cross section show geomorphological zonation of Yongxing Island, Xisha Islands

were reported for this region (Nie et al. 1997c; Zou et al. 1983). Five geomorphological zones were identified on Yongxing Island as reef front slope, reef flat, sandy beach, sand bank, sand sheet and low-lying dried lagoon (Fig. 4.49B) with beach-rock developed on the northwest beach (Yu et al. 1995). Radiocarbon dates of 2680 ± 95 yr BP for the beach-rock (Yu et al. 1995) and 6790 ± 90 yr BP for a sample from 10 m depth of a drill-core (Ye et al. 1985) suggest that the sand island started accumulation from at least mid-Holocene and exposed in late Holocene. A survey carried out in 2002 on Yongxing Island (Li Y. et al. 2004) suggested that the coral cover and coral biodiversity were still high but showing an obvious ecological decline if comparing with the observation in 1978, although this area is several hundred kilometers away from mainland and is rarely influenced by human activities. Because no systemic ecological survey has been carried in this area since early 1980s, little is known about the coral reef's response to global climate change. No information is available either on high temperature-induced coral bleaching that occurred worldwide as the result of global warming. Annual growth rates of massive *Porites lutea* corals range from 7 to 15 mm/yr with an average of 11 mm/yr, and show strong positive correlation with instrumental SST (Nie et al. 1997a). Using the coral growth rate as a SST proxy, Nie et al. (1999) reconstructed the SST variation for the last 220 years in the Xisha waters and found an overall warming trend.

Nansha Islands (Fig. 4.46) consist of 117 reefs, among which 64 are atolls (with 43 low-tide emerged atolls and 21 submerged atolls), and 23 are lime-sand islands, with the largest one, Taiping Island, having an exposed area of 0.43 km^2 . The total area of emerged reef flats and their enclosed shallow water lagoons in this region is about 2904 km^2 . None of the 64 atolls was shown in the world's list of 425 atolls (Byran Jr 1953; Stoddart 1965). 44 reef-building coral genera were reported for this region (Nie et al. 1997c). The best studied reef in this region is Yongshu Reef ($9^\circ 32' - 42' \text{N}$, $112^\circ 52' - 113^\circ 04' \text{E}$, Yu et al. 2006a), which is an open spindle-shaped atoll, about 25 km long in the NEE-SWW direction and 6 km wide in the NW-SE direction, and with a total area about 110 km^2 . A closed lagoon (380 m long, 150 m wide and maximum 12 m deep) is situated in the center of the southwest reef flat. The area around the lagoon is termed as the "small atoll". Based on systematic field investigations, six biogeological and sedimentary zones are recognized on the small atoll (Yu et al. 2004b). Detailed studies of drilled cores (Yu et al. 2006b; Zhao et al. 1992; Zhu et al. 1997) from the reef flat and the lagoon show that the coral reef started to develop at a depth of 17–18 m about 7350 to 8000 years ago, and experienced sustained subsidence since its development. The living coral growth rate of *Porites lutea* varies from 10 to 16 mm per year. High-resolution skeletal $\delta^{18}\text{O}$ and $\delta^{13}\text{C}$ (covering a period from 1950 to 1999) of a living *Porites lutea* from Yongshu Reef were reported by Yu et al. (2001, 2002b), which reveals a general warming trend in SST, consistent with the global trend.

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John W. McManus, "Toward Establishing a Spratly Islands International Marine Peace Park: Ecological Importance and Supportive Collaborative Activities with an Emphasis on the Role of Taiwan", *Ocean Development & International Law*, Vol. 41 (2010)

Toward Establishing a Spratly Islands International Marine Peace Park: Ecological Importance and Supportive Collaborative Activities with an Emphasis on the Role of Taiwan

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The Spratly Islands constitute one of the earth's most ecologically significant areas, hosting a high diversity of marine species, providing critical habitats for endangered species, and providing marine larvae to reestablish depleted stocks among the heavily overfished and degraded coastal ecosystems of the South China Sea. Territorial disputes have led to the establishment of environmentally destructive, socially and economically costly military outposts on many of the islands. Given the rapid proliferation of international peace parks around the world, it is time to take positive steps toward the establishment of a Spratly Islands Marine Peace Park. Its purpose would be to manage the area's natural resources and alleviate regional tensions via a freeze on claims and claim supportive actions.

Keywords Coral Triangle, marine peace park, marine protected areas, Spratly Islands

Geographical Features and Legal Aspects of the Spratly Islands

The South China Sea is a marginal sea partially enclosed by the lands of the People's Republic of China, the Republic of China (referred to as Taiwan), the Philippines, Malaysia, Brunei, Indonesia, Singapore, and Vietnam. Covering an area of 800,000 square kilometers and containing more than 200 identified islands, islets, reefs, shoals, sand cays, and banks, four major archipelagos named the Pratas Islands (Dongsha 東沙), Paracel Islands (Xisha

Received 2 April 2010; accepted 10 April 2010.

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西沙), Macclesfield Bank (Chungsha 中沙), and Spratly Islands (Nansha 南沙) are distributed from north to south.

The Spratly Islands are scattered between 12° and 6° north, and 109° and 117° east in the southern part of South China Sea. The water area of the Spratly Islands is substantial, encompassing approximately 160,000–360,000 square kilometers, depending on how limits are chosen. There are approximately 150 named landforms, and innumerable unnamed spits of land. The majority of these are rocks, reefs, sandbanks, or other types of partially submerged landforms. They rest primarily on partially submerged coral reef atolls, ranging in length up to approximately 40 kilometers. The largest island in the Spratly group is called Taiping Island (太平島) or Itu Aba by others. Taiping Island and six other reefs form a lagoon-shaped Tizard Bank or Zhenghe Reefs (鄭合群礁) near the center of the South China Sea. The island itself has an elliptical shape, 1,289 meters in length and 365 meters in width, with 0.49 square kilometers of area. The altitude is less than 5 meters. The geographical distance between Taiping Island and Kaohsiung (Taiwan) is about 850 nautical miles; to Hainan (China) 550 nautical miles; Ho Chi Minh City (Vietnam) 330 nautical miles; Palawan (the Philippines) 220 nautical miles. Taiping Island has been under control of Taiwan since 1956.

The Spratly archipelago is the focus of complex sovereignty disputes. There are competing claims to island territories, exclusive economic zones (EEZs), and continental shelf by Taiwan, China, Malaysia, the Philippines, Vietnam, and Brunei. Though these countries claim the sovereignty of part or all of the Spratly Islands, each major island is controlled and governed by only one country that, in many cases, has installed military facilities. The eight largest islands and the controlling nations are listed accordingly: Taiping Island (Taiwan), Thitu Island (the Philippines), West York (the Philippines), Spratly Island (Vietnam), Northwest Cay (the Philippines), Southwest Cay (Vietnam), Grierson Cay (Vietnam), and Swallow Reef (Malaysia). Mainland China controls several reefs and emergent features scattered throughout the area, including Mischief Reef.

Ecological Significance of the Spratly Islands

The Spratly Islands are subject to a tropical climate. The average annual temperature is 27°C. During summer, from May to August, the high temperature is approximately 30°C while, in winter, the average temperature is about 25°C. The Spratlies experience a 7-month dry season and a 5-month rainy season, with an annual average rainfall of 1,800 to 2,200 millimeters. Southeast monsoon winds blow from March to April, and then shift to a southwest monsoon wind from May to November. Few of the islands have surface freshwater. However, on some, wells were successfully dug that, over the years, have provided a source of water to troops, tourists, and visiting fishermen. Thirteen islands, including Taiping Island, have terrestrial vegetation that indicates a significant degree of soil formation.¹

Due to the remote distance and limited accessibility to the Spratly Islands, only a few surveys have been conducted during the past few decades. The earliest Taiwanese ecological inventory in Taiping Island was led by K. H. Chang with a group of experts from the Institute of Zoology, Academia Sinica (中央研究院) in 1980. They recorded 33 families and 173 species of fish within an 800-square-meter sea area south of Taiping Island. They published a fish guide book² and a fish checklist in a scientific journal.³ In 1994, a group led by the National Museum of Marine Biology and Aquarium recorded 399 reef fish species from 49 families, 190 coral species from 69 genera from 25 families, 99 mollusk species,

91 invertebrate species from 72 genera, 27 crustacean species, 14 polychaete species, 4 echinoderm species, and 109 terrestrial vascular plant species. There were also 59 bird species observed, which indicates that Taiping Island is a major stop for migratory birds in East Asia.⁴ According to BirdLife International (2001), the species mainly included streaked shearwater (*Calonectris leucomelas*), brown booby (*Sula leucogaster*), red-footed booby (*S. sula*), great crested tern (*Sterna bergii*), and white tern (*Gygis alba*).⁵ Both the green turtle (*Chelonia mydas*) and the hawksbill turtle (*Eretmochelys imbricata*) were often reported to be nesting even on islands inhabited by military personnel in the Pratas and Spratly Islands, though their numbers have gradually declined.⁶ The richness of marine biodiversity, spectacular coral reefs, and threatened species such as the crested tern and green turtle together add considerable value to Taiping Island as a future conditional ecotourism reserve.

The Spratly Islands hosts a high diversity of marine organisms. White included the islands as a priority area for marine conservation and management in 1983.⁷ However, the importance of the island group to regional fisheries was identified in the early 1990s based on studies of water circulation relative to the presettlement pelagic times of coral reef fish.

Currently, there is a project evaluating whether Taiping Island should be established as a marine park, similar to the Pratas Islands (Dungsha) Group, which was successfully established as a Taiwanese National Marine Park in 2007.⁸ In their expedition in June 2009, the project personnel added more records of terrestrial and marine species in Taiping Island.⁹ For example, there were 40 newly recorded terrestrial invertebrate species, 3 newly recorded bird species, and 66 newly recorded fish species. However, they also noticed that many coral-eating crown-of-thorns starfish (*Acanthaster planci*) occurred in one station.

Along the coasts of the South China Sea, many of the coral reef fisheries are heavily overfished, especially along southern mainland China, Vietnam, Malaysia, and the Philippines. Harvests of adult fish are in decline. Coastal fish populations are periodically renewed via influxes of presettlement pelagic juveniles. Wyrcki determined that a cyclonic (counterclockwise) circulation predominates across the basin in the winter and an anticyclonic circulation (clockwise) caused by the annual shift in monsoon starting from the south in summer.¹⁰ Various recent studies have confirmed that this general pattern does indeed exist, although a number of smaller subgyres and vortices also occur periodically.¹¹ Using the circulation charts of Wyrcki and a 24-day pelagic time determined from a compilation of published studies of various reef fish species, McManus determined that the seasonally shifting currents of the South China Sea could disperse presettlement fish from the Spratly Islands throughout the coasts of the South China Sea.¹² Some coasts could be reached within 24 days, while others could be reached in a process in which fish from the Spratly Islands settle on intermediate reefs and then pass in a second generation to the coast. This finding indicates the importance of the water area of Spratly Islands for conservation.

During the period 2000 to 2002, the WorldFish Center, along with Academia Sinica Taiwan and institutional partners from other neighboring countries, organized a collaborative project to examine interreef connectivity patterns by analyzing genetic groupings among marine organisms. The results showed that each genetic subgroup may include portions of the Spratly area.¹³ This was consistent with the idea that juvenile pelagic fish could be transported from the Spratlies to rejuvenate dwindling populations around the region, including the reefs of Taiwan.

There have been many reports emanating from other investigations of the South China Sea, but few have focused on the Spratly Islands or specifically on Taiping Island. Thus, it is

also difficult to sort out the species of marine animals or plants from which collections were made. The *Raffles Bulletin of Zoology* from Singapore has devoted two issues to the South China Sea biomes and biodiversity.¹⁴ They included comprehensive species checklists of marine fauna and flora as well as papers with newly recorded species.

Types and Severity of Threats

The South China Sea is the site of major fishing operations. According to the Global International Waters Assessment (GIWA), “Regional Assessment 54 South China Sea,” the South China Sea ranks fourth among the world’s 19 fishing zones with regard to total annual marine production.¹⁵ However, unsustainable exploitation of fish has led to difficulty in finding adult fish of heavily exploited species in the region. China estimated that the total fishery production in the Spratly Islands was less than 7000 tons each year, about 0.3 tons per square kilometer.¹⁶

Between 1980 and 1990, the Taiwan Fisheries Research Institute collected harvests from experimental and commercial fishing vessels, and published reports on the fisheries potential and the situation in the Spratlies. For example, Wu investigated the marine environment, biological resources, and fishery resources around Taiping Island.¹⁷ Chi and Huang both inventoried the fisheries of the Spratly Islands with the records of 20 families (72 species) and 45 families (245 species) of fishes.¹⁸

Since 1985, China, Vietnam, and the Philippines have upgraded their fisheries in the Spratly Islands to include large-scale explosive and cyanide fishing operations that have depleted the resources at a high speed. Additionally, the El Niño conditions in 1998–1999 and 2007–2008 caused short-term increases in water temperature, resulting in widespread coral bleaching and subsequent mortality. The combination of destructive fishing and coral bleaching has created a serious threat to the reef resources of the area.

Being bordered by some of the world’s most rapidly industrializing countries, as well as being located amid some of the world’s busiest shipping lanes, has proven detrimental to the island ecosystems in many ways. Concerns with political disputes, maximizing economic growth, and ensuring adequate energy supplies have taken precedence over the preservation of the bordering nations’ common maritime environment. Although it is effectively the oceanic hub of Asia’s industrial revolution, the Spratlies and other South China Sea islands have been and are being degraded by physical disruption of native flora and fauna, by overexploitation of natural resources such as guano and turtles, and by severe environmental pollution.

Marine Protected Area Development and Regional Cooperation

The Convention on Biological Diversity targets the establishment of 10% of marine protected area coverage throughout the world by 2012.¹⁹ With regard to the Spratlies, trans-boundary protected area arrangements have often been proposed. There is a well-established precedent for these, although they are primarily in the form of parks on land. In 1988, the Commission on National Parks and Protected Areas of the International Union for the Conservation of Nature (IUCN) listed 70 protected areas in 65 countries that straddle national borders.²⁰ In 2007, there were 227 complexes surveyed by the United Nations Environment Programme (UNEP), including both terrestrial and marine.²¹

The conflicting territorial claims over parts of the South China Sea have not totally dampened cooperation among the claimant countries. Cooperative activities in the fields of marine scientific research, environmental protection, and defense are regularly carried out

on bilateral or multilateral bases. These have included two major expeditions in 2002 and 2004 under the auspices of the South China Sea Workshop series²² and a joint scientific expedition between Vietnam and the Philippines in 2006. These and other studies are believed to have contributed to a certain degree of stability in the area as “confidence-building exercises,” and gathered valuable information on the area’s natural resources. The important question, however, is whether the present level of cooperation can be enhanced and extended to ensure natural resource stability in the South China Sea.

One option for regional cooperation that has often been proposed is the initiation of a Large Marine Ecosystem (LME) study. The LME concept was developed by the U.S. National Oceanic and Atmospheric Administration (NOAA) to agglomerate consensus, and to monitor and assess the changing of the world’s coastal ecosystems. It is widely recognized that such an international cooperative study would improve international relationships and facilitate knowledge-based management of the South China Sea, although no such study has yet been initiated in the region.

Examples of Regional Joint Programs

The Philippines-Vietnam Joint Research in the South China Sea, 1996–2007

In 1994, the Presidents of the Philippines and Vietnam signed a bilateral agreement to conduct a Joint Oceanographic and Marine Scientific Research Expedition in the South China Sea (JOMSRE-SCS). After 11 years of research, the findings on marine biodiversity showed that the Spratly Islands could be a source of coral propagules for destroyed reef areas in the southern and western Philippines. However, the densities of marine species associated with offshore coral reefs were found to have been drastically reduced, particularly in shallow waters where blast and poison fishing are common. The biomasses of target fish species in 2007 had been reduced to approximately one-third of their levels in the late 1990s. This project not only provided strong evidence that heavy exploitation of the fishery resources has occurred in the South China Sea, but also demonstrated a cooperative governance mechanism for larger-scale research, safety navigation, and conservation.²³

UNEP/GEF South China Sea Project, 2002–2008

The UNEP/Global Environment Facility (GEF) funded the project Reversing Environmental Degradation Trends in the South China Sea and Gulf of Thailand, which involved a partnership of seven countries bordering the South China Sea (Cambodia, China, Indonesia, Malaysia, the Philippines, Thailand, and Vietnam). The project consisted of 59 organizations as a “networked institution,” plus around 100 subcontracted institutions and more than 400 institutions involved through individual participation. An important by-product of this project is an interactive project Web site that serves as an information portal for 1,800 relevant documents and a metadatabase containing 1,428 entries.²⁴

Coral Triangle Initiative

The Coral Triangle Initiative is an intergovernmental, multiply-sponsored, coordinated effort to improve the management of coral reefs and related resources.²⁵ It covers a triangular area previously determined to be high in coral diversity, encompassing Indonesia, the Philippines, Timor Leste, Papua New Guinea, and the Solomon Islands. The total area is approximately 18,000 square kilometers and includes, for many groups of organisms, the

richest species diversity in the world. This area hosts more than 600 species of coral, over 3,000 species of fish, and the world's largest mangrove forests.

The objective of the initiative is to protect the region's marine resources for future generations. In May 2009, six heads of State from the region met in Manado, North Sulawesi, Indonesia and signed a declaration approving the Coral Triangle Initiative.²⁶ Although there is no legal enforcement power, the whole process is based on strong political will among neighboring countries.

The Spratly Islands is located at the border of the Coral Triangle Initiative area as presently defined. Because of the demonstrated potential influence of the Spratly Island reefs on coral reef ecosystems within the initiative area, it would be rational to extend initiative resources to improve their protection. However, the sovereignty complexity and lack of research data might be an obstacle preventing this important archipelago from being included in the initiative's activities.

The Proposed Spratly Islands Marine Peace Park

The term *peace park* does not necessarily imply that it is sited within an area in conflict, although the term does indicate a propensity for this kind of protected area to reduce violent conflict and bring more harmony to a region.

The IUCN defined *parks for peace* as: "Transboundary protected areas that are formally dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and to the promotion of peace and cooperation."²⁷

During the past century, many peace parks have been established around the world. The first was established between Canada and the United States in 1932, and named the Waterton-Glacier International Peace Park. Another milestone was the Red Sea Marine Peace Park, one of the most well-known examples of a marine peace park. The term refers to an area in the northern Gulf of Aqaba in which Israel and Jordan have developed a binational partnership to share natural resources and confront ecological pressure together. Some aspects of this park are under further development, including an extension into Egypt.²⁸

In the South China Sea, the Spratly archipelago is characterized not only by territorial claimant disputes, but also by the multifaceted importance of waterways, fisheries, tourist value, and possible deposits of hydrocarbons. The process of gathering consensus among claimant countries is troublesome. Valencia et al. summarized the political situation and proposed various scenarios of international cooperation in the area.²⁹ They expressed the concern that making the whole area a marine park might be difficult because of, in addition to strategic military concerns, the strong interest in exploiting oil in the area. However, Townshend-Gault, summarizing the results of an international workshop on the South China Sea, pointed out that there was little evidence that substantial, economically extractable oil actually exists in the area, and reemphasized that the protection of the natural resources of the Spratly Islands was vital to maintaining fisheries and economically important ecosystems throughout the coastlines of the entire South China Sea.³⁰ Valencia and van Dyke replied, clarifying the view expressed in a 1997 book that the concerns about exploitation of oil were secondary to sovereignty and the strategic significance of the Spratlies in general.³¹

Strategic concerns and vague possibilities of hydrocarbon deposits have led each country in the region to station troops in the area, resulting in occasional violent confrontations and environmental stress. The feasibility of establishing a Marine Peace Park when originally proposed was enhanced by the high cost of military maintenance in the area. As

suggested by Valencia et al., confidence-building activities are important and could lead to a lessening of regional tension and to increased regional support for the marine park.³² Scientific collaboration and the further development of economic trade would be helpful. In some cases, it might be easier to set up informal international activities by sponsoring participation in scientific and conservation activities by nongovernmental organizations (NGOs), rather than to concentrate efforts solely on sponsoring participation by representatives of governmental agencies. A concept for a full-area Spratly Island Marine Peace Park, which may have sounded unrealistic in 1994, gained substantial credibility by 2009 in a world that had come to understand the value of this approach.³³

Following up on suggestions from previous investigators, McManus suggested that a treaty for the Spratlies might follow the leads of the 1959 Antarctic Treaty³⁴ and the 1978 Torres Strait Treaty³⁵ for raising the flag of truce and freezing ownership claims for a definite period, such as 50 years, with an option for review and indefinite renewal.³⁶ A possible management strategy might include five elements: (1) an international board of directors, (2) a contracted research and management institution, (3) a private ranger/air-sea rescue force, (4) tourism facilities, and (5) research facilities and programs.

The engaged countries would provide representatives and form a board of directors. A scientific research group with the extra function of planning for international collaboration on research programs in the area would be a good first step. Park management would involve monitoring activities in order to head off possible deterioration from such things as regional oil spills from tanker incidents, or diminishing supplies of larvae from other areas. An international organization might be contracted to oversee management and conduct activities such as air-sea rescue, charting, channel marking, and antipiracy enforcement. These suggestions are generally in keeping with the multiuse cooperation scenario presented in Valencia et al.,³⁷ with the exception of replacing their suggested “managed multi-use approach” with the more natural resource and regional fisheries protection oriented and tourism industry supportive full-area marine peace park.

Taiwan’s Role in Working Toward a Spratly Island International Marine Peace Park

Taiwan’s policy toward the South China Sea sovereignty was considered self-restrained and moderate from the 1970s to 1990s. In 2000, jurisdiction of the islands of the South China Sea shifted from the Ministry of National Defense to the newly established Coast Guard Administration, which is considered a law enforcement agency under the administration of the Executive Yuan. In 2007, Tungsha (the Pratas Islands) National Marine Park became the seventh national park in Taiwan. In 2008, former President Chen Shui-bian announced the Spratly Initiative at the opening ceremony for the airstrip on Taiping Island.³⁸ He was Taiwan’s first President to set foot on Taiping Island. The Spratly Initiative is an ecofriendly invitation toward surrounding countries to cooperate in regional environmental protection and sustainable development.³⁹ President Ma also announced a marine policy to gradually open the South China Sea and cooperate with international conservation organizations for a Marine Peace Park in order to enhance positive interaction with neighboring countries, and to conserve ecosystem and cultural heritages.⁴⁰

Neither a member of the United Nations nor of the Association of Southeast Asian Nations (ASEAN), Taiwan cannot join the Convention on Biological Diversity (CBD),⁴¹ the Law of the Sea Convention,⁴² and any other major political international organizations, except APEC and the International Council for Science (ICSU). This diplomatic impediment has limited Taiwan’s participation in many international collaborations. However,

Beckman highlighted the importance of Taiwan's participation in regional cooperation because Taiwan occupies the largest island and is a major fishing entity in the South China Sea.⁴³ Recently, the relationship between Taiwan and China has greatly improved. In 2002, China and the ASEAN countries signed the breakthrough Declaration on the Conduct of Parties in the South China Sea,⁴⁴ which has helped to make the South China Sea relatively calm and peaceful. The signing in 2010 of the Economic Cooperation Framework Agreement (ECFA) between Taiwan and China⁴⁵ may give Taiwan a better chance to promote the Spratlies as an international Marine Peace Park.

Given Taiwan's significant capacity for biodiversity research, the following priorities are recommended for further activities.

1. Creating a taxonomy and compilation of fauna and flora of the South China Sea.
2. Establishing a long-term ecological research and monitoring program, including a centralized information portal that will make all data widely accessible in a Geographic Information System (GIS) format with real-time remote sensing data, links to onsite sensors and video systems, and the ability for users to explore scientific hypotheses and management action scenarios via online simulation systems.
3. Undertaking ecological community studies of both terrestrial and marine organisms as well as their metapopulation relationships such as the dependence of one reef system on the larvae washed in from a downstream reef (connectivity).
4. Conducting phylogeographical studies on selected groups of organisms (e.g., the relationships among taxonomic groups and their spatial distributions).
5. Undertaking population studies for certain important species in South China Sea.
6. Engaging in fishery resource analyses and simulations to guide sustainable use and conservation biology.
7. Ensuring other database integration, including links to the Catalog of Life (COL), Barcode of Life (BOL), Encyclopedia of Life (EOL), Tree of Life (TOL), ReefBase, FishBase, and expert's name lists.
8. Studying the effect of climate change on marine biodiversity, ecological connectivity and fisheries in the South China Sea.

The establishment of state-of-the-art marine stations at several islets would greatly facilitate the long-term research needed to unravel the complexities of South China Sea ecology. Sufficient research facilities and equipment including dry and wet labs, living accommodations, diving boats, and wireless Internet access will be essential to support this research. The research at these stations would benefit greatly by being open to international visiting scientists. As with the scientific exchange provisions of the Antarctic Treaty, a system for freely exchanging specimens, physical oceanographic observations, and ecological distribution data should be established based on agreements among collaborating countries. Gradually, opposing military installations could be supplanted with collaborating scientific research laboratories. Military and political disputes should be supplanted with scientific debates and jointly agreed, effective, natural resource management. Ultimately, it is envisioned that, under the guidance of an international natural resource management authority, any scientist or tourist would be able to enter any part of the Spratly Islands, passing in freely on vessels and aircraft from any international destination, and then move on to any other destination with no more difficulty than is found in traveling among the nations of the European Union.

Conclusion

The Spratly Islands have considerable ecological and biodiversity value, both intrinsically, and as the source of larvae for coastal ecosystems throughout the South China Sea. Sovereignty disputes have limited the implementation of effective measures to protect these resources from overexploitation and destructive fishing. Recently, strong support from some, including the Government of Taiwan, has spurred renewed interest in the incorporation of the islands and surrounding waters into an international Marine Peace Park. Agreements associated with this park would include a freeze on claims and claim-supportive activities for a specified but renewable period of time, thus easing tensions and facilitating collaborative research and resource management activities. Whether it is achieved via a single agreement, or via the accumulation of nationally declared parks into a coordinated network, a Spratly Islands International Peace Park would be an achievement of considerable regional and global significance.

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Annex 290

Justin Corfield, "South China Sea" in *Seas and Waterways of the World: An Encyclopedia of History, Uses, and Issues*, Vol. 1 (J. Zumerchik and S. L. Danver, eds., 2010)

SEAS AND WATERWAYS OF THE WORLD

An Encyclopedia of History, Uses, and Issues

VOLUME 1

John Zumerchik and Steven L. Danver, Editors

A B C  C L I O

Santa Barbara, California • Denver, Colorado • Oxford, England



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Library of Congress Cataloging-in-Publication Data

Seas and waterways of the world : an encyclopedia of history, uses, and issues / John Zumerchik and Steven L. Danver, editors.

p. cm.

Includes bibliographical references and index.

ISBN 978-1-85109-711-1 (hardcover : alk. paper) — ISBN 978-1-85109-716-6 (ebook)

1. Waterways—Encyclopedias. 2. Seas—Encyclopedias. I. Zumerchik, John.
II. Danver, Steven Laurence.

HE381.S43 2010

387.5'203—dc22 2009016185


ISBN: 978-1-85109-711-1

EISBN: 978-1-85109-716-6

14 13 12 11 10 1 2 3 4 5

This book is also available on the World Wide Web as an eBook.
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130 Cremona Drive, P.O. Box 1911
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This book is printed on acid-free paper 

Manufactured in the United States of America

Political controversy also dogged the construction of the massive Itaipu Dam on the borders of Paraguay and Brazil, generating most of the electrical power for Paraguay, and also for large sections of Brazil. The awarding of contracts in Paraguay by the Stroessner government was widely criticized. The only other major dam in South America is the Guri Dam in Bolivar State, Venezuela, constructed to generate hydroelectricity. Work started in 1963 but it was not finished until 1978, and a second dam was completed nearby in 1986.

JUSTIN CORFIELD

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SOUTH CHINA SEA

The South China Sea is part of the Pacific Ocean, covering the region between southern China, Vietnam, Thailand, the east coast of West Malaysia, Singapore, East Malaysia, Brunei and the western coast of the Philippines Archipelago. Traditionally the Chinese called it *Nan Hai* ("Southern Sea"), the Vietnamese called it *Bien Dong* ("Eastern Sea"), and some in the Philippines referred to it as the *Dagat Luzon* ("Luzon Sea"). There are a number of islands within the sea, the most well known being the Spratly Islands, which were the subject of competing sovereignty disputes in the 1990s.

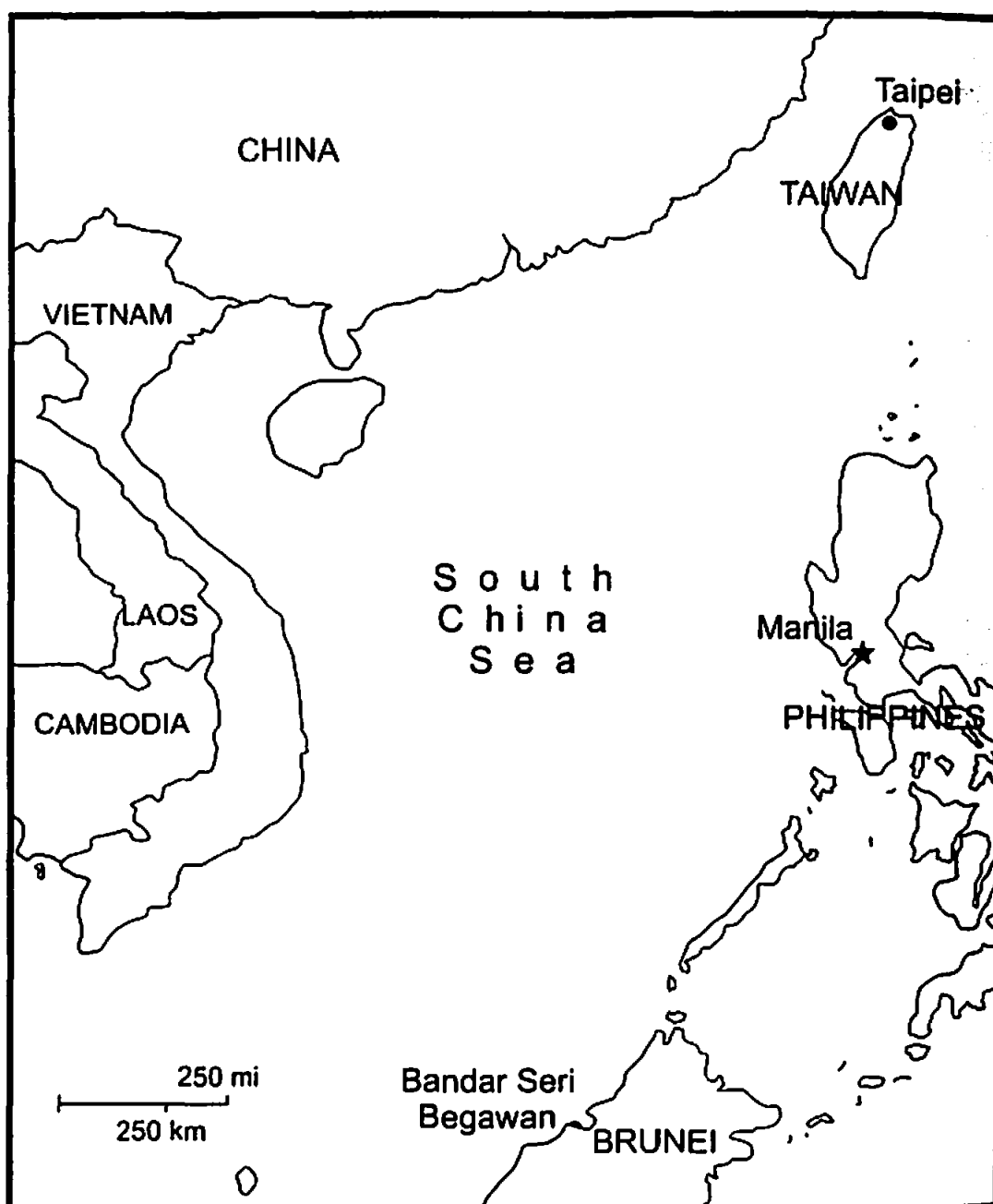
The South China Sea saw much seafaring in ancient times, with the port of Oc-Eo as the likely capital of the Empire of Funan, a precursor of the Cambodian Kingdom of Angkor, although it is believed that it was centered on the Mekong delta in modern-day Vietnam. Many of the kingdoms that flourished around the South China Sea in medieval times maintained significant navies. The Kingdom of Champa, which flourished in modern-day central Vietnam from the 7th century, was a large maritime power. Sailing down the coast of Vietnam, and up the Mekong River in 1165, they defeated the Khmers at Angkor. The Sultanates of Sulu and Brunei, both on the island of Borneo, also depended heavily on maritime trade. The Mongol navy crossed the northern part of the South China Sea in 1285 to attack Vietnam, and crossed the central part of the sea in 1292–1293 on an expedition to Java. In southern China, seafaring was also very important, with Hainan Island becoming well known for piracy.

With the arrival of European traders, Portuguese caravels used the South China Sea to connect their base in Malacca with their trading post at Macao, and later to Formosa (modern-day Taiwan). In 1642, after the Dutch captured Malacca, they also used the

SOUTH CHINA SEA

South China Sea to trade with Zeelandia in Taiwan, with both the Portuguese and the Dutch starting a profitable trade with Nagasaki in Japan. Japanese ships, especially those of pirates, also started to make heavy use of the South China Sea by the 16th century, with Japanese merchants establishing the port of Faifo (modern-day Hoi An, Vietnam). This, however, ended in 1637 when the Japanese were ordered to return, and international trade was forbidden.

By the late 18th century, British traders started to regularly use the South China Sea, which increased dramatically with their occupation of Malacca, and in 1842, with the settlement of Hong Kong. During this period some traders managed to make large fortunes, and in 1841 one trader in particular, James Brooke, was appointed as the Rajah



Map of the South China Sea

of Sarawak. With piracy also increasing, later in the 19th century, European powers, particularly Britain and France, launched major attacks on pirates and their bases. A joint French-Spanish force attacked Tourane (modern-day Da Nang) in 1858, leading to a major increase in French interest in Vietnam, which was taken over between 1867 and 1887. Many Chinese traveling to Australia for the gold rush of the 1850s, and also to Southeast Asia, traveled through the South China Sea.

During the Sino-Japanese War, the Japanese Navy used the South China Sea to attack ports in southern China, and their forces sailed from Taiwan to attack Malaya, the Philippines, and northern Borneo in December of 1941. The only major sea battle in the first stage of the Pacific War in the South China Sea was the attack on, and the sinking of the HMS *Prince of Wales* and HMS *Repulse* on December 10, 1941, signifying an end of British imperial power in the region. Towards the end of the war, the U.S. Navy used the South China Sea for landing on Luzon in January 1945, and a combined Allied force retook Brunei in June 1945, with British forces sailing to Saigon (modern-day Ho Chi Minh City) in September 1945 to secure it for the return of the French.

After World War II, the U.S. 7th Fleet, based at Subic Bay in the Philippines (closed in 1992), dominated the South China Sea, with many operations in Vietnam, including the Gulf of Tonkin incident on August 2, 1964, involving use of the sea. During the 1990s, the Spratly Islands, which cover about 100 small islands and reefs, were subject to competing claims in their entirety by the People's Republic of China, the Republic of China (Taiwan), and Vietnam, with the Philippines and Malaysia also claiming portions. This led to some of these countries basing troops in some of these islands, with Brunei establishing some of the sea as a part of its fishing zone. Because there also was the discovery of oil in the region in 1968, tensions among the countries will continue as all parties realize the economic and military significance of the South China Sea.

JUSTIN CORFIELD

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ST. LAWRENCE SEAWAY

The St. Lawrence Seaway connects the Great Lakes to the Atlantic Ocean via the St. Lawrence River and the Gulf of St. Lawrence. It was built in order to bypass the rapids on the St. Lawrence River as well as large obstructions such as Niagara Falls. In the process of traveling from Montreal to Lake Erie ships are elevated about 552 feet. The St. Lawrence

Annex 291

Luis H. Francia, *A History of the Philippines: From Indios Bravos to Filipinos* (2010)

A
HISTORY
OF THE
PHILIPPINES

From Indios Bravos to Filipinos

LUIS H. FRANCA



THE OVERLOOK PRESS
New York

First published in hardcover in the United States in 2010 by

The Overlook Press, Peter Mayer Publishers, Inc.

141 Wooster Street

New York, NY 10012

www.overlookpress.com

For bulk and special sales, please contact sales@overlookny.com

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Cataloging-in-Publication Data is available from the Library of Congress

Book design and type formatting by Bernard Schleifer

Manufactured in the United States of America

ISBN 978-1-59020-285-2

FIRST EDITION

3 5 7 9 10 8 6 4 2

honey, and cloth for beeswax—forest products that could be retailed to foreign traders. (At times, lowlander and highlander were at each other's throats, but never so habitually or bitterly as to prevent trading.) That water played a central role in the lives of the islanders can be further gleaned from the names of both places and tribes. For instance, Mindanao has its etymological roots in *danao*, referring to a body of water. The same is true of Lanao, Maranao, and Maguindanao. Tausug, the name of the major ethnic tribe in the Sulu archipelago, means “people of the current,” with “Tau” a variant of “tao” or person. Tagalog, the name of the ethnic group predominant in Central Luzon and parts of Southern Luzon, means literally “from the river,” or *Taga-ilog*. And the city of Manila, located in the Tagalog region, is a shortened form of the original *Maynila*, “place of water lilies.” Similar aquatic correlations attend other place names, such as the province of Pampanga (“site of river banks”) in Luzon and, in Mindanao, the Agusan River, with “agusan” meaning “where the water flows,” rendering the English name linguistically redundant.

Whether coastal, riverine, or hinterland, the different communities developed ways of living that—influenced by fertile soil, infrequent harsh weather, and a uniform ecology—were quite similar. As the Philippine historian Onofre D. Corpuz observed, “The generally benign tropical climate and the largely uniform flora and fauna favored similarities, not differences.” However, reflecting island geography, pre-colonial Philippine society was not an unbroken, homogenous entity. It is therefore more accurate to speak of “societies,” though there were enough similarities among these to indicate common origins and an archipelago-wide interaction, from north to south, from west to east. Interestingly, according to William Henry Scott in *Barangay*, the similarities “also suggest that lowland Filipinos in the sixteenth century had more in common with highland minorities in the twentieth than with their own Christian descendants”—an indication of how the intervening centuries of Christian colonization of the lowlanders widened the heretofore inconsequential gap between them and the highlanders.

Hierarchy

Native societies, as the Spanish found them, were, like Caesar's Gaul, divided into three parts: the ruling elite, their peers and followers, and slaves. (It must be kept in mind that most descriptions and judgments

of a pre-colonial Philippines are mainly derived from Spanish accounts, with all that that implies in terms of a priori notions stemming from the observers' own Christian and European backgrounds.) The social structures that existed in both the Visayas and Luzon were remarkably similar, consisting of the *datu* and the *maginoo* at the top, the *timawa* and *maharlika* in the middle, and, occupying the bottom rungs, the *alipin*.

The smallest politico-social unit was the *barangay*, which, as has been noted, originally referred to the seagoing vessel on which a family or clan traveled. Usage of the term for land-based settlements indicated that the settlers favored a location by a body of water, be it river, lake, or ocean. Most *barangays* were small, consisting of only thirty to one hundred houses, with from one hundred to five hundred persons. Off the trade routes but still on the coast were even smaller settlements, probably no more than eight to ten houses. Still, there were some giant *barangays*. Maynila, for instance, had two thousand inhabitants at the time of Spanish conquest, while Cebu and the sultanates in Sulu and Mindanao were comparable in size, if not larger. But these bigger *barangays* were the exceptions rather than the rule.

A *datu* headed the *barangay*, with each *barangay* more or less self-contained, though there were occasionally alliances among various *barangays*. There were no formal allegiances beyond the *barangay*, except in the Muslim settlements to the south. Relations within the *barangay* were largely influenced by kinship ties on both parents' sides and by economic status. Members of the original *barangay*, having traveled on the same boat, would have been part of the same clan. Blood ties were thus of the utmost importance, for they guaranteed fealty to the *barangay*. Alliances between two chiefs of different *barangays* would often be sealed through a blood compact, where each would drink wine mingled with the other's blood—or suck the blood directly from a cut made on the arm of the other. Simulating blood ties, the rite was called *sandugo* (or “one blood”). To the Spanish, this *barangay* ritual must have been an eerie reminder of the Eucharist, the Christian sacrament based on a belief in transubstantiation, the conversion of bread and wine into Christ's body and blood, communicants becoming one with the Divine, one reason that the Spanish may have taken readily to this ritual.

Hence, the *barangay* was essentially an extended family, a gathering of a particular clan. Well into the mid-eighteenth century, with the

Expeditions . . . and Spanish Colonial Rule 59

scious of the Spanish, the rajah rejected these, and inevitably fighting broke out. Goiti emerged triumphant and Maynila was burned to the ground. On the departure of the Spanish for Panay, however, Suleiman and his men returned to rebuild the port. The next year, 1571, the Spanish returned, this time with Legazpi himself in command of a larger force that included twenty-seven boats (most supplied by the Visayans), 280 Spaniards, and a contingent of pintados, or Visayan warriors. Rather than yield, Suleiman ordered Maynila razed once more. Later on Suleiman would assemble a coalition of like-minded datos from barangays in nearby Bulacan and Pampanga, but the native force was decisively defeated. With Suleiman's defeat, on June 3, 1572, Maynila was designated the seat of Spanish power in the islands, its name streamlined to Manila.

Strategically located and fronting a magnificent bay with a natural, deep-water harbor, Manila was granted a royal charter, which described it as the "distinguished and ever loyal city of Manila." Inhabitants of the new city were to be limited to Spaniards. In the process of this gentrification-cum-segregation, the native residents—disparagingly called "Indios"—were forced to resettle elsewhere. Manila was to become the capital of the newest colony, made up of Luzon, Visayas, and parts of Mindanao. While the colony was formally named "El Nuevo Reyno de Castilla," most preferred the easier-to-say Filipinas, and that is what stuck.

Acquiring its own coat-of-arms, Manila was planned as a European-type city, with a grid of streets and a main plaza, around which were to be the cathedral and various important public edifices. Sites were designated for monasteries, schools, and hospitals, as well as for a fort (the extant Fort Santiago), which would have its own smaller plaza. By 1603, formidable stone walls and a moat encircled the city, hence the name of Intramuros. By then there were approximately 600 houses within, while another 600 houses were located without. One estimate of the archipelago's population at the time put it at close to a million—a low-population density (Sumatra alone had a population of 2,400,000). Probable causes of this were the agricultural labor expected of women, abortion, disease, and warfare.

With Manila now in Spanish hands, and with smaller Spanish settlements in Cebu and Panay, Legazpi turned to the business of expanding and consolidating Spanish sovereignty. His intrepid grandson Juan

Annex 292

Robert Parthesius, *Dutch Ships in Tropical Waters: The Development of the Dutch East India Company (VOC) Shipping Network in Asia 1595-1660* (2010)

Dutch Ships in Tropical Waters

*The development of the Dutch East India Company
(VOC) shipping network in Asia 1595-1660*

Robert Parthesius

ii

AMSTERDAM UNIVERSITY PRESS

Founded in 2000 as part of the Faculty of Humanities of the University of Amsterdam (UvA), the Amsterdam Centre for the Study of the Golden Age (*Amsterdams Centrum voor de Studie van de Gouden Eeuw*) aims to promote the history and culture of the Dutch Republic during the 'long' seventeenth century (c. 1560-1720). The Centre's publications provide an insight into the lively diversity and continuing relevance of the Dutch Golden Age. They offer original studies on a wide variety of topics, ranging from Rembrandt to Vondel, from *Beeldenstorm* (iconoclastic fury) to *Ware Vrijheid* (True Freedom), and from Batavia to New Amsterdam. Politics, religion, culture, economics, expansion and warfare all come together in the Centre's interdisciplinary setting.

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Cover illustration: C.P. Mooy, *VOC ships at the Cape of Good Hope*, Amsterdams Historisch Museum.

Cover design: Kok Korpershoek, Amsterdam

Layout: Japes, Amsterdam

ISBN 978 90 5356 517 9

e-ISBN 978 90 4850 123 6

NUR 682 / 685

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in Asia but did not have a firm basis of operation to work from, the problems they encountered to combine trade and military actions are apparent. It is interesting to note that in this period the Governor-General often operated from the Spice Islands, using this area as the centre for political and military decision making; while the Director responsible for shipping and trade had his base in Bantam on the island of Java, a more central location that was accessible the year round.

A so-called *retourvloot* (returning fleet or homeward bound fleet) sailed back to the Netherlands annually. At first, ships sailed back alone or in small fleets, but later the VOC organised the return voyages in larger fleets only. Around 1610, various ships had to abort their return trip to Europe or were even lost, because of their poor condition after their long service in tropical waters. Initially, the VOC directors were in favour of sending ships to Europe as soon as they were loaded, thus avoiding further weakening of the ships that had already been in the tropical waters for a long time. Soon they realised that better regulations could create greater advantages. Sailing in a fleet provided better support in the event that ships lost part of their rigging, were leaking or ran into other problems during their trip over the Indian and Atlantic Oceans. Around 1620 those problems were mostly solved because the ships were better adapted to their more specialist function and they also had a faster turn-around time in Batavia. They were not often employed to sail on an intra-Asiatic route before they sailed home, as was common before 1620. However, ships were still sent in convoy for mutual assistance but above all to make sure that all skippers stuck to the agreed route and sailing scheme that would bring the ships back in Europe before the Autumn.

The VOC's administration in Batavia endeavoured to dispatch a fleet around New Year for arrival in the Netherlands in the European summer. This was not an easy task since they had to deal with many variables, such as gathering the return cargo, planning the supply from the various trading posts and allowing enough capacity to ship the goods to Batavia. Shipping was organised in such a way that the various routes were synchronised; however, delays could easily occur as shipping routes were often subject to the monsoon. It frequently happened that the return fleet was delayed, waiting for other vessels to arrive from their various departure points. In the end, final decisions were based on economic considerations above regulations: to keep a fleet waiting created extra costs and risks, so sending the ships off on time was the usual choice. However, if cargo for Europe arrived too late from an Asian destination, storage in Batavia until the next return fleet meant more expenditure. The net result was that, although it was forbidden, ships were dispatched to Europe in the few months after the fleet had departed almost every year.

The decentralised organisation of the VOC and specific demands from the Netherlands made the job of the directors in Batavia even more complex. They had to make sure that the requested volume of cargo was transported, but also that the volume was divided between the ships of the specific Chambers (*Kamers*) of the VOC in the Netherlands. They had to endeavour to ensure that the cargo on a ship sailing back to Amsterdam, Zeeland or one of the other cities represented the correct ratio for the internal distribution of cargo. It was also important that the ships arrived in the Netherlands in the late summer, before the start of the stormy season, at a favourable time for the auctions but still with opportunities for ongoing transport connections within Europe.

An attempt to reorganise the Asian trade and shipping: 1620-1625

Developments up to 1620 laid the groundwork for the growth of an extensive network in Asia. In regions like the Spice Islands, the VOC was able to establish a firm position that allowed them to dictate trade and shipping. Governor-General Coen's determined objective was to extend his influence militarily into Spanish and Portuguese controlled areas, but it became clear that success would come at a price with ramifications for trade and shipping. It seems that the VOC had over-estimated its capabilities and was forced to make fundamental decisions about the organisation of trade and shipping in Asia.

As part of the (mutually reluctant) cooperation with the English, a 'fleet of defence' was sent to the Philippines in 1620. Although the booty captured from the Chinese junks was substantial, the combined action against the Spaniards was not very successful and the alliance soon broke up. Other VOC ships were then employed directly on the coast of China to break open the Chinese market. So, once again, fewer ships were available or suitable for regular trade. This situation became worse when attacks on Portuguese strongholds intensified again after the end of the truce that had lasted for 12 years. At the same time, expansion of the many trading posts was also responsible for a rise in operational costs. It was obvious by then that not all the VOC's ambitions could be fulfilled and that decisions had to be made to reduce costs. On Coen's advice, the VOC tried to concentrate on the shipping of cargo to Europe, leaving the intra-Asian trade to local traders and the private European operators. Even the monopoly on trade in the Spice Islands was no longer sacred. In a letter from 1621, Coen suggested to the VOC directors that Ambon could be used as an emporium where locals and traders from the Orient could bring items from the Chinese trade to be shipped to the Netherlands, thus relieving the VOC of many expenses. For other destinations, too, he hoped to arrange affairs in such a way that 'many Indians would sail for us and thus [that we], without investments and adventures, enjoy a fair amount of their profit' (Colenbrander 1919, p. 726).

Coen was reluctant to recommend that European private traders (*vrijburgers* or *vrijlieden*) operate in Asia because, in his opinion, this group consisted merely of 'scum'. Still the VOC could not ignore this growing group of *vrijburgers*, mostly former VOC employees who stayed in Asia after they had served their contracts. In order to organise the private trade for the future, Coen recommended establishing colonies of good officers and reputable families who would, together with slaves, be able to organise affairs in Asia (Colenbrander 1919, p. 795). His successor, Pieter De Carpentier, extended this policy to include the role of private traders and wrote to the VOC directors in the Netherlands: 'Liberate all trade also for the *vrijlieden*, except for the Spice Island, Paleacatte (Coromandel Coast) and the Chinese and Persian silk and indigo. Through a price policy and by force at sea, the trade should be directed to Batavia, which means that then many trade posts could be lifted' (Coolhaas 1960, p. 145). The initiative to set up this policy to stimulate a colony of *vrijburgers* with associated opportunities for free trade was taken by Coen before he left Asia for Europe in 1623. It was clearly not yet an official policy, but pending a formal decision, the developments were tolerated. On his return to the Netherlands, he was able to present his plans to the directors of the VOC for the restructure of the organisation in Asia onto a 'new footing'. Initially, Coen could count on sympathy for these plans and some of his suggestions were followed up. On the instructions of the directors in the Netherlands, large ships were only to be used for the return shipping between Europe and Asia, whilst yachts were to be used in Asia. Using these specific vessels, proportionally equipped by the VOC Chambers in the Netherlands, would also help the management in Asia to follow the proportional division of return-cargo between the various Chambers (Colenbrander 1919, p. 559). Coen also suggested opening a direct link with Surat and the Coromandel Coast from the European Chambers (Colenbrander 1919, p. 791). The directors followed this advice by sending several ships directly to Surat in this period.¹¹ As a consequence of this policy, most trading posts could be closed. Coen advised that only Surat, Coromandel, Japan and Solor should be continued – as long as the private traders did not take over the trade in sandalwood.

In 1623, the trading posts in Patani, Sangora (north of Patani), Siam, Cambodia and Atchin were closed. During this period, various initiatives by European private traders to develop shipping on these routes can be seen. For example, in 1625, *vrijlieden* sent various ships 'with special commission and permission' to places like Jambi, Siam and Patani to set up trade, and bring the most sought after food supplies to Batavia (Heeres 1896, pp. 135, 182). Even the trade to Coromandel was released by the VOC on condition that the private traders paid appropriate customs duty (Colenbrander 1919, p. 796).

Gradually however, opposition to these plans arose. Coen ended up in a highly political power game over his 'new footing' policy. The political arena included, apart from the *Heren XVII*, Reael as former Governor-General opposing the plans of his successor, a group of active *dolerende* (dissenting) shareholders, complaining officials in Asia and the Dutch government.

Under discussion was the question of whether private traders should be given access to infrastructure developed for the Asian trade that had been funded by investments made by the VOC shareholders and the Dutch state. Efforts by the government to get involved generally resulted in unwillingness by the VOC directors to bring the decision-making process to a conclusion. When Coen left the Netherlands in 1627 to serve his second term as Governor-General he was no longer seen as a promising talent who could reorganise the VOC organisation in Asia. Instead he was rendered powerless in his decision-making capacity when his proposal for the 'new footing' was finally turned down at the end of 1627. From then on the *vrijlieden* were banned from the most lucrative trade in Asia and the VOC would build further on intra-Asian trade that proved to be very profitable indeed.

The expansion of the VOC network up to 1660

After 1625 the VOC network in Asia was in place but it would still take many years and a lot of effort to establish the organisation that led to the strong position of the VOC in Asia. There was no systematic approach to this development. Progress was dependant on the local situation as well as the available means. An understanding of this progression is important for further analysis of VOC shipping to 1660.

The situation in the eastern region

The focus of the intra-Asiatic trade around 1630 remained the Spice Islands – Ambon, Banda and the Moluccas – in the eastern part of the Indonesian Archipelago. The eastern Banda Island group was the only place where nutmeg was grown and harvested in the 17th century. The original population of the island had been completely annihilated by the VOC and replaced by a newly imported populace who were only allowed to sell nutmeg and its by-product, mace, to the VOC. Ambon was the island from which the VOC tried to control the clove trade, which was much more difficult to regulate than nutmeg.

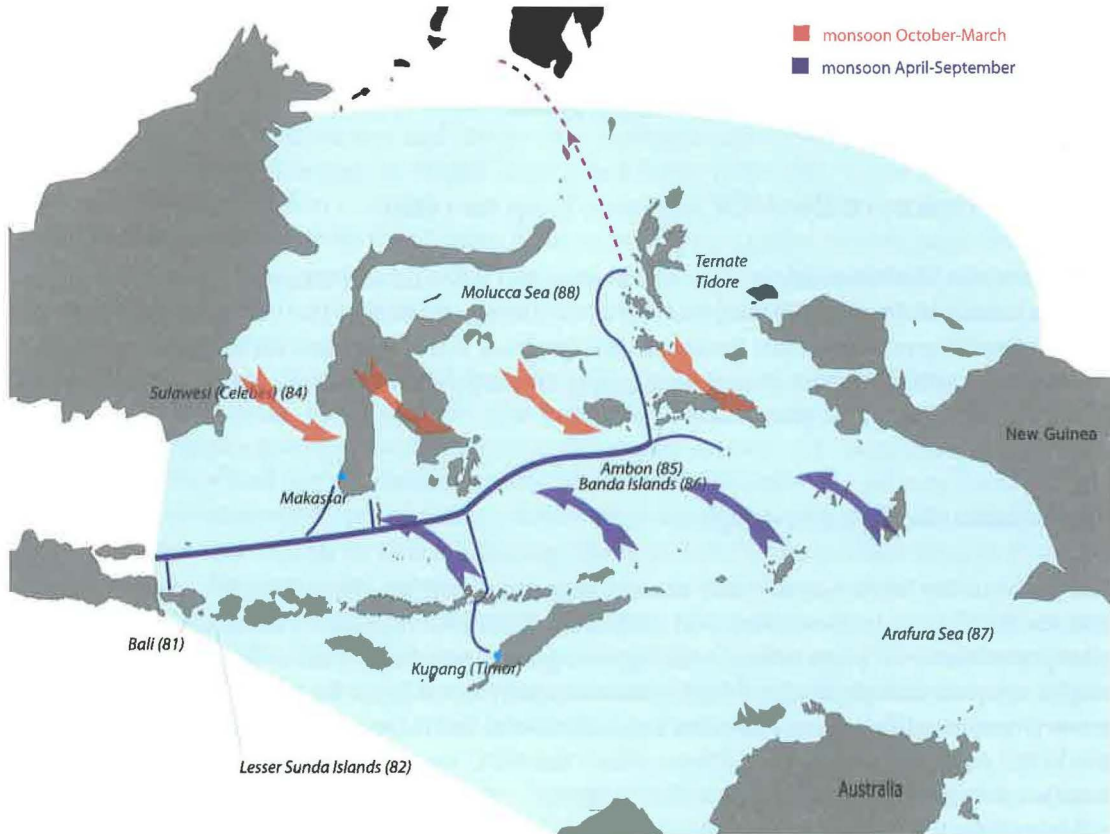
Most of the European return-cargo, besides pepper, came from this area. Sailing from Batavia to the Spice Islands was only possible between late October and early March. Return trips were only possible between April and early October. On this route Timor and Solor, close to Java, were separate destinations instead of stopovers.

Since this route to the Spice Islands was so important for trade and so monsoon-dependent, the VOC experimented with sailing off-season using smaller ships, or on an alternative route, south of Java or west and north of Sulawesi. These attempts never lead to regular, commercially feasible shipping off-season.

Before 1630, it was difficult for the VOC to enforce their desired monopoly over mace and nutmeg on the rulers and inhabitants of the Banda Islands. The VOC directors in the Netherlands were in favour of an aggressive policy but they hesitated to order a large-scale operation against the local rulers in this region. The effectiveness of a policy that did not have the cooperation of the local rulers was questioned (Coolhaas 1960, p. 63). In earlier days, the main strategy was to put a blockade on trade and shipping, which was, in itself, already harmful to the Banda islanders. However, after Coen was appointed Governor-General, things took a dramatic turn for the local population. In 1621 a military expedition consisting of 2000 soldiers overran the main centres on Banda. By replacing the existing inhabitants with a VOC selected population, the absolute monopoly on mace and nutmeg was achieved. The traditional island community ceased to exist.

For the monopoly on cloves, Coen followed another policy. Cloves were grown over a large area of many islands near Ambon (Ceram) as well as in the North-Moluccas. Coen negotiated a treaty with the ruler of Ternate, who had nominal authority over large parts of this area; this treaty was forced upon all his subjects and at the same time all clove shipments not exported by the VOC were declared illegal. In the 1620s, Coen organised the *hong*i expeditions¹² to destroy clove trees and other crops on the Moluccas. He had hoped to make the 'illegal' production of

cloves impossible. In practice, it turned out to be very difficult to control the region and the so-called illegal trade. On Ambon, the VOC forced the locals to assist in the *hongi-expeditions* and to sell the cloves on VOC conditions. The strategy failed and the result was a long-lasting state of war with the Ambonese. Eventually, in 1656 the VOC was able to achieve its goal of a monopoly over cloves but again only after first destroying the original population.



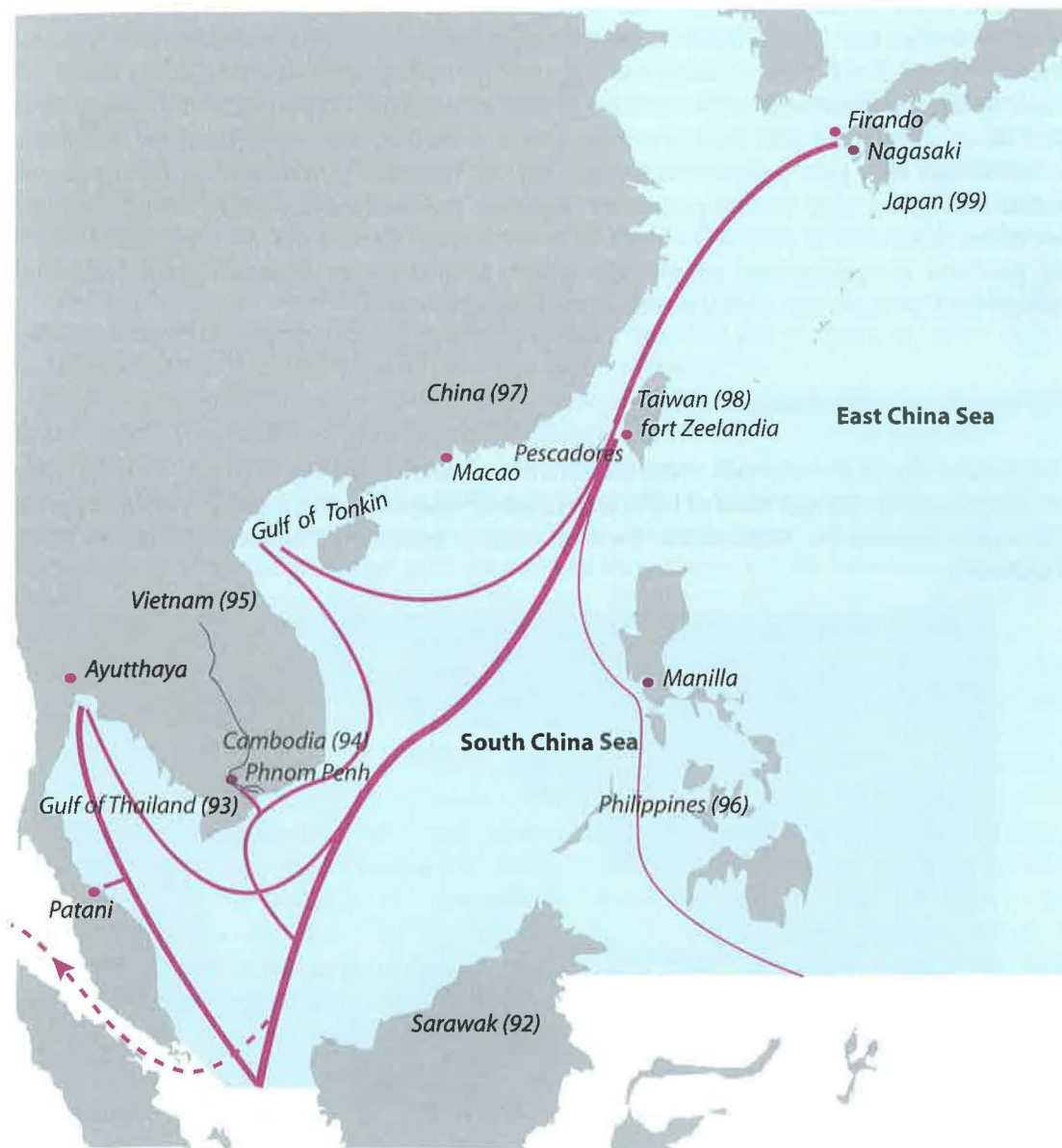
Map 3.1: The region of the Spice Islands indicating the routes and monsoon winds.

The north-eastern region: China, Taiwan and Japan

The 'Far East' included destinations north-east of Singapore around the South China Sea like Patani, Siam, Vietnam, the South Chinese coast and Taiwan with the Korean peninsula and Japan as the most distant. The Chinese market was another focus of the VOC right from the start of Asian shipping. Expectations for this market were high. The hope was that the silk trade with Japan would be sufficient to finance the whole VOC trade in Asia (Colenbrander 1922, p. 594; Colenbrander 1934, p. 322). A number of nations conducted trade in Chinese products. The Portuguese transported merchandise from Macao to the European market via Malacca and Goa. The Spaniards had their cargo transported by Chinese Junks to the Philippines from where it was shipped by galleons to Mexico. From the Mexican east coast it was taken over land to the west coast and over the Atlantic Ocean to Spain. The Chinese themselves traded directly with Indonesia and Malaysia. Portuguese, Spanish and Japanese traders were active along the coasts of Malacca via Siam and Vietnam to Japan.

The VOC wanted to trade directly with the Chinese but access to the Chinese market was very restricted (prohibited by the Ming court) and the Portuguese were also very successful in obstructing the Dutch attempts. On the first visit by the Dutch in 1601 the Portuguese, fearing for their position, had the Dutchmen hung on the pretext that they were pirates (NA 1.04.01, Voorcompagniën, 158). This pretence seemed to have been something of a self-fulfilling prophecy, since the Dutch realised that the best method to acquire Chinese merchandise was in fact

to capture the vessels, sailing for the Spanish and Portuguese, carrying these goods. Large profits were made from cargo captured from Chinese junks on their way to the Philippines. These captured products allowed the VOC an active role on the Japanese market, but excluded them from a direct link with the Chinese production areas.



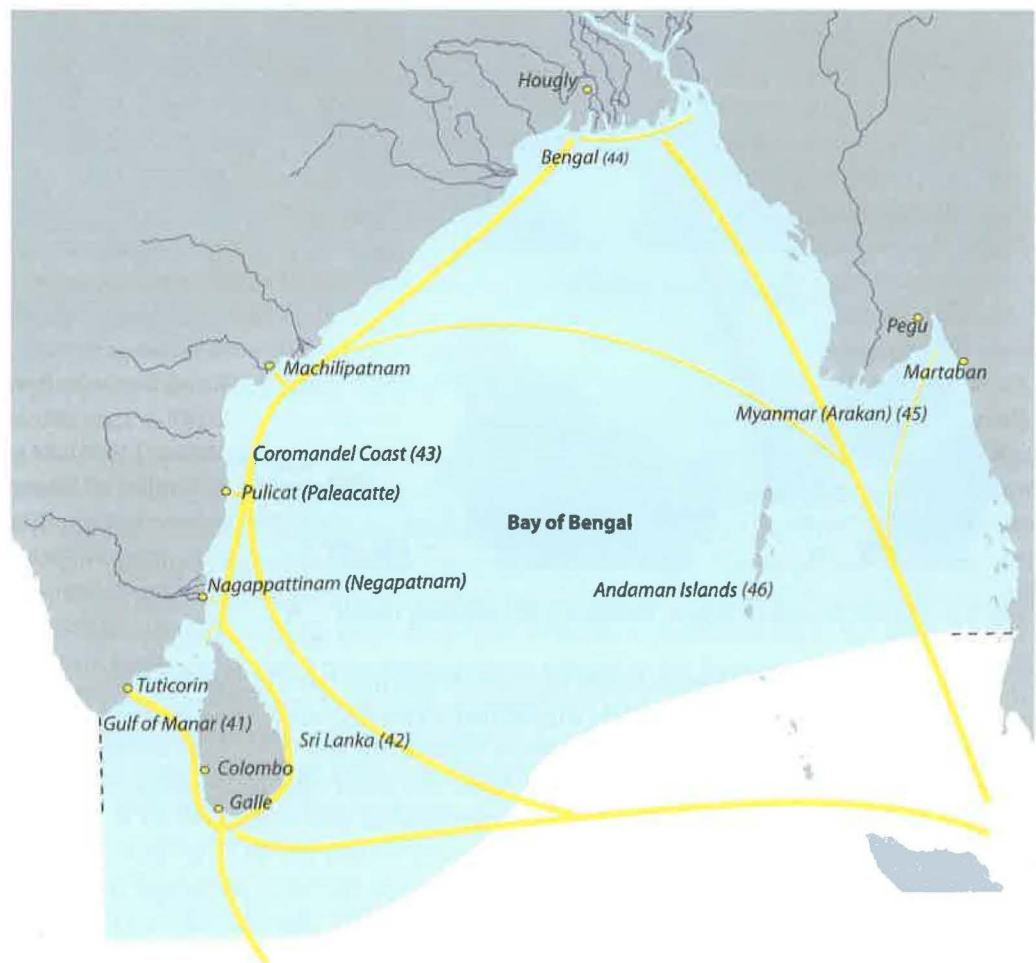
Map 3.2: The north-eastern region, indicating the shipping routes

The VOC followed an aggressive policy trying to break into the Chinese market. Confident due to the VOC successes at Banda, Coen dispatched a heavily armed fleet to the Far East. However, a raid in 1622 at Macao failed completely. Eventually, the VOC could do no more than try to set up a blockade at Macao and launch some scattered attacks on other locations on the Chinese coast. In 1624, a large Chinese fleet surrounded the established VOC stronghold on the Pescadores. The superior strength of the Chinese forced the VOC to move their centre of activities in this region to Taiwan (Formosa) from where the VOC continued their attempts to take part in the Chinese trade. In 1632 a last unsuccessful attempt was made to defeat the Chinese navy. Taiwan served for a substantial period as an indirect link to the Chinese market although officially the Chinese forbade this. However, supply was unreliable and subject to the vagaries of the political situation in China. Changes in the Chinese regime eventually forced the VOC from Taiwan in 1662.

From 1620 the Dutch gradually gained great economic strength through their position in Japan. Apart from a short period between 1629 and 1633, when the Dutch were in conflict with the Japanese authorities on account of Taiwan, the VOC was privileged above the other European nations. After the Tokugawa dynasty isolated itself from the outside world in 1639, they were the only Europeans allowed to trade with Japan. The Japanese authorities prohibited their people to travel to other countries. They were afraid that Japanese society would be contaminated by foreign (i.e. Christian) ideas. Since Chinese traders were also obstructed in both Japan and China, the Dutch were virtually the only foreign traders with access to Japan, under extreme restricted conditions (were confined to a artificial island off Nagasaki, Deshima). Japanese silver, copper and gold were important products on the Asian market and the Dutch had an advantage over their competitors in that they did not need to transport all these precious metals from Europe for trading purposes¹³. Japanese precious metals, traded for silk and luxury items, were used to purchase textiles from India; these formed the most important bartering products for pepper and spices. This system formed a very lucrative profit cycle even though the Dutch did not control prices on the Japanese market.

The situation in the western region

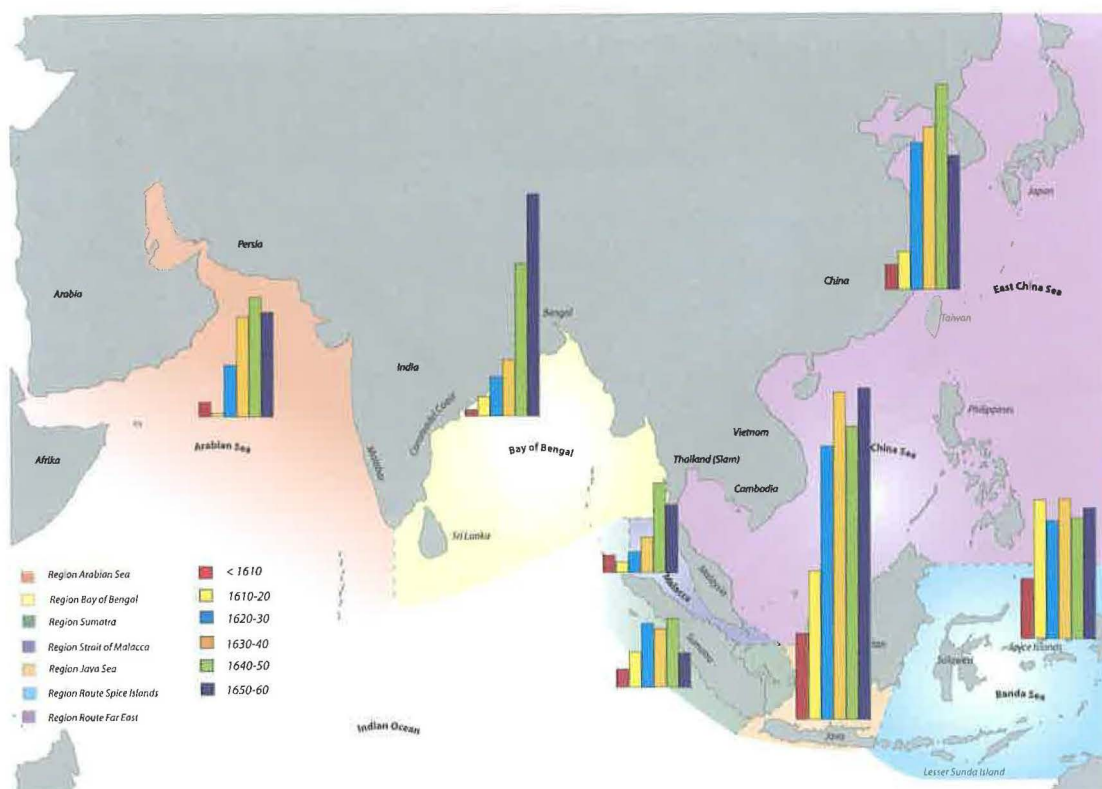
The western region is comprised of the important trade area of the Bay of Bengal with the Coast of Coromandel on the east coast of India and Ceylon in the south. The second important part of this region includes the Arabian Sea, the west coast of India, Surat and destinations in Persia and Arabia.



Map 3.3: The western region: Bay of Bengal, indicating the shipping routes.

already under VOC control from the 1620's. Controlling both seaways was an important aim for the VOC. Initially, the VOC was able to build alliances with the Sultan of Johore who was driven out of Malacca by the Portuguese. In those early days military confrontation involved the use of large ships whereas in later years, this changed to patrol activities to disrupt traffic and capture smaller vessels for the booty they carried. After 1640, when Malacca was taken over from the Portuguese, the VOC tried to re-establish an international trade and shipping centre there. This policy was difficult to combine with the VOC's ambition to gain a monopoly over the pewter trade from the local rulers. However the producers of pewter managed to evade contracts that would result in a shift of control to the VOC.

The general development of the Asian shipping



Map 3.6: General development of VOC shipping (frequency of arrivals per region) to 1660

From the data in Table 3.1 graphically shown in Map 3.6, the development of the total shipping network can be seen. In the period under consideration, 33% of all the arrivals (and 29% of the total cargo space involved) of VOC intra-Asian voyages took place in the region around the Java Sea with Bantam (only in the early years) and Batavia, as the most important ports. This region was pre-eminent in inter-Asian shipping. The tables also show the central role of this region in the intra-Asian network. A constant growth can be seen in the arriving shipping volumes in this area over the whole of this period, indicating a complementary increase in the stock of Asian goods available in Batavia for transshipment to Europe.

Throughout this period the Spice Islands were an important destination as one of the core businesses of the VOC as well. Ambon (area 85), Banda (area 86) and the Moluccas (area 88) together represented almost 16% of all arrivals and the total shipping volume. The region shows some fluctuation in the numbers of visiting ships and their cargo space because of the effects of large military actions in some periods, but is otherwise consistently high during the period 1610 to 1660.

For other regions, like the important pepper ports on Sumatra (areas 51, 52 and 53), the increase in shipping is clearly visible during the VOC's development phase. Shipping to other destinations like the Arabian Sea and the Far East emerged later in the process, but was already in some decline in the last 10-year period under consideration. The growing importance of the Bay of Bengal (VOC's "vette weide" – the plentiful pastures) is clearly shown, by the numbers of visits and volume amounting to nearly 20% of total VOC shipping in Asia during the last 10-year period.

Besides developments instigated by trade, other aspects such as a military emphasis on a region are also reflected in Tables 3.1 and 3.2. Changes in the arrivals and volumes of shipping to the Strait of Malacca (area 61) are indicators of changes in the nature of the shipping. When the VOC intensified its attempts to ban Portuguese shipping through this important link between the Far East and the Indian Ocean around 1630, they sent smaller, well-armed yachts to this region. Table 3.1 shows the frequency of arrivals in this region increasing rapidly, but there is a decline in the average tonnage of the ships to around 77 last in the 1620s and the 1630s, and even in the absolute shipping volume arriving in the area (as can be seen in Table 3.2) After 1640, when the situation had stabilised, the average tonnage again increased to values around 155 last in the period between 1640-1659.

Although the general issues can be clearly seen, a more detailed analysis will reveal much more of the way the VOC shipping in Asia developed during the first half of the 17th century. The quantitative part of this detailed analyses will be given in part two.

Intra-Asian shipping to 1660 Frequency by region	Period						
Region	<1610	1610-20	1620-30	1630-40	1640-50	1650-60	Total
Arabian Sea	38	8	139	268	320	280	1053
Bay of Bengal	16	51	106	152	410	597	1332
Sumatra	48	95	172	158	185	92	750
Strait of Malacca	46	28	56	95	224	181	630
Java Sea	231	400	736	880	789	891	3927
Route Spice Islands	161	371	317	375	324	350	1898
Route Far East	66	102	394	437	552	366	1917
Total	606	1055	1920	2365	2804	2757	11507

Table 3.1: Development of VOC intra-Asian shipping to 1660 in arrivals at main regions over 10-year intervals.

Intra-Asian shipping to 1660 Volume by region	Period						
Region	<1610	1610-20	1620-30	1630-40	1640-50	1650-60	Total
Arabian Sea	10650	1205	34629	64330	70724	53900	235438
Bay of Bengal	2625	6180	14861	19542	70268	91589	205065
Sumatra	8985	12695	24966	21637	30567	14277	113127
Strait of Malacca	12405	5440	4276	7510	34405	28456	92492
Java Sea	44645	70583	104652	122171	149934	165847	657832
Route Spice Islands	31964	85412	51923	40468	52160	53247	315174
Route Far East	13610	19430	61586	70277	101279	63220	329402
Total	124884	200945	296893	345935	509337	470536	1948530

Table 3.2: Development of VOC intra-Asian shipping to 1660 in volume (in last) at main regions over 10-year intervals.

4

Connecting the Asian regions: The trading and shipping network in operation after 1620

Introduction

After the period of 'round trading tours', a network of regular shipping gradually developed in the various regions in Asia. In 1619, Batavia in Java became the centre for shipping. It was the traffic control centre for most shipping in Asia and the main connection between the European management and the Asian branch of the VOC. Shipping was dependent on the seasons of the monsoon. The following sections describe the development of the Asian shipping network as the various shipping configurations were adjusted to the requirements of the weather and other conditions. It was sometimes very difficult for the VOC to regulate the connections between the many shipping routes spread out over a large area. In some cases, a ship delayed for only a short time could have major consequences for the organisation if a connection on a route subject to a specific monsoon season, could not be made; for instance when important products like textiles from India could not reach Batavia in time to be shipped to the Spice Islands where they were significant items for barter. Another difficulty was created if ships were delayed for months while waiting for a change of season and could not be employed on other routes. These problems do not appear to have been fully appreciated by the power holders in the Netherlands. Already in 1634, Governor-General Hendrick Brouwer had to explain to the VOC Directors in the Netherlands the importance of the timely departure of ships in order to be able to make the connection with the most prominent shipping routes in Asia:

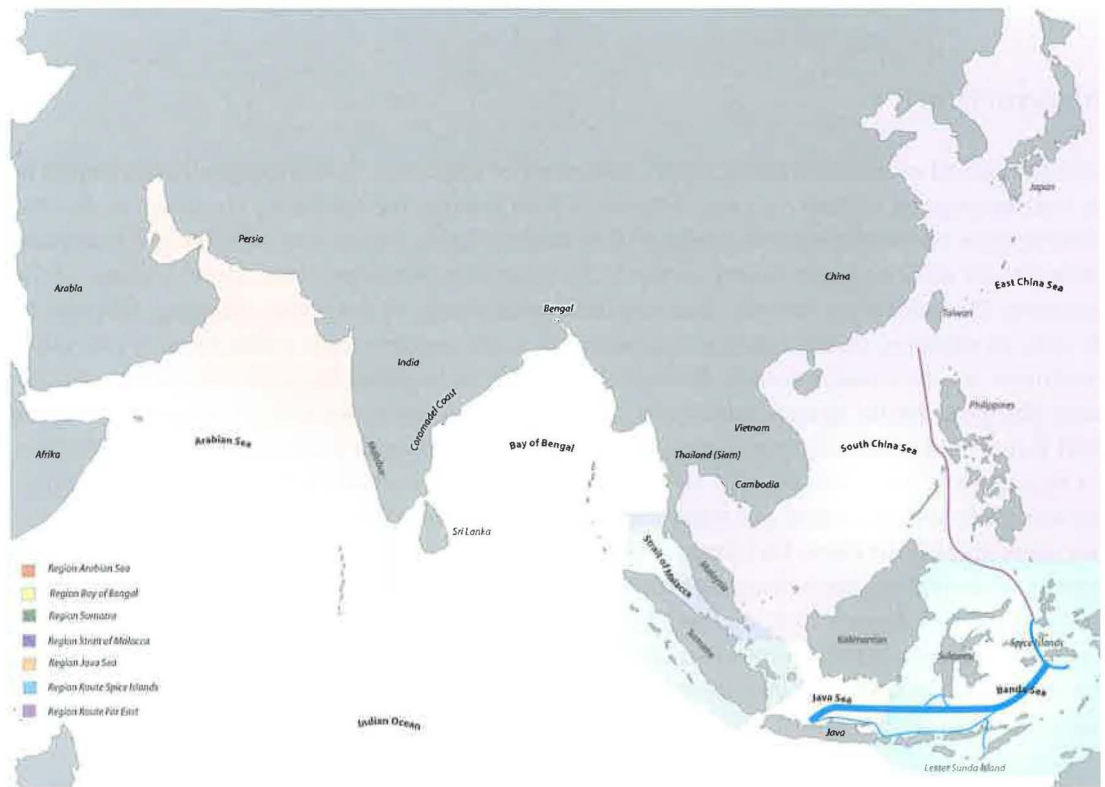
The money and cargo [from the Netherlands] that is meant for China and Japan should arrive here [Batavia] in the month of May. The commodities for Coromandel, Persia and the Surat are to be sent at the beginning of July and therefore, also because these trading posts are drawing most of the money and other means, [we] request Your Honour to send us these with the ships departing in the autumn that is before the winter from Your Honour, because otherwise these delayed arrivals means a fruitless stay with us for a year (Colenbrander 1960, p. 456).

Ships departed and arrived to and from Europe at regular intervals. Fleets of VOC ships left the Netherlands for Asia around New Year (the so-called Christmas fleet), and at the beginning of the spring (the so-called Easter fleet). Departures from Batavia to Europe were around New Year (December-January). Running the shipping through Batavia was first and foremost a management control issue since, for ships to call at Batavia was not always the most practical strategy. Ships could follow various main routes for voyages within Asia to or from Batavia, depending on the season and sometimes on the type of ship. Over the years, the VOC succeeded by trial and error in designing a shipping network that ensured an efficient year-round deployment of ships to various destinations.

The main routes in Asia

The eastern route: the Spice Islands

The Eastern Route stretched directly east from Batavia to the Spice Islands. The three important destinations on this route were the island groups of Banda, Ambon and what at that time we called Molucca. In this period, only Ternate, Tidore and a few neighbouring islands were referred to by this name by this as opposed to later definitions of Molucca, or the Molucca Islands. From the centrally located Ambon, it was usually possible, though in some period rather difficult, to reach both other destinations. The route from Batavia to Ambon, however, was the most monsoon-affected of all the VOC shipping lanes.



Map 4.1: The Eastern route to the Spice Islands. The route was connected with the route to the Far East along the Philippines (the purple line).

It was only possible to sail from Batavia to Ambon from October to March. This applies not only to the larger Dutch cargo vessels, but also to smaller ships, whether of European or Asian construction. Ships leaving Batavia in March or even at the end of February often failed to make the voyage and had to return to their port of departure. From April to October, ships returned to Batavia with their cargo of nutmeg, mace and cloves. All types of vessels were used by the VOC on this route. Normally, the voyage was not dangerous for the larger ships with regards to weather conditions or attacks from enemies of the Company. The only navigational risks were the very steep shores of the islands and the reefs with nowhere suitable to anchor in adverse winds, or currents to prevent stranding. Because the skippers expected little danger on this easy route between Java and the east of the Archipelago, accidents often happened due to inattention. The ship *Hollandia* (ID:237) whose fate is described in detail in a report in the VOC archives is a case in point. This large *retourschip* sailed to the Spice Islands in 1642 with an accompanying smaller vessel and was wrecked on a reef near Lombok. The loss

occurred during excellent weather on a clear night and it seemed to have happened, 'as if no person was keeping watch' (NA 1.04.02, VOC 1142, fol. 9).

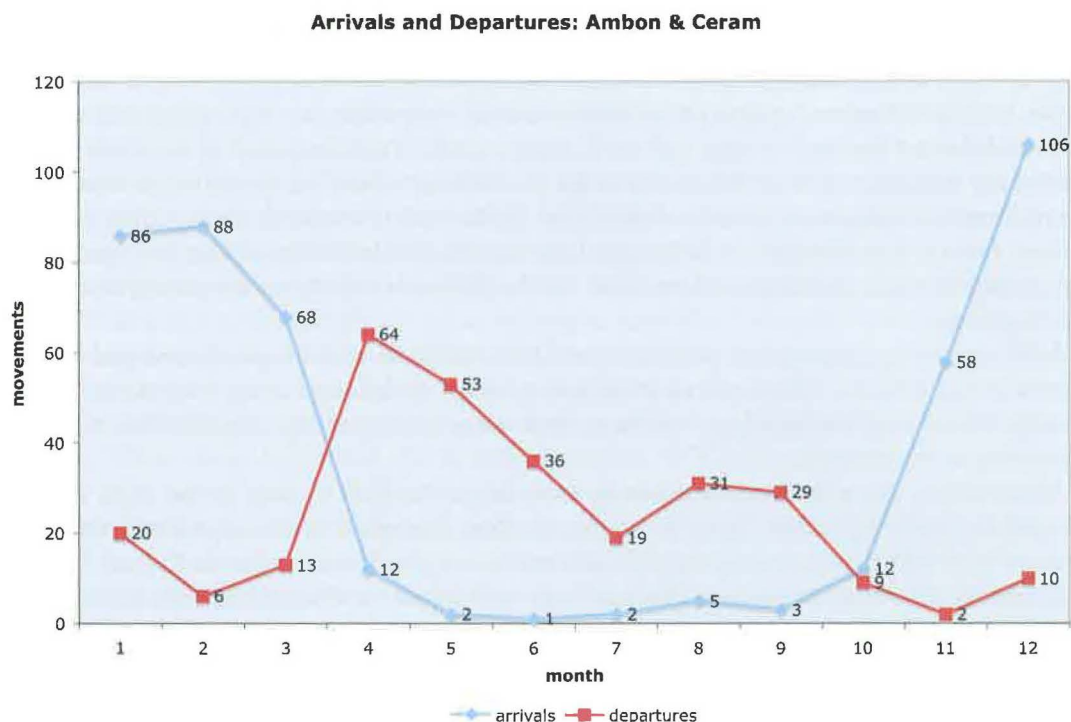


Fig. 4.1: Shipping in the Spice Islands Region: Average arrivals and departures from Ambon and Ceram per month for 1595-1660

The VOC often used worn out *retourschepen* for the journey to the Spice Islands; ships that were determined unfit for the return voyage to the Netherlands. Apart from these ships, a number of middle-sized, small and even very small vessels (sometimes just open boats) sailed from Batavia every monsoon (see chapter 5). To protect the VOC's clove trade from what the Company considered to be smuggling, a number of small vessels in good condition and heavily armed for their dimensions, which could be rowed if necessary, were used to fight local ships. They were also used to transport some of the soldiers and their possessions to the Spice Islands. Most of the troops, however, were transported to the Spice Islands on the large ships. Because the VOC tried to prevent foreign merchants from trading with the Spice Islands, the Company had to provision itself, so the larger VOC ships also had to carry substantial amounts of rice and other food products.

Only part of the cargoes carried on this Eastern route can be considered genuine intra-Asian trade. Most of the spices brought to Batavia were exported directly to Europe. A portion, however, was used by the VOC to trade with the rest of Asia. On their outgoing voyages from Batavia, the ships transported foodstuffs and utensils for VOC employees, soldiers, slaves, also for the other people on the islands. Most of these commodities were imported by the VOC from other parts of Asia, but also a large quantity of European meat and wine barrels were shipped to the Spice Islands in every west monsoon period. The textiles transported eastwards from Batavia were mostly intended to be traded for cloves, directly or indirectly. An interesting aspect is that the VOC itself generated intra-Asian trade, for example by using Asian pottery for storage instead of European built wares. Instead of wooden barrels, the VOC stored water and powder on the Spice Islands in *martabans* (stoneware storage jars) imported from ports in the Bay of Bengal, and which were in use there by the local people.

On this eastern route, only a few intermediate ports were of importance to the VOC. Some ships visited ports in Java, Bali or Macassar on their voyage from Batavia to the Spice Islands to buy food (mostly cattle from Bali and rice from Macassar). Trade products from these places

were of very little importance and ships very seldom made a direct return trip between these places and Batavia. Due to the smuggling trade, the relationship with Macassar was often tense and as a result this region became an occasional destination for military operations.

The only independent destinations on the eastern route for VOC ships, were the islands of Timor and Solor. At nearly every monsoon, one or two yachts sailed to these islands to buy sandalwood, an important trade product for the Asian mainland, and returned directly to Batavia. Local political and geographical circumstances meant that the VOC ships had to collect the sandalwood themselves near the areas where it grew. Vessels needed to be medium-sized and easily manoeuvrable for this trade, as the places from where the sandalwood was shipped were often on dangerous lee-side shores. The VOC tried to establish strongholds for themselves, first on fort *Henricus* on Solor and later fort *Concordia* on Timor, but they gave up on this policy because the local traders could not be persuaded to bring the sandalwood to the trading posts.

VOC ships regularly visited ports on central and western Java for provisions and building materials for Batavia. This required a number of ships of different sizes; sometimes with the ability to load long wooden logs, but these ships were usually utility vessels rather than trade vessels from the network.

There was a link with the north-eastern route to the Far East by way of the VOC ships deployed for a military action. From the Moluccas, they attempted to intercept the Spanish ships around the Philippines carrying supplies and soldiers to the Spanish allies in Tidore. The VOC also tried to intercept the Spanish silver galleons arriving in the Philippines from Mexico. They were, however, unsuccessful in this mission. Throughout the whole period of Dutch-Spanish warfare not one Spanish silver ship was captured in this region. In some periods a number of heavily armed ships left the Moluccas for this destination around January/February. After their activities in the region between the Moluccas and the Philippines, these ships would sail further north. Here they tried to intercept Chinese junks travelling to Manila. The VOC was much more successful in these actions and large quantities of Chinese products entered the VOC trade system in this way. Small amounts of cloves were also brought to the Chinese market in these ships. Weather conditions made this voyage a lot more dangerous than the eastern spice route. Larger ships in good condition were required, not only to withstand weather conditions, but also to resist assaults from Spanish ships which were much more powerful than those of the Asian enemies the VOC encountered around the Spice Islands. Before 1630, these ships sailed on to Japan on a regular basis where they could sell the captured trade items and wait for the change of the monsoon. In the second half of the period covered here, that base moved to Taiwan because entry to Japan had become restricted.

The north-western route, Branch A

The VOC's north-western voyages during this time were influenced by the military conflict with the Portuguese in the Arabian Sea. Naval expeditions to the area commenced in the 1620s with some being undertaken in conjunction with the English. Later, more attention was given to the blockade of Goa. From 1636, the VOC sent a large, strongly manned and armed fleet to the Indian west coast nearly every year. The Portuguese port of Goa on the west coast of India – the centre of their Asian administration – was highly monsoon-dependent. Between April and September, this coast had a very dangerous lee shore where hardly any shipping was possible, making the blockade of the port of Goa only worthwhile in the period from September to April. In order to be effective, Dutch ships had to be near Goa at the earliest possible occasion. Because it was difficult to sail northwards through the Strait of Malacca just before September, these ships would sail through Sunda Strait and search for the most favourable winds in a long curve over the Indian Ocean. After a first fleet had arrived in Goa travelling through Sunda Strait, other ships would arrive later in the season at Goa by way of the Strait of Malacca. From late September the passage to the Indian Ocean was much faster following this route than it had been through the Sunda Strait.

gaged in action on the coast of China itself. These actions were not very successful, but they did lead to the establishment of the earlier-mentioned VOC stronghold on Taiwan. The VOC, however, remained excluded from the Chinese market itself and had to find alternative sources of Chinese products.

Apart from the military actions, a regular shipping route between Batavia and Taiwan and Japan was developing with an increase in the frequency of the stopovers in this region: Thailand, Cambodia and Vietnam (Areas 93, 94 and 95) were visited 92 times, which represented an explosive growth. Thailand, where Ayutthaya high up the Menam river in the heart of the country had now replaced the semi-independent Patani on the peninsula as the place for VOC trade, and had become an important destination to purchase merchandise for Japan together with rice and timber for the VOC settlement on Taiwan. A picture emerges, during this period, of shipping specifically intended to cater for the supply of consumable products and building materials for the VOC settlements. Food was shipped over long distances; for example, Japan was supplying rice and wheat for Batavia (the need for food in Batavia had also grown because of problems with the local authorities of Bantam and Mataram).

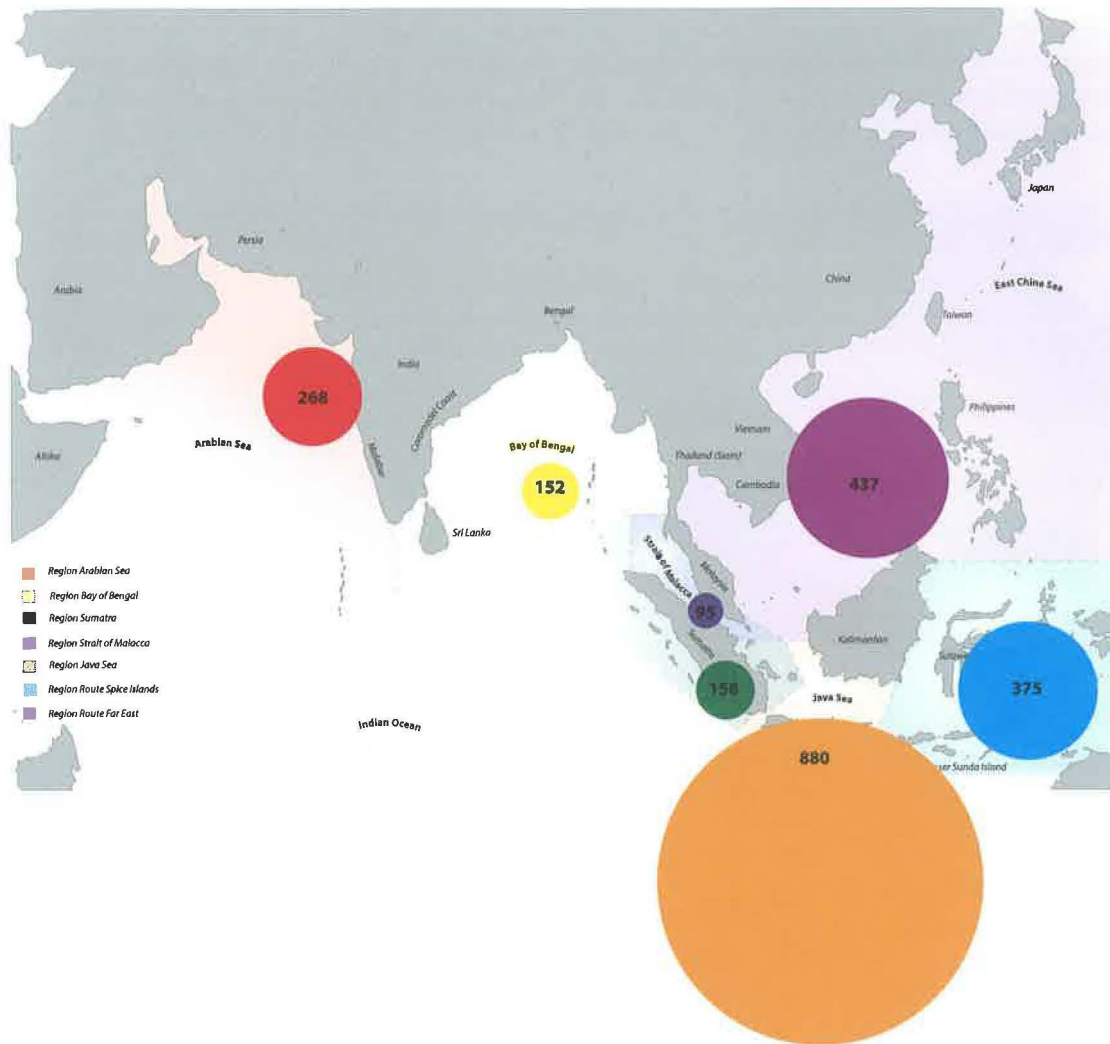
The frequency of shipping to Japan nearly doubled and the number of the VOC ships sailing to Hirado (Firando) increased by more than 100%, despite the fact that the VOC's shipping to Japan totally ceased for three years in 1629-1632 because the Japanese did not accept the VOC's authority on Taiwan. Eventually the conflict was settled to the VOC's advantage since shortly after the 3-year hiatus they gained a favourable position over their other European competitors as the only Christian nation allowed to trade with Japan. This policy of isolation by the Shogun brought strict regulations but an overall benefit for the VOC. In the previous period some attempts were made by Speex to make Japan a VOC logistical centre but this was no longer practical or feasible. The restrictions linked with the position of the VOC in Japan were too strict, the function as a staging post could be taken over by Taiwan.

At the other end of the Asian network in the northwestern regions of the Indian Ocean (Arabia with Mocha as the most important harbour, Area 31 and Persia with its port Gamron, Area 32), later called the *Westerkwartieren*, shipping had also increased substantially. After some experimentation with shipping to Persia and Mocha in the previous period, this route now became well established with 51 arrivals. Together with this development, there was also a substantial increase in shipping voyages with Surat as both a final destination and as a stopover for voyages to or from Persia and Arabia (78 arrivals).

The Period 1630-1639

In the previous periods, the trade and shipping networks of the VOC had started to take shape. In the period after 1630, shipping intensified and the emphasis on certain destinations changed for various reasons. The total shipping in Asia increased less spectacularly than in earlier periods but, nevertheless, still increased by 23% for ship movements and 17% by total volume.

In general, all the regular shipping routes were more or less in use by the VOC in the 1630-39 period. No new destinations were added and only in a few cases did the actual harbour within a destination sometimes change. For core destinations like the Spice Islands, the frequency and volume of shipping could vary according to the type of ships that were sent. Because the military operations against the Iberians had been shifted away from the Philippines to other areas, shipping to the Moluccas and the Sulu Sea dropped considerably. Regular shipping took place to Sumatra (pepper for textiles) and from Batavia to Taiwan and Japan. The only new route that came into service was the direct one from Taiwan, through the Strait of Malacca (avoiding a stopover in Batavia) to the *Westerkwartieren* and the Bay of Bengal. The trade position of the VOC in Persia improved considerably. Precious metals and copper from Japan and China, and sugar from Taiwan and China, were exchanged for silk, other textiles, indigo and saltpetre along this route. This development is reflected in an increase in arrivals of 35% to the region of Taiwan, 100% for Persia and 40% for northwest India. Only Arabia proved to be less profitable than previously expected and the frequency of voyages dropped to about one ship every year.



Map 8.4: Development of the frequency of the VOC shipping 1630-1640

The VOC's military actions were redirected from China (visits dropping to half the number in the previous period) to the Portuguese stronghold of Malacca, which showed a 75% increase with 95 arrivals, Goa, with 63 arrivals as against only 5 in the previous period, and Ceylon with 41 visits. Large men-of-war were sent to these latter regions, in most cases to organise a blockade. The volume of the shipping to the Strait of Malacca did still remain relative low. Some of these ships were also used for trade with VOC-friendly ports in these areas.

The Period 1640-1649

The total amount of shipping in Asia in 1640-49 again showed an increase of 19% over the previous period and the volume increased by almost 50%. The reason for this and the previously noted differences between frequency and volume will be explained later in the composition of the VOC fleet in Asia. Significant changes during this decade were the capture of the Portuguese strongholds of Malacca and Galle. Malacca became a strategic rendezvous on the route from Taiwan to the *Westerkwartieren*. Galle gradually developed into an important emporium for the transshipment of products from Bengal, Coromandel, Surat and Persia. The development of both areas can be seen very clearly in the figures; shipping volume to both areas increased five-fold over the previous ten years surpassing Taiwan and the Spice Islands in importance. The VOC had a well distributed network of destinations where products could be exchanged and transhipped from ships occupied in local and regional trade to ships engaged in inter-regional and intercontinental shipping to Europe. Independently of their function as

riers. *Retourschepen* rate 10 were not ideal for this purpose as long as they were employed on the route back to Europe since they could not arrive back in Batavia in time for the departure of the fleet to Europe around the turn of the year as the monsoon was only favourable from around April. Therefore, the older rate 8 cargo carriers from the early period or comparable old cargo carriers that were explicitly sent to remain in Asia played an important role in transport in the 1620s. After 1630 flutes and the older *retourschepen* that were no longer fit for a return voyage took over this role. The vessels that were only suitable for the transport of goods and cargo were dispatched around the change of the monsoon in order to avoid a long delay in the region while they waited for favourable winds. This also fits in with the ambition of the VOC to use their fleet all year round. For instance, flutes returning from the Spice Islands just after the turn of the monsoon in April could then still make a trip to the Far East.

For multi-purpose vessels like the middle-sized yachts (rate 5) the situation was the opposite: they had to stay in the region for as long as possible during the favourable monsoon season. Their main task was to secure the monopoly against private traders. So some middle-sized yachts arrived at the earliest possible time after the turn of the monsoon to prevent other ships from entering the region. They returned to Batavia at the latest possible time, or they stayed in the region. The activity level of the rate 5 vessels were stable at around 50 ship movements per 10-year period but reached a high in the 1630s. Locally, most of these vessels operated between the destinations of Ambon, Ceram (62) and Moluccas (66) where many small islands produced the desired cloves. To protect the harbours and also ensure that the monopoly was not broken the VOC needed the smaller vessels of rates 1 to 3. During the period up to 1630, small yachts like the *fregats* in rate 3 played an important role in the establishment of the VOC's power base at a local level. Similarly to the situation in the Strait of Malacca, these vessels were well equipped to control the shipping.

In the analysis of the activity level in the various destinations (Table 9-9) in this region, it is clear that Ambon served as the central destination in the Spice Islands. After the situation had stabilised in this region there was little need to send militarily equipped vessels to destinations like the Banda Islands, far away from the mainstream of shipping. It is important to note that destinations on the route to the Spice Islands were visited as stopovers and to collect supplies, but they could also be independent destinations from Batavia.

The "Far East" (Areas 92-99)

This region centres on Taiwan (Area 98) and Japan (Area 99) as the main destinations. China (Area 97) and the Philippines (the islands at the Sulu Sea, Area 96) were derivative destinations: the VOC was active in the waters of the Philippines in their attempt to frustrate the traditional trade between Chinese merchants and the Spaniards who exchanged the sought-after Chinese products like silk for silver from Mexico. So China was, in a way, the main reason for the VOC's presence in the region but the actual amount of Dutch shipping to China was minimal due to the Chinese ban on the Dutch from landing on the Chinese coast. The VOC, therefore, found an alternative destination in Taiwan that they could control; firstly, as a regional emporium for the exchange of products, and later also for some local products like deerskins and sugar. Thailand (Area 93), Cambodia (94) and Vietnam (95) were alternative destinations for the purchase of "Chinese" products en route to Taiwan and Japan. Thailand was also a trading source for food and wood for Batavia. Sarawak (Area 92), the area on the north coast of Kalimantan was only visited by some wayward large ships from the *Voorcompagnieën* and very few small vessels in later years. All these areas are situated along the shores of the South and East China Seas, but are, for reasons of convenience, also often called by their traditional name "Far East" in this book.

As the waters around China, Taiwan and Japan were considered dangerous due to the typhoons, strong well-built ships were required. The Chinese coast, although only visited occasionally for military reasons, demanded easily manoeuvrable vessels to negotiate the narrow channels between the many islands. Physical conditions in Taiwan also put severe limitations on visiting vessels. The entrance to this VOC post was so shallow that only vessels with a

draught of less than 11 feet could enter and bigger ships had to anchor in the rougher waters outside or at the Pescadores. In the early stage of the Dutch presence in this region there was an unsuccessful military attempt to establish a position on the Chinese market. After the Dutch had set up a post in Taiwan – the backdoor to the Chinese market – confrontations only took place on the instigation of the VOC until 1660.

Given the physical characteristics of the Chinese coast with its small islands, well-armed swift-sailing vessels were required. In the 1630s the destinations Vietnam and Cambodia were engaged in internal power struggles in which the VOC involved itself. Well-armed yachts could best counter this type of conflict in which large confrontations with heavily armed ships were not expected.

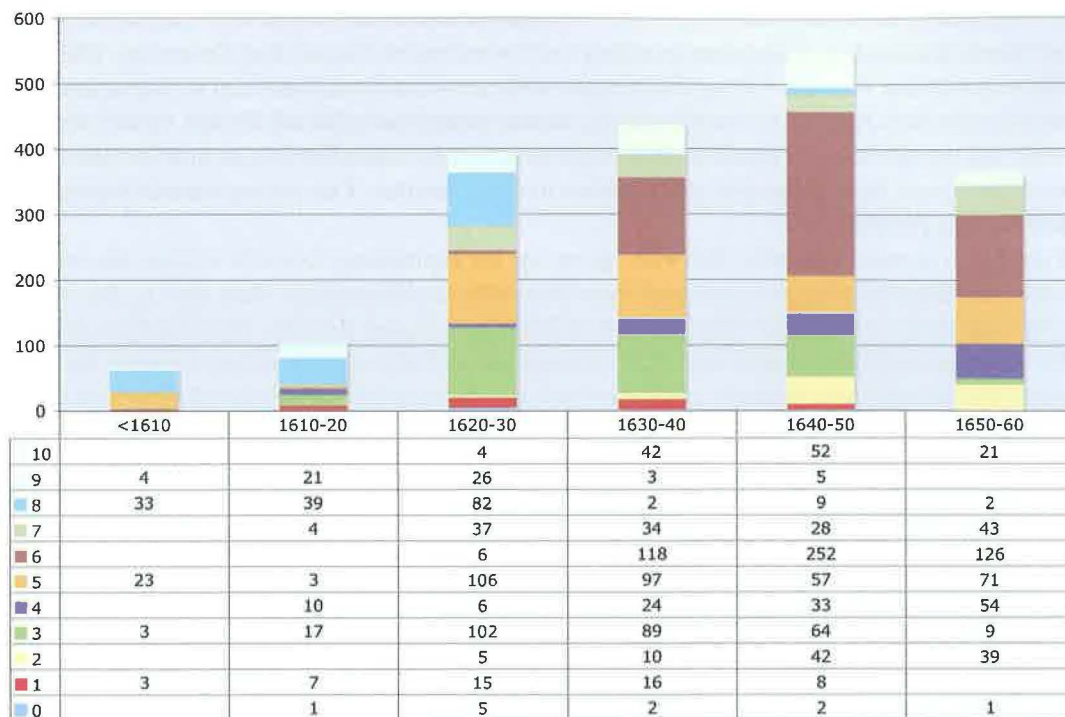


Table 9.10: The activity level of the various types of VOC vessels in the region of the South and East China Sea per 10-year period to 1660

A military capacity was required for the (also unsuccessful) attempts to intercept the Spanish silver fleet from Mexico to the Philippines. At the end of the period studied the tensions around Taiwan were increasing and military reinforcements in the shape of heavily armed war yachts were required. On a political level, the favourable position of the VOC in Japan above the other European competitors came at the cost of restrictions on their visits. The Japanese authorities set the conditions of trade but they also tried to minimise the threat of the VOC ships. It was a common rule to remove the rudder of the vessels arriving at the trade post Deshima in Nagasaki. The restrictions practised by the Japanese and their effects on the VOC vessels can be learned from an incident in 1657 on the arrival of the yacht *Hercules*. In the 1650s, as a result of the first Anglo-Dutch war, the VOC was left with a surplus of big war yachts in their Asian fleet. These ships were constructed at the cost of the flutes that were the ideal traders for this region and did not raise the suspicion of the Japanese authorities because of their light armaments. After the conflict was over these war yachts had to serve as regular trading vessels. When the *Hercules* (ID:939) arrived in Japan the local authorities felt uncomfortable with this clearly well armed yacht and referred to the VOC's obligation to send unarmed vessels (NA 1.04.21, Factory Japan 69, fol. 46).

Mainly trading items for the Japanese market and supplies for the post at Taiwan were collected from Thailand, Cambodia and Vietnam. There was a direct route between Thailand and

Batavia for the collection of supplies for the VOC headquarters. This route did not call for the use of a particular vessel type or require specific vessel features.

Enough bulk goods like sugar and silk were available from Taiwan to justify the use of big ships for this trade, but the shallowness of the harbour entrance meant that they had to be loaded at the Pescadores. Flutes were suitable as carriers since military confrontations were not expected.

Copper, precious metals and some luxury items were shipped from Japan. The copper could stay in the ships for shipping to other parts of Asia but part of the cargo of precious metals had to be unloaded in Taiwan to purchase silk and part was shipped on to Batavia or, following 1638, directly to the Coromandel Coast and Surat. Flutes and bigger yachts were suitable for this purpose.

Smaller vessels were needed to facilitate the distribution of cargo. The smaller flutes turned out to be ideal for that purpose. The VOC's voyages to and from Taiwan were highly monsoon-dependent. The loading took place in a short period between August and December. The small flutes stayed near Taiwan during the season, with an occasional short trip to Japan and back and sailed back to Batavia in the off-season. It was sometimes difficult for the vessels that had to wait for the auctions in Japan in October/November to reach Batavia in time for the departure of the return fleet at the end of December or early January. Fast sailing vessels were appropriate for this purpose.

Table 9.10 shows that after the VOC gave up its aspirations towards China, the military needs were lifted to a large extent and they were able to differentiate their fleet in this region. Up to 1630 there was a clear emphasis on military and bigger vessels. This changed dramatically after the establishment of the VOC stronghold in Taiwan with a fleet focused on trade. Apart from the sporadic military confrontations and the military vessels heading for the Philippines, the Far East was suited to dedicated cargo carriers. This general image should be nuanced a bit, especially for the transition period in the 1620s when some developments took place at the level of the separate destinations. For the military operations, Japan was the pre-eminent base for the bigger vessels to capture the big junks sailing between China and the Philippines, until the Japanese authorities became more restrictive about the kind of vessels that were allowed to visit their harbours. Closer to the Chinese coast most of the smaller or middle-sized yachts were employed. Note also the almost complete absence of the flute, which vessel type could not play a role in the military action in China and the Philippines. As is the case with the smaller vessels in the Strait of Malacca the smaller vessels needed as utility vessels around Taiwan, i.e. the vessels that brought cargo from Taiwan to the waiting fleet at the Pescadores, are not revealed in the statistics since they rarely left the region.

The heavy sea conditions required strongly built new ships. The possibility of typhoons was the pre-eminent threat, and no ship was able to withstand those conditions. The most suitable combination of vessels was big flutes and *retourschepen* as trade ships together with smaller flutes and other small vessels to facilitate the loading and unloading of cargo near Taiwan. *Retourschepen* often sailed on the Batavia and Thailand route. In Table 9-11 the important role of this rate 10 vessels in the shipping to Thailand becomes clear. The newer *retourschepen* could also sail direct or via Thailand to Japan. In Thailand there was usually enough cargo of products for the Japanese market in combination with food supplies and building materials for Taiwan, for these bigger ships. On the return trip these ships often called at Thailand again to load supplies for Batavia. The need for these supplies depended on the political situation in Java. A stopover in Taiwan was often inevitable for the redistribution of cargo for the various destinations: China, Vietnam, Batavia and later also the direct connection with the Arabian Sea and the Bay of Bengal. The central role of Taiwan in this region becomes obvious in Table 9-15 where it is shown to be by far the busiest destination. It was a shipping junction with the specific need for smaller vessels and the medium sized flutes (rate 4) in order to be able to serve as a point of transshipment.

It was also possible for *retourschepen* to combine a trip to Taiwan with a return trip to Europe. With a departure from Batavia in August at the latest the ship could be in the region around Taiwan in September. As was the case with the collecting of a pepper cargo from southeast Sumatra, the ships could take on a good shipment of sugar; however, loading took a month

due to the complexity of the logistics between Taiwan and the Pescadores where the big ships had to anchor. If these *retourschepen* were not affected by the typhoon season they could make it back to Batavia before the end of the year to load the remaining cargo and leave for Europe.

The high rate of flutes to Cambodia in Table 9-11 can be explained by the unique situation on the Mekong River where vessels had to be dragged manually far up stream by their anchors. This situation has been described as very arduous and almost inhumane for the crew who had to handle the heavy anchors in the heat of the sun: 'and when at night the time had come to get some rest it was impossible because of the mosquitoes that were in such large quantities that one doesn't know where to turn' (NA 1.04.02, VOC 1252, fol. 116, 127). Damaged *rinckelwerck* or not, it must have been more efficient for the VOC to use flutes rather than the yachts because they had a better cargo capacity for the same effort. A complication was still the danger of hostilities on the Mekong River that required the protection of the vessel, crew and cargo. The VOC probably did develop a more heavily armed flute. This more defensible flute type is recorded on one occasion in the Arabian Sea when, against all odds, the flute *Noortster* (ID:633) was escorting a yacht. This flute then had a crew of 70 and was armed with 30 canons (Colenbrander 1902, p. 203). In the database more of these types of defensible flutes have been found: *Vliegend Hert* (ID 650), 24 canons, *Zon* (ID:621) 22 canons, *Koning David* (ID:780) and *Trouw* (ID:811) 20 canons.

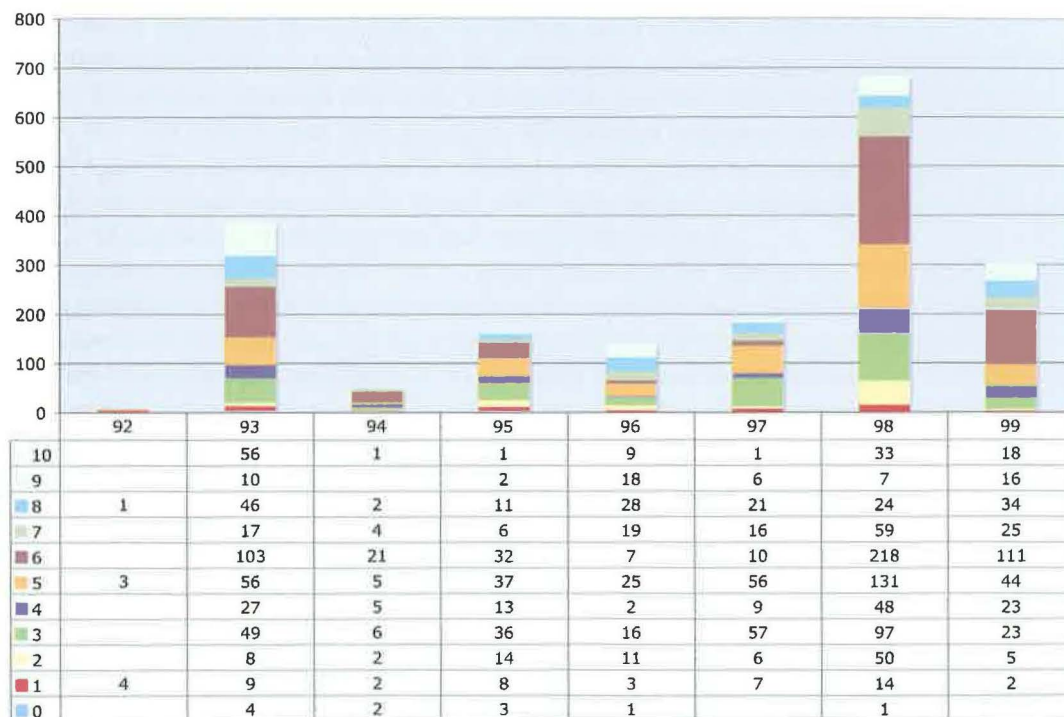


Table 9.11: Activity levels of the various types of VOC vessels in the separate destinations in the region of the Far East. 1595-1660 (areas in the first row of the table: 92.Sarawak, 93.Gulf of Thailand, 94. Cambodia and lower Mekong delta, 95.Vietnam, north from Mekong Delta, 96.Sulu Sea, 97. Coastal China, 98. Taiwan and adjacent islands, 99. Japan and Korea)

Annex 293

Rodolfo Severino, "ASEAN and the South China Sea", *Security Challenges*, Vol. 6, No. 2 (2010)

ASEAN and the South China Sea

Rodolfo C. Severino

Territorial claims in the South China Sea are one of the most longstanding security issues in South East Asia. In this article, former ASEAN Secretary-General Rodolfo C. Severino reviews the claims of ASEAN members in the area, and details ASEAN's involvement in the dispute since the 1992 ASEAN Declaration on the South China Sea.

Amidst all the legal arguments and political and diplomatic posturing, the claimants to the land features and waters of the South China Sea—and others which have no claims—are really driven by their strategic interests in it.

China fears the expanse of water being used to threaten or attack it from the southeast, as it has been in the past. At the same time, some accuse Beijing of seeking dominion over the South China Sea in order to achieve a measure of hegemony over Southeast Asia. Vietnam needs its footholds in the South China Sea to avoid being practically surrounded by Chinese power, with which it was in conflict for many centuries. The Philippines feels compelled to extend its zone of jurisdiction and responsibility westwards, having been invaded by the Japanese from that direction at the start of the Pacific War. A vast area of the South China Sea both separates West and East Malaysia and connects them to each other. Brunei Darussalam has to ensure for itself the resources in its claimed exclusive economic zone and continental shelf, which overlap with other claims.

Others, which have no direct land or maritime claims in the area save those that they say are granted them by the 1982 United Nations Convention on the Law of the Sea (UNCLOS), are keenly interested in what happens in the South China Sea. Jakarta needs to make sure that the rich gas resources of the Natuna group of islands are under Indonesia's exclusive authority and for its exclusive exploitation. Although supporting no one's claims, the United States seeks to ensure that its warships and aircraft are free to navigate in or above the waters of the South China Sea and keep unhampered its trading links with East Asia. Much of Japan's trade flows through the South China Sea, including a large portion of its energy imports. Tokyo, therefore, has an interest in keeping the trading lanes through—and above—the South China Sea free and open.

All, including the ten members of the Association of Southeast Asian Nations (ASEAN), have a deep interest in the peace and stability of the South China Sea. How much peace and stability figure in each country's calculation of its

Rodolfo C. Severino

expressed concern on overlapping sovereignty claims in the region. They encouraged all claimants to reaffirm their commitment to the principles contained in relevant international laws and convention and the ASEAN's 1992 Declaration on the South China Sea.⁹

Subsequent ARF chairman's statements carried references to the South China Sea.

For a number of years, ASEAN continued seeking to "internationalise" the South China Sea issue, not only in ASEAN and ARF meetings but in other international gatherings as well. For example, the ASEAN countries have raised the matter at the meetings of the Non-aligned Movement, in which all of them are members and China is an observer. The Philippines has also sought to turn the international spotlight on the environmentally destructive practices, including the use of dynamite and cyanide, of Chinese—and Taiwanese—fishermen in the semi-enclosed sea.

The Declaration on Conduct

In July 1996, the ASEAN foreign ministers, according to the joint communiqué of their annual meeting, "endorsed the idea of concluding a regional code of conduct in the South China Sea" as something that would "lay the foundation for long term stability in the area and foster understanding among claimant countries".¹⁰ Freedom of navigation, meant to reassure the great trading nations using the South China Sea, and the exercise of "self-restraint" were principles to which all could subscribe. The commitment to the peaceful settlement of the jurisdictional disputes in accordance with international law, including the 1982 UN Convention on the Law of the Sea, has been frequently repeated like a mantra.

However, four issues were and continue to be the subjects of contention before and since the conclusion of the ASEAN-China agreement. One is the commitment to refrain "from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features". Another is the area of application of the agreement. Related to it is the legally binding nature of the document. The fourth is the role of ASEAN.

The commitment not to inhabit hitherto uninhabited land features is evidently aimed at preventing a repetition of Mischief Reef. However, it apparently does not include a prohibition against beefing up the structures and facilities that are already in place in "inhabited" territory. Most countries in occupation of land territories in the South China Sea have, indeed, done so.

⁹ 'Chairman's Statement, The Second Meeting of the ASEAN Regional Forum, Brunei Darussalam, 1 August 1995', Association of Southeast Asian Nations web site, <<http://www.aseansec.org/3617.htm>> [Accessed 29 June 2010], para. 11.

¹⁰ 'Joint Communique of The 29th ASEAN Ministerial Meeting (AMM), Jakarta, 20-21 July 1996', Association of Southeast Asian Nations web site, <<http://www.aseansec.org/1824.htm>> [Accessed 29 June 2010], para. 11.

Not surprisingly, Vietnam has been insisting that the Paracels, to which it maintains a claim, be part of any agreement or discussion of the South China Sea. Just as expected, China considers the Paracels as non-negotiable. Indeed, China has drawn “baselines” around the Paracels, although its legal capacity to do so is in question. Eager to conclude an agreement with China and probably considering the Paracels issue to be a bilateral matter between China and Vietnam, the rest of ASEAN consented not to designate the area of the application of the agreement with precision but to apply the agreement to the South China Sea in general. This brought up the question of whether a state could be a party to a legally binding document, such as a “code of conduct”, without being precise as to the area to which the document applied. Thus, the document agreed upon in Phnom Penh in November 2002 was reduced to a political declaration from the originally envisioned legally binding “code of conduct”.¹¹ This left the Vietnamese feeling abandoned by the rest of ASEAN while insisting, with the support of others in ASEAN, that the ultimate aim is a “code of conduct”.

Since its issuance, ASEAN has been expressing the view that the Declaration on the Conduct of Parties in the South China Sea is but a step towards the conclusion of a “code of conduct”. It has repeatedly called for the observance and implementation of the commitments in the Declaration, particularly the need for self-restraint, freedom of navigation, and the confidence-building and cooperative measures specified in it. ASEAN and China have set up a senior officials meeting and a working group to oversee and promote the implementation of the Declaration.

ASEAN as a Group or Individual Claimants?

Finally, there seems to be a difference in outlook between China and ASEAN with respect to the role of ASEAN in the matter of the South China Sea—specifically, whether China is to deal with individual Southeast Asian claimants or with ASEAN as a group. Xue Hanqin, China’s ambassador to ASEAN, has presented the Chinese position lucidly and succinctly. In her presentation at a forum in the Institute of Southeast Asian Studies in Singapore, she said:

In the follow-up negotiations on the draft guidelines for the implementation of the DOC (Declaration on the Conduct of Parties in the South China Sea), the work got stuck mainly because of the difference over the modality of their (ASEAN member-states’) consultations. The key issue is whether ASEAN Member States should consult among themselves first before they consult with China. ASEAN members insist on such a consensual approach towards China, while the Chinese side does not think this is in line with the understanding of DOC. ... The whole issue of South China Sea is not a matter between ASEAN as an organization and China, but among the relevant countries. ASEAN could serve as a valuable facilitator to promote

¹¹ ‘Declaration on the Conduct of Parties in the South China Sea’, Association of Southeast Asian Nations web site, <<http://www.aseansec.org/13163.htm>> [Accessed 29 June 2010].

Annex 294

U.N. Food and Agriculture Organization, Fisheries and Aquaculture Department, *The State of World Fisheries and Aquaculture 2010* (2010)



**THE STATE OF
WORLD FISHERIES
AND AQUACULTURE
2010**





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FISH CONSUMPTION¹¹

The fishery sector plays a key role in food security, not only for subsistence and small-scale fishers who rely directly on fishery for food, incomes and services, but also for consumers who profit from an excellent source of affordable high-quality animal protein. A portion of 150 g of fish¹² provides about 50–60 percent of the daily protein requirements for an adult. Fish is also a source of essential micronutrients, including various vitamins and minerals. With a few exceptions for selected species, fish is usually low in saturated fats, carbohydrates and cholesterol.

In 2007, fish accounted for 15.7 percent of the global population's intake of animal protein and 6.1 percent of all protein consumed (Figure 32). Globally, fish provides more than 1.5 billion people with almost 20 percent of their average per capita intake of animal protein, and 3.0 billion people with 15 percent of such protein (Figure 33). In terms of a world average, the contribution of fish to calories is rather low at 30.5 calories per capita per day (2007 data). However, it can reach 170 calories per capita per day in countries where there is a lack of alternative protein food and where a preference for fish has been developed and maintained (e.g. Iceland, Japan and several small island states).

Total and per capita fish food supplies have expanded significantly in the last five decades. Total food fish supply has increased at an annual rate of 3.1 percent since 1961, while the world population has increased by 1.7 percent per year in the same period. Annual per capita fish consumption grew from an average of 9.9 kg in the 1960s to 11.5 kg in the 1970s, 12.6 kg in the 1980s, 14.4 kg in the 1990s and reached 17.0 kg in 2007. Preliminary estimates for 2008 indicate a further increase in annual per capita consumption to about 17.1 kg. In 2009, as a consequence of uncertain economic conditions, demand remained rather sluggish and per capita consumption is expected to have remained stable.

The general growth in fish consumption has had different impacts among countries and regions. Countries that have experienced dramatic growth in their per capita fish consumption in recent decades diverge from those where consumption has remained static or decreasing, such as some countries in the sub-Saharan Africa region. In addition, the countries of the former Soviet Union in Eastern Europe and Central Asia experienced major declines in the 1990s. The most substantial increases in annual per capita fish consumption have occurred in East Asia (from 10.8 kg in 1961 to 30.1 kg in 2007), Southeast Asia (from 12.7 kg in 1961 to 29.8 kg in 2007) and North Africa (from 2.8 kg in 1961 to 10.1 kg in 2007). China, in particular, has seen dramatic growth in its

Figure 32

Total protein supply by continent and major food group (average 2005–2007)

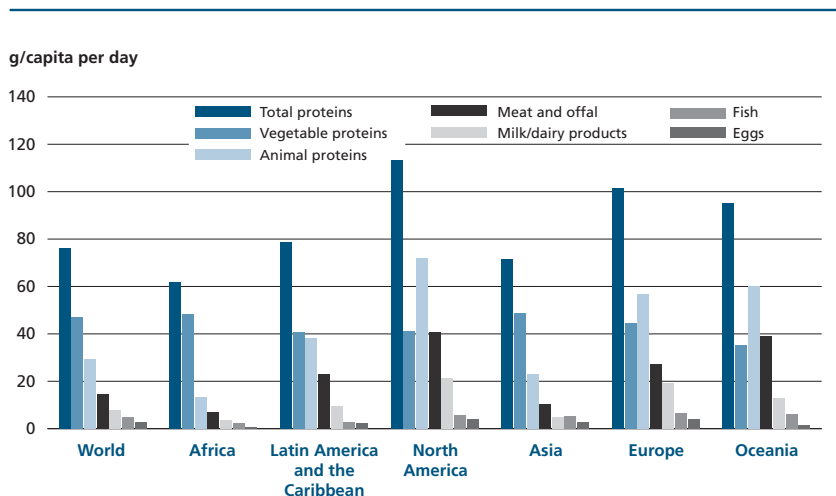
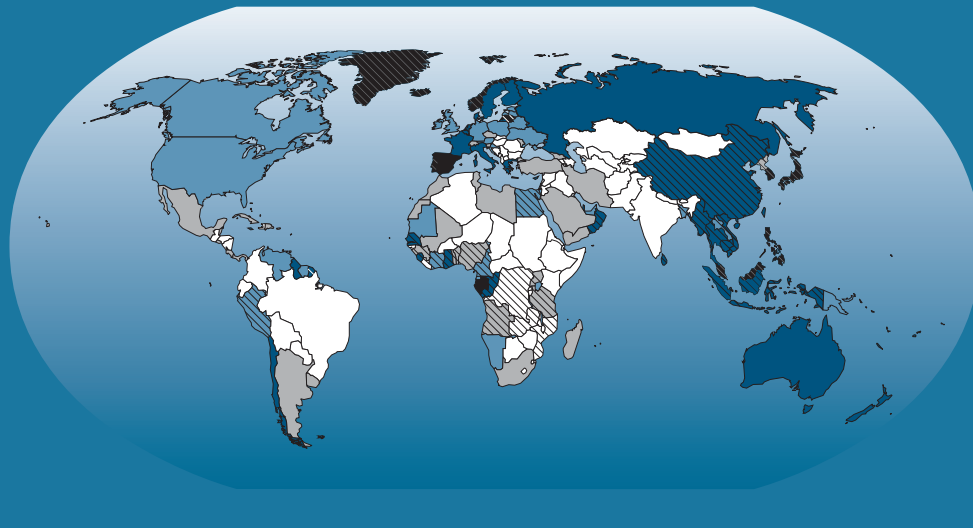


Figure 33

Contribution of fish to animal protein supply (average 2005–2007)



Fish proteins
(per capita per day)

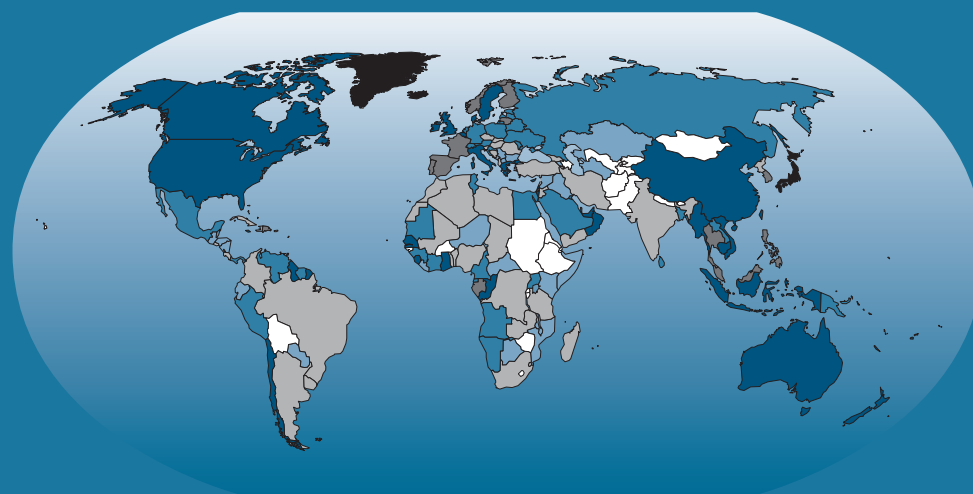


Contribution of fish
to animal protein supply

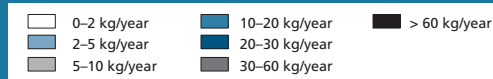


Figure 34

Fish as food: per capita supply (average 2005–2007)



Average per capita fish supply
(in live weight equivalent)



per capita fish consumption, with an average growth rate of 5.7 percent per year in the period 1961–2007. China accounted for most of the global increase in per capita consumption owing to the substantial increase in its fish production, mainly from the growth of aquaculture. Its estimated share of world fish production grew from 7 percent in 1961 to 33 percent in 2007, when China's annual per capita fish supply was about 26.7 kg. If China is excluded, in 2007, annual per capita fish supply was about 14.6 kg, slightly higher than the average values of the mid-1990s, and lower than the maximum levels registered in the mid-1980s.

Table 12 summarizes per capita consumption by continent and major economic groups. The total amount of fish consumed and the species composition of the food supply vary according to regions and countries, reflecting the different levels of availability of fish and other foods, including the accessibility of aquatic resources in adjacent waters, as well as diverse food traditions, tastes, demand, income levels, prices and seasons. Annual per capita apparent fish consumption can vary from less than 1 kg in one country to more than 100 kg in another (Figure 34). Differences are also evident within countries, with consumption usually higher in coastal areas. Of the 111 million tonnes available for human consumption in 2007, consumption was lower in Africa (8.2 million tonnes, with 8.5 kg per capita), while Asia accounted for two-thirds of total consumption, with 74.5 million tonnes (18.5 kg per capita), of which 39.6 million tonnes was consumed outside China (14.5 kg per capita). The corresponding per capita consumption figures for Oceania, North America, Europe, Central America and the Caribbean, and South America were 25.2, 24.0, 22.2, 9.4 and 9.1 kg, respectively.

Differences in fish consumption exist between the more-developed and the less-developed countries. In developed countries, apparent fish supply rose from 16.7 million tonnes (live weight equivalent) in 1961 to 33.0 million tonnes in 2007. A significant share of this supply consisted of imported fish. Developed countries have become increasingly dependent on fish imports to satisfy their demand. Forecasts indicate that this dependence will grow owing to their decreasing fisheries production (down 16 percent in the period 1998–2008). Apparent fish consumption in developed countries grew from 17.2 kg per capita per year in 1961 to 24.3 kg in 2007. However, the share of fish to animal protein intake, after consistent growth up to 1984, declined from 13.3 percent in 1984 to 12.0 percent in 2007, while consumption of other animal proteins continued to increase. In 2007, for industrialized countries, apparent fish

Table 12
Total and per capita food fish supply by continent and economic grouping in 2007

	Total food supply	Per capita food supply
	(million tonnes live weight equivalent)	(kg/year)
World	113.1	17.0
World (excluding China)	78.2	14.6
Africa	8.2	8.5
North America	8.2	24.0
Latin America and the Caribbean	5.2	9.2
Asia	74.5	18.5
Europe	16.2	22.2
Oceania	0.9	25.2
Industrialized countries	27.4	28.7
Other developed countries	5.5	13.7
Least-developed countries	7.6	9.5
Other developing countries	72.6	16.1
LIFDCs ¹	61.6	14.4
LIFDCs (excluding China)	26.7	9.0

¹ Low-income food-deficit countries.

consumption was 28.7 kg per capita per year and the share of fish in animal protein intake was 13.0 percent.

In 2007, the average annual per capita apparent fish supply in developing countries was 15.1 kg, and 14.4 kg in LIFDCs. However, if China is excluded, these values become 11.3 kg and 9.0 kg, respectively. Although annual per capita consumption of fishery products has grown steadily in developing regions (from 5.2 kg in 1961) and in LIFDCs (from 4.5 kg in 1961), it is still considerably lower than in the more developed regions, even though the gap is narrowing. In addition, these figures may be higher than indicated by official statistics in view of the unrecorded contribution of subsistence fisheries. Despite these relatively low levels of fish consumption, the contribution of fish to total animal protein intake in 2007 was significant at about 18.3 percent for developing countries and 20.1 percent for LIFDCs. However, as seen for developed countries, also in developing countries and LIFDCs, this share has declined slightly in recent years owing to the growing consumption of other animal proteins.

In the last two decades, before the food and economic crises,¹³ the global food market, including the fish market, experienced unprecedented expansion and a change in global dietary patterns, with a shift towards more protein. This change was the result of complex interactions of several factors, including rising living standards, population growth, rapid urbanization, increased trade and transformations in food distribution. A combination of these factors has driven demand for animal protein, especially from meat, milk, eggs and fish products, as well as vegetables in the diet, with a reduction in the share of basic cereals. Protein availability has increased in both the developed and developing world, but growth has not been equally distributed. There has been a remarkable increase in the consumption of animal products in countries such as Brazil and China and in other less developed countries. However, the supply of animal protein remains significantly higher in industrialized countries than in developing countries. Annual global per capita consumption of meat almost doubled in the period 1961–2007, rising from 23 kg to 40 kg. The growth was particularly impressive in the most rapidly growing economies of developing countries and LIFDCs. Having attained a high level of consumption of animal protein, more developed economies have been increasingly reaching saturation levels and are less reactive to income growth and other changes than are low-income countries. Developing countries increased their annual per capita meat consumption from 9 kg in 1961 to 29 kg in 2007, with the corresponding values for LIFDCs increasing from 6 kg to 23 kg in the same period.

In addition, world food markets have become more flexible, with new products entering the markets, including value-added products easier to prepare for the consumer. Before the global economic crisis, as a consequence of good economic conditions, many individuals ate more and better than previously. Growing urbanization is one of the factors modifying patterns of food consumption, which has also had an impact on demand for fishery products. People living in urban areas tend to eat out of the home more frequently, and larger quantities of fast and convenience foods are purchased. Supermarkets are also emerging as a major force, particularly in developing countries, offering consumers a wider choice, reduced seasonal fluctuation in availability and, often, safer food. Several developing countries, especially in Asia and Latin America, have experienced a rapid expansion of supermarkets, which are not only targeting higher-income consumers but also lower- and middle-income consumers.

In the last two decades, the consumption of fish and fishery products has also been considerably influenced by globalization in food systems and by innovations and improvements in processing, transportation, distribution, marketing and food science and technology. These have led to significant improvements in efficiency, lower costs, wider choice and safer and improved products. Owing to the perishability of fish, developments in long-distance refrigerated transport and large-scale and faster shipments have facilitated the trade in and, therefore, consumption of an expanded variety of species and product forms, including live and fresh fish. In addition, there has been a greater focus on marketing, with producers and retailers attentive to consumer preferences and attempting to anticipate market expectations in terms of quality,



Annex 295

C. S. Hutchinson and V.R. Vijayan, "What are the Spratly Islands?", *Journal of Asian Earth Science*, Vol. 39 (2010)



Contents lists available at ScienceDirect

Journal of Asian Earth Sciences

journal homepage: www.elsevier.com/locate/jseaes

What are the Spratly Islands?

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ARTICLE INFO

Article history:

Received 16 July 2009

Received in revised form 17 April 2010

Accepted 20 April 2010

Keywords:

Dangerous Ground

Marginal basin rifting

Coral–algal reefs

Spratly Islands

South China Sea

Mid-Miocene Unconformity

ABSTRACT

Seismic records, combined with dredged samples and a core, indicate that the Spratly Islands of the Dangerous Ground Province are constructed of presently active carbonate build-ups, known to extend back continuously at least to the Pleistocene and presumed to have initiated in the Miocene, most likely upon the crests of sea-floor cuestas that trend north-east–south-west parallel to the sea-floor spreading magnetic anomalies of the contiguous abyssal plain of the southern part of the South China Sea. The cuestas range from spectacular to subdued, constructed of Triassic and Cretaceous strata and no older rocks have been identified from dredges.

The cuesta axes plunge towards the south-west away from the islands, suggesting that the reefs began colonising their more elevated parts, but the timing is uncertain. The highest seismically recorded cuesta crest is in 440 m of water and the islands and reefs are generally closely surrounded by water deeper than 1500 m. Since the so-called Mid-Miocene Unconformity (MMU), the region has been undergoing post-rift thermal subsidence. However, the nearby seismic lines show no evidence of drowned carbonate reefs. It is suggested that the coral-algal reefs colonised the crests of the most elevated cuestas that have maintained stability as shown by the 165 m core of one reef indicating periodic exposure with caliche horizons. Deepening water has protected the build-ups from extinction by post-rift draping strata in contrast to the Central Luconia Province, and the build-ups have been able to keep up with regional thermal subsidence.

The dredged Mesozoic strata indicate that the Dangerous Ground is not exotic and should be interpreted as an integral part of the pre-rift Sundaland continent that included South China, Vietnam, Peninsular Malaysia, western Sarawak and possibly part of Sabah. Igneous and metamorphic samples have been dredged. Although individual spot K/Ar dates cannot be accepted at face value, such rocks can also be interpreted as an integral part of Sundaland. Post-MMU dredged samples are predominantly deep-water calcareous mudstones typified by the draping strata of the Ocean Drilling Program (ODP) Site 1143 cored from Recent to Late Miocene.

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1. Introduction

The purpose of this paper is to attempt an understanding of the geology of the islands and the Dangerous Ground, supported by nearby seismic lines and dredge sample descriptions. The Spratly Islands, mostly reefs, are well known more as a region of different territorial claims. A substantial number of papers have been published on the Dangerous Ground (e.g. Clift et al., 2002, 2008; Hutchison, 2004) but there is a lack of studies on the actual geology of the Spratly Islands themselves, except for Gong et al. (2005). Taylor and Hayes (1980, 1983) wrote about the Reed Bank that is close to but not actually one of the Spratly Islands.

There are more than 600 reefs and islets in the southern South China Sea. Most lie between 7–12°N and 112–116°E. (Fig. 1). They

were named after Captain Richard Spratly, master of the British whaler 'Cyrus South Seaman', who in 1843 sighted the Spratly Island, also known as Ladd Reef. China refers to them as the Nansha Islands. Admiralty charts have the warning "Dangerous Ground" printed over this region, to warn sailors of the reefs, many of which were uncharted. The region has come to be referred to as 'Dangerous Ground' in the absence of any formal name. As far as can be determined, all of the Spratly Islands are capped by active coral reef and there are no other rock outcrops. Most of the 'islands' are under water at high tide, but some maintain a partial low elevation of a rim surrounding a lagoon, in which case they are sparsely vegetated and inhabited by sea birds. There are no indigenous human inhabitants, but tourists visit for diving and fishing and the military occupy many for territorial claims.

This paper is mainly confined to seismic data acquired within Malaysian Exclusive Economic Zone (EEZ). There are numerous islands and reefs within the maritime boundary of Malaysia's EEZ. The main reefs and islands are shown in Fig. 2. The names in the

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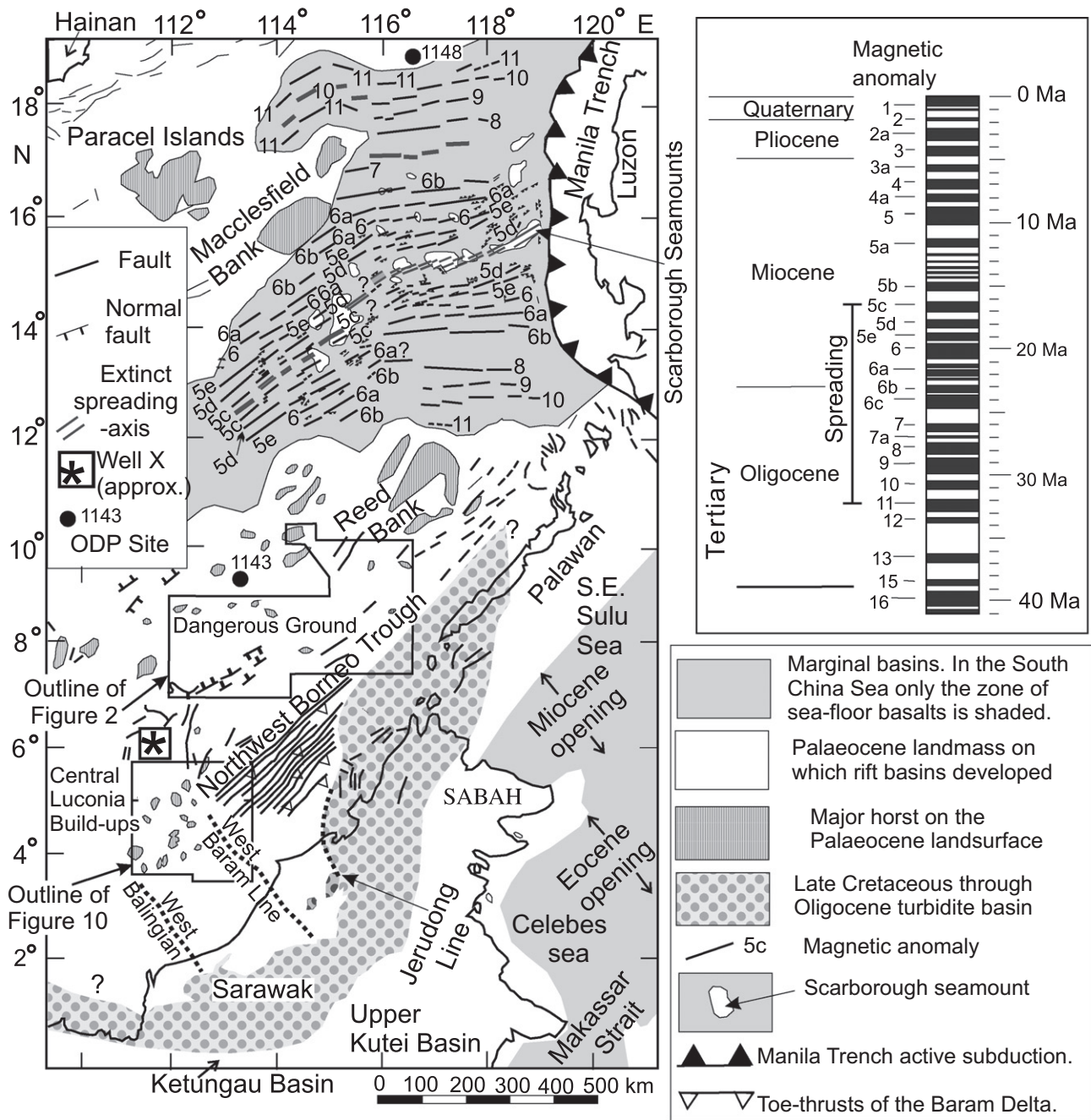


Fig. 1. The major geological features of the southern South China Sea, showing the approximate extent of the Spratly Islands, Central Luconia and Dangerous Ground. Magnetic anomalies are from Briais et al. (1993). Revised anomalies by Barckhausen and Roeser (2004) interpret the end of sea-floor spreading earlier, at anomaly 6A (20.5 Ma). The rifted terrain enveloping the zone of sea-floor spreading, on the west and south, was developed initially on the Palaeocene Sundaland landmass (Hutchison, 1992).

admiralty charts differ from those given by claimant countries. However, a considerable amount of confusion exists regarding their naming and which countries claim and occupy them. Comprehensive non-geological details are given by Hancox and Prescott (1995) and Dzurek (1996). This paper does not deal with the legal and occupational claims by contiguous coastal countries.

The Spratly Islands are mostly reefs. Pulau¹ Layang-Layang has been identified as an atoll with a box-like shape suggesting fault control. The old theory of Darwin (1842), that atolls are carbonate build-ups upon the calderas of extinct volcanoes, is no longer valid

and Purdy and Winterer (2001) have shown that a carbonate rim enclosing a lagoon is a result of fresh water karstic weathering at sea level. A rim and lagoon are not, however, universal. The atoll morphology in no way suggests control from the underlying basement morphology.

There is a reconnaissance network of 2D seismic lines over most of the area (Fig. 2), except in the vicinity of the Barque Canada Reef (Terumbu¹ Perahu), Commodore Reef (Terumbu Laksamana) and Amboyna Cay (Pulau Kecil Amboyna).

In 2007 several deep-penetration 2D seismic lines were acquired in this area, as part of the Malaysian Continental Shelf Project. However, they are not included in the present paper.

¹ In Malay language, pulau means island, terumbu means reef.

Annex 296

Francois Gipouloux, *The Asian Mediterranean: Port Cities and Trading Networks in China, Japan and Southeast Asia, 13th-21st Century* (2011)

The Asian Mediterranean

Port Cities and Trading Networks in China,
Japan and Southeast Asia, 13th–21st Century

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Edward Elgar

Cheltenham, UK • Northampton, MA, USA

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First published in French as *La Méditerranée asiatique
Villes portuaires et réseaux marchands en Chine, au Japon et en Asie du Sud-Est,
XVIe–XXIe siècle*, Paris, CNRS-Editions.

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Translated by Jonathan Hall and Dianna Martin.

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Published by
Edward Elgar Publishing Limited
The Lypiatts
15 Lansdown Road
Cheltenham
Glos GL50 2JA
UK

Edward Elgar Publishing, Inc.
William Pratt House
9 Dewey Court
Northampton
Massachusetts 01060
USA

A catalogue record for this book
is available from the British Library

Library of Congress Control Number: 2011925803



ISBN 978 0 85793 426 0

Typeset by Servis Filmsetting Ltd, Stockport, Cheshire
Printed and bound by MPG Books Group, UK

the contrary, to provoke a violence that would redirect trade towards the routes and vehicles under European domination.³¹

CHARTER COMPANIES AND MONOPOLIES

It is worth our while to pause here and examine the question of the monopolies held by chartered companies. Adam Smith's critical analysis of shareholding companies in *The Wealth of Nations* is, first of all, based on empiric elements: the poor results they obtained even when granted legal monopoly status. He then carries out an analysis of the role of agency costs within the firm. Smith does not see in the VOC an ordinary shareholding company – against which he holds no grudge, for that matter – but an aberrant form of institution created by the government.³²

Smith offers an enlightening description of what Anderson calls 'the pathology of government intervention in the market process. In his analysis of the East India Company, Smith was not diagnosing *market failure*; he was diagnosing *government failure*.'³³ In fact, Smith's argument rests upon the analysis of the EIC's mutations in the middle of the 18th century: from 1750 on (i.e., after the Treaty of Aix-la-Chapelle and the end of the first Carnatic War between France and England in India) the EIC's commercial strategy underwent a radical change. It was no longer just a commercial company, even if it had been guaranteed monopoly rights and prospered from trade, but an institution that gained profit from income acquired through systematic extortion in India. After the victory of the EIC army led by Robert Clive at Plassey (1757) against the Nawab of Bengal, the spirit of conquest took possession of the EIC employees and never left them thereafter.³⁴

The employees of the company organised domestic trade in the areas controlled by the English into cartels, taking advantage of the company's political power. In other words, the EIC's revenue no longer came from trade, but from fiscal extraction. This mutation, from productive commerce to unproductive transfer of wealth, from the pursuit of profit to the pursuit of income, is at the heart of his criticism of a company whose losses were

³¹ Niels Steengaard (1991) 'Evidence and patterns', in K. Haellquist (ed.) *Asian Trade Routes: Continental and Maritime*, London, Curzon Press for the Scandinavian Institute of Asian Studies, p. 6.

³² See Adam Smith (1976[1776]) *Enquiry into the Nature and the Cause of the Wealth of Nations*, Oxford, Clarendon Press, p. 741.

³³ Gary M. Anderson and Robert D. Tollison (1982) 'Adam Smith's analysis of joint stock companies', *The Journal of Political Economy*, 90 (6), December, p. 1249.

³⁴ Smith, *Enquiry*, p. 749.

the result of its governmental status. This economic burden was not the consequence of the company's monopolistic activities as such, but of the operations of a coercive administration, encouraged by the government. This clear failure of the legally constituted state led to an aberration: the preservation of a company which like the VOC was a state within a state.

The EIC's policy was based on a high level of taxation and coercive restrictions on commerce inside the country, which hindered the development of domestic trade in India. Whereas before 1757 the EIC's revenue came almost exclusively from trade, after this date, the company acquired enormous territorial dominions that brought in substantial revenue.

At the end of the 18th century, the amount of Chinese trade that transited through the Malay archipelago re-kindled English interest in the region. This time they clashed with the Dutch. Driven out of Bantam in 1682, the merchants of the EIC concentrated their activities on trade with India and China, leaving commerce with Southeast Asia in the hands of private traders, known as country traders, whose headquarters were in India, even though they were not employees of the company.

The EIC also enjoyed the monopoly of trade with China. In order to protect this very lucrative traffic, from the second half of the 18th century, the company sought a base in Southeast Asia that would allow it to fulfil three objectives: a) protect and stimulate Anglo-Chinese trade; b) dispose of a place for repairing and refuelling their ships; and c) establish a collection point for commodities liable to sustain trade with China. These three objectives would dictate the establishment of all trading posts and entrepôts in Asia during this period.

Whereas the English market was infatuated with silks, porcelain and, especially, Chinese tea, the demand for English commodities in China, in particular for woollen cloth, was virtually non-existent. The EIC therefore paid for its acquisitions in silver. It would be necessary, therefore, to substitute pepper, pewter and other 'products from the straits' which Southeast Asia habitually provided to China, as a means of stopping this haemorrhage of money. The British also had to safeguard their European interests and avoid confronting the Dutch or the Spanish too directly. In addition, they had to reckon with the French on the coast of Coromandel.

Seeking trading posts for their commercial activities with China and bases from which they could challenge the French in the Indian Ocean, in 1786 they acquired Penang, an island west of the Malay Peninsula. The island was leased to the East India Company through the intervention of an English merchant, Francis Light, in exchange for the promise – a false one – to protect the sultan of Kedah from his Siamese enemies. Once leased, Penang would never be ceded back to Kedah. The island quickly became a commercial entrepôt with a cosmopolitan population. The sugar

trade, in particular, flourished there. The British then acquired Malacca – the town was besieged by the EIC in 1795 – and solidly sealed this conquest through the terms of a treaty signed in 1824 with the Netherlands, which, although it recognised Dutch pre-eminence in the Malay archipelago, excluded it from the peninsula.

From 1803 to 1813, William Farquhar, Resident of Malacca during its occupation by the EIC, had a mission to keep the other European powers from settling there. Thus, he controlled the straits and therefore the trade passages to China. The English would, from that time on, join their resources to the Chinese trade networks in the archipelago. They would try to populate Penang by attracting the Chinese in Malacca, and this effort would allow them to become familiar with the administration of a Chinese trading community. Their ambition did not stop there. In December 1809 the EIC devised a plan to invade Java from Madras. This would be accomplished in December 1810.

The Straits Settlements – Malacca, Penang and Singapore – acquired by the East India Company were administered from India. They formed the backbone of trade with China and India for the Honourable Company.³⁵

INTRA-ASIAN TRADE (COUNTRY TRADE)

The main difficulty facing the EIC – and the VOC, for that matter – was a chronic lack of capital. To solve the problem, it had no other option but to engage in country trade, that is, intra-Asian trade, or as it was called in France, ‘le commerce d’Inde en Inde’. Batavia, Whampoa (Canton), Bombay, Amoy and Malacca were the most frequented ports. Thus, cottons bought in Surat were re-sold at a profit in Batavia. Pepper was then purchased for import to England. This type of trade, which lasted throughout the 17th and 18th centuries, was possible because the markets were fragmented: the Gujarati dominated Indian foreign trade, while the Bugis were the masters of trade in the Indonesian archipelago. Whether they are called *commercial regions* by Chaudhuri, *systems* by Lombard³⁶ or *worlds* by Braudel, they were economic zones that enjoyed a great degree of autonomy. The sultanates were in decline and the Chinese had withdrawn

³⁵ The company was taken over by the crown in 1858, after the Indian Mutiny, which would lead to the British Raj and direct administration of most of the territory of India by the British crown.

³⁶ Lombard, Denys (1981) ‘Questions on the contact between European companies and Asian societies’, in P.H. Boulle, Leonard Blussé and F. S. Gaastra (eds) *Companies and Trade: Essays on Overseas Trading Companies during the Ancien Régime*, Leiden, Leiden University Press, pp. vi, 276.

from tribute trade. From the Red Sea to the Persian Gulf, western India, Bengal, Ceylon, Indonesia, the Philippines and China, the English merchants, captains of the EIC, went into private business, working to link up these different markets, exchanging gold or silver ingots for pepper, cotton textiles, silks, tea, coffee, Chinese porcelain and opium, as well as a wide variety of other commodities.

Country trade depended on a constellation of factories where goods were stored during periods of business. They were managed by 'factors' – master merchants whose activities relied upon a network of local brokers. The Chinese merchants, the Japanese dealers and the Charter companies were by no means the only actors in this traffic. There were also the independent European merchants, the interlopers.

Country trade was a very old practice. In order to avoid leaving their ships unemployed while waiting for the monsoon season and the return journey to Europe, the Portuguese had long before merged successfully into intra-Asian trading. 'Country ships' was the term employed for the vessels involved in this triangular trade between India, on the one hand, and the Malay Peninsula and the Indonesian archipelago, on the other – and, finally, China. In the 18th century country traders were licensed by the British East India Company and they supplied the company's treasury with the necessary funds for the purchase of Chinese goods for export to Europe. The value of the merchandise sold in China being higher than that of the goods purchased there, the accumulated revenue was converted into bills of exchange drawn on the company, which were then immediately traded in India.³⁷

The increasing mastery by the Europeans of country trade reflected an extension of the companies' politics of territorial domination.³⁸ Ships built and outfitted in Asia, boarded by Asian crews and commanded by one or two Europeans would travel from port to port under European flags. Highly appreciated by Asian traders, rapid, well equipped, and therefore capable of escaping from pirates or holding their own against them, they belonged, for the most part, to private ship owners, and to top it all off, earned a good profit. Country trade in the 17th century was probably greater than trade between Asia and Europe.

Also analysed by Smith, the actions of the interlopers were, to his eyes, in no way illicit.³⁹ They were people entering a market dominated by monopoly rights, and not profiteers who appropriated public property provided by the companies. Competition is a process by which goods and services are

³⁷ See Michael Greenberg (1951) *British Trade and the Opening of China, 1800–1842*, Cambridge, Cambridge University Press, pp. 11–17.

³⁸ See Philippe Haudrère (1998) *Le Grand Commerce maritime au XVIIIe siècle*, Paris, SEDES, p. 47.

³⁹ See Smith, *Enquiry*, p. 742.

discovered, efficiently produced and allotted to their most capable users in order to respond to a shortage. It is determined not so much by the number of participants as by freedom of entry to a given market. The absence of an entrance barrier constitutes the most reliable measure for competitiveness in an industry. The second criterion of efficiency, according to Smith, is the capacity for a company to survive over the long term. Therefore, Smith's primary preoccupation is the monopoly that resulted from governmental regulation.⁴⁰ The advantages of joint stock companies are undeniable, but their mode of intervention may be criticised:

Negligence and profusion, therefore, must always prevail, more or less in the management of the affairs of such a company. It is upon account that joint stock companies for foreign trade have seldom been able to maintain the competition against private adventurers. They have accordingly seldom succeeded without an exclusive privilege and frequently have not succeeded with one.⁴¹

In Smith's view, there is a connection between the efficient operation of the EIC before 1748 and the French and Dutch competition which it had to deal with in India at this time. After 1748 – in other words, after the end of the war of the Austrian succession – the 'cold war' in India caused rival companies to operate in India only within the respective spheres of influence of the nations to which they belonged.⁴²

CARTELS AGAINST INTERLOPERS

The problem of relations with the interlopers was a consequence of the EIC's 'monopolistic rights'. Smith believed that the idea that forts built by the company were for the 'public good' should be subject to caution. For him, companies are in the wrong when they use violent means to overcome interlopers.⁴³ In fact, forts, garrisons and, above all, naval strength, provided mechanisms that favoured the formation of cartels for the charter companies that wanted to fight the interlopers. Smith must surely have read Josiah Tucker, who wrote, 17 years before the publication of the *Wealth of Nations*:

It is not so clear a point that any Forts are necessary, if *National Commerce* is the only thing aimed at. For let me ask, to what *Commercial* uses are these forts

⁴⁰ *Ibid.*, p. 759; A. Smith (1976[1759]) *Theory of Moral Sentiments*, Oxford, Clarendon Press, p. 162.

⁴¹ Smith, *Enquiry*, p. 741.

⁴² *Ibid.*, p. 1250, n. 8.

⁴³ *Ibid.*, pp. 742 and 754.

Annex 297

Kenneth R. Hall, *A History of Early Southeast Asia: Maritime Trade and Societal Development, 100-1500*
(2011)

A History of Early Southeast Asia

Maritime Trade and Societal Development, 100–1500

Kenneth R. Hall

ROWMAN & LITTLEFIELD PUBLISHERS, INC.
Lanham • Boulder • New York • Toronto • Plymouth, UK

To Randy, Jason, Jeremy, and Rachel

Published by Rowman & Littlefield Publishers, Inc.
A wholly owned subsidiary of The Rowman & Littlefield Publishing Group, Inc.
4501 Forbes Boulevard, Suite 200, Lanham, Maryland 20706
<http://www.rowmanlittlefield.com>

Estover Road, Plymouth PL6 7PY, United Kingdom

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British Library Cataloguing in Publication Information Available

Library of Congress Cataloging-in-Publication Data

Hall, Kenneth R.

A history of early Southeast Asia : maritime trade and societal development, 100–1500 / Kenneth R. Hall.

p. cm.

Includes bibliographical references and index.

ISBN 978-0-7425-6760-3 (cloth : alk. paper)

ISBN 978-0-7425-6761-0 (pbk. : alk. paper)

ISBN 978-0-7425-6762-7 (ebook)

1. Southeast Asia—Commerce—History—To 1500. 2. Southeast Asia—Commerce—Social aspects—History—To 1500. 3. Southeast Asia—Civilization—To 1500. 4. Southeast Asia—History—To 1500. I. Title.

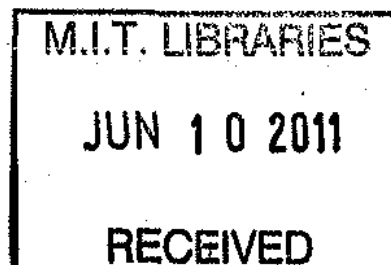
HF3790.8.H348 2011

959'.01—dc22

2010043612

∞™ The paper used in this publication meets the minimum requirements of American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI/NISO Z39.48-1992.

Printed in the United States of America



courts provided meaningful linkages among networked population clusters through a variety of initiatives, and consequently submissive populations thought of themselves as sharing membership in a common civilization that was centered in a court (Hall: 2010c).

EARLY ECONOMIC DEVELOPMENT

In the premodern world, the Southeast Asian region was initially portrayed in international sources as a land of immense wealth; developments there were thought to be of crucial importance to the entirety of world history in the pre-1600 period. Writers, travelers, sailors, merchants, and officials from every continent of the Eastern Hemisphere knew of Southeast Asia's exotic products, and by the second millennium of the Christian era, most were aware of its ports of trade and major political centers (Park: 2010).

In the early centuries CE Indians and Westerners called Southeast Asia the Golden Khersonese, the "Land of Gold," and it was not long thereafter that the region became known for its pepper and the products of its rainforests: first aromatic woods and resins, and then the finest and rarest of spices (Wheatley: 1961). From the seventh to the tenth centuries Middle Easterners and Chinese thought of Southeast Asia as the vital passageway between India and China, as well as the source of spices and jungle products that had substantial market value. By the fifteenth century sailors from ports on the Atlantic, at the opposite side of the hemisphere, would sail into unknown oceans in order to find these Spice Islands. They all knew that Southeast Asia was the spice capital of the world. From roughly 1000 CE until the eighteenth century, all world trade was more or less governed by the ebb and flow of spices in and out of Southeast Asia (Reid: 1988, 1994). Throughout these centuries the region and its products never lost their siren call. Palm trees, gentle surfs, wide beaches, steep mountain slopes covered with lush vegetation, and birds and flowers of brilliant colors, as well as orange and golden tropical sunsets, have enchanted its visitors as well as its own people through the ages.

The story of economic development in early Southeast Asia begins long before the Christian era. Southeast Asia had already been for centuries a region with a distinct cultural identity. By the early Christian era, Southeast Asia had skilled farmers, musicians, metallurgists, and mariners. Even though they had no written language, no large urban concentrations, and no administrative states of recognizable proportions, they were nevertheless a highly accomplished people who had already assumed a significant role in the cultural development of the southern oceans of the Eastern Hemisphere.

Their expertise was in three general areas. First, they were innovative farmers. It is possible that Southeast Asians were the first to domesticate rice and to develop wet-rice cultivation. Early archeological evidence from the era of known rice cultures, as early as 2000 BCE, has been identified in Southeast Asian sites (notably northeastern Thailand), and archeologists have found evidence of a rice plant that could be classified as an intermediate stage between wild and domesticated rice that has been dated to ca. 3000 BCE. But these people never developed a rice monoculture. In addition to rice, local populations also harvested a number of other crops, including sugarcane, yams, sago, bananas, and coconuts. And they apparently were among the first (if not the first) to domesticate the chicken and pig (Bellwood: 1997; O'Connor: 1995).

It may be that Southeast Asians independently discovered bronze and developed their own sophisticated metallurgical techniques based on the special qualities of bamboo. Since the trunk of this plant grows in hollow segments, they were able to use it to fashion a fire piston that produced the heat required to liquefy metal. Archeologists have dated bronze objects uncovered in northeast Thailand to 1500 BCE, and iron bracelets and spearheads to about 500 BCE. By 200 BCE many peoples in the region possessed a sophisticated metal technology that allowed the production of bronze, brass, tin, and iron, although in most cases the tin, copper, and iron raw materials were not locally available and in some cases had to be imported. Beautiful large bronze ceremonial drums like those found in Dong Son (in modern Vietnam) could be found all over Southeast Asia. That these drums were so widely dispersed throughout the region is clear evidence that there existed an extensive and efficient exchange mechanism within the Southeast Asian world prior to any significant trade with imperial India or China (Bronson: 1992).

Their third area of expertise, that of sailing, may explain in part how these drums, among other material objects, became so widely dispersed. The people of the maritime realm were the pioneers of early watercraft developed on the southern oceans (Manguin: 1994). From before the historic period, they knew how to ride the monsoons, the seasonal winds that pulled across the continent during the hot months of the Central Asian summer and pushed away during the cold Central Asian winter. This basic rhythm of the Central Asian bellows offered an opportunity that the seaborne sojourners of Southeast Asia seized. They sailed thousands of miles from their homes, navigating by means of swell and wave patterns, cloud formations, winds, birds, and sea life. This sophisticated and complex knowledge was passed orally from generation to generation. They measured their peoples by "boatloads," and on the slightest pretext, boatloads would leave islands where they were already heavily concentrated and sail off to set up new communities on unin-

habited islands, so that these Malayo-Austronesian peoples eventually stretched halfway around the globe, from Madagascar on the East African coast to Easter Island in the Pacific.

They were the nomads of the Southern Ocean, and they played a role in history that in some ways resembles that of the nomads of the northern steppe. They were prime movers in the links created between larger centers, as well as potential impediments to those links once they were created. Exactly when this far-reaching maritime activity began is unknown, but "Malay" (*Kunlun*) sailors were known in China by the third century BCE, and there is evidence that they were settling along the East African coast by the first century CE. By the time of the Roman Empire, there were permanent communities of Malayo-Polynesian-speaking peoples on the coast of Malagasy, where they remain to this day (Taylor: 1976).

The Malay sailors did not cover these routes empty-handed, and in the process of sailing across the thousands of miles of Southern Ocean from Africa to Easter Island, they moved the specialties of one place to others. Cinnamon, a product that originally came from the south China coast, may also have reached the markets of India on the vessels of these sailors, and the markets of Southwest Asia and the Mediterranean through Malay trading stations in East Africa. The Roman historian Pliny, writing in the first century CE, described cinnamon traders between Africa and Asia who rode the winds "from gulf to gulf" (see chapter 2). Pliny describes their craft as rafts. What he was no doubt referring to was the double outrigger canoe of the Malays. This same craft is still used today along the routes that these ancient mariners sailed. The cinnamon they brought was then traded north by the Africans until it reached Ethiopia, where the Europeans obtained it.

Since Malay sailors were known in China by the third century BCE, it was probably not long after that they began to sail through the Straits of Melaka (Malacca) and Sunda into the Indian Ocean and on to India, and thus it is quite possible that the Southeast Asians themselves were responsible for the earliest contacts between Southeast Asia and South Asia. Historians do not know exactly when the first ships based in Indian ports went to Southeast Asia, but many believe that it was sometime in the last two centuries BCE. It has been suggested that from the late fifth century BCE beginning of the Mauryan period India's supply of gold came from Siberia, from the northern reaches of Central Asia, but that after the Mauryans fell in the second century BCE, the movement of steppe nomads cut them off from these sources and forced them to look elsewhere. It was then, they think, that merchants based in India's ports began to sail into Southeast Asian waters, looking for the "Islands of Gold" (Wheatley: 1983; Ray: 1994; Sen: 2003).

The early Southeast Asian populations shared a relatively common physi-

trade with the West—and seemingly as well to evaluate whether conquest down the coast beyond the Red River delta would be worthwhile (Wang: 1958, 33). These envoys' reports provided the first written details on Funan, Da Qin, and the networked centers of maritime trade that lay beyond in Southeast Asia, northern India, and the Middle East.

Kang Tai informed the Chinese emperor that the kingdom of Funan was a prosperous realm from which great merchant ships departed for China and India. Funan's authority stretched along the trade route beyond the lower Mekong Delta to the upper Malay Peninsula. He reported that after a major naval expedition in the early third century, Funan had assumed authority over many of the trade centers on the Malay coast, thereby consolidating its dominance over the flow of commerce through Southeast Asia. By the early fourth century, however, significant changes were taking place on the international route that resulted in the fifth- and sixth-century demise of Funan and its networked northeast Malay Peninsula commercial centers (Manguin: 2009; Miksic: 2003a, 28–33).

THE EARLY CHINA TRADE

Who provided passage from Southeast Asia's ports to China and India in the first centuries of the Christian era? Early Chinese records make it clear that Malayo-Austronesian seamen (*Kunlun*) and ships (*kunlunpo*) based in Southeast Asia, with the ships described as extending to two hundred feet in length, rising up to twenty feet above the water level, and said to be able to hold from six hundred to seven hundred passengers and ten thousand bushels (nine hundred tons) of cargo, sailed the route between Southeast Asia and China (Wolters: 1967, 154; Manguin: 1994; Miksic: 2003a, 22). Until the eleventh century no Chinese ships made the voyage on a regular basis, and until the sixth century Persia-based ships went no farther east than Sri Lanka. There is disagreement, however, on who provided the passage from South Asia to Southeast Asia.

Many Western historians initially thought that Indian seamen in Indian-made ships developed the route. In reiterations of this view, it used to be argued that Southeast Asian seamen were not capable of building the great ships making the voyage (Wheatley: 1975, 154). In this West-prejudiced view Indian craftsmen copied the more advanced Persian ships in shipyards along the Indian coast and Indian sailors, most of them Buddhists, then sailed the vessels with their international passengers and cargoes to the "Land of Gold." Other historians now believe that it was not Indians but multiethnic Southeast Asians, piloting ships (*kunlunpo*) built in Southeast Asia from the

Southeast Asian archipelago to India and back, who provided this early linkage for international merchants (Wolters: 1967, 154). In their view Southeast Asian seagoing populations were responsible for opening the entire sea route from India to China. They point to Western accounts from this age that record voyages by “Malay” seafarers as far west as the African coast and draw the conclusion that if Malay ships could reach Africa, they could certainly reach India (Manguin: 1980).

When the need for a maritime route increased, international sojourners were able to turn their maritime skills to financial gain. Because Western traders at this time were primarily interested in exchanging Western goods for Chinese products without voyaging beyond South or Southeast Asia themselves, access to the ports of south China was a critical factor that allowed Southeast Asia-based sojourners to expand their Western trade. By securing Chinese commodities and transporting them to Southeast Asian and South Asian trade depots, Southeast Asian seamen effectively eliminated the need for Western ships to venture beyond South Asia.

Southeast Asia-based seamen, however, were not only facilitators of international trade; they could be a serious detriment to it as well. They had the potential to be shippers and/or pirates. Chinese records recognized this duality in their report that “merchant ships of the barbarians” piloted by Kunlun seamen were used to transfer the early third-century Chinese envoys to their destinations in the archipelago, and that these seamen profited equally from the trade and from plundering, enslaving, or killing people (Wang: 1958, 20). The Chinese considered Southeast Asia to be generally unstable politically and a potential threat to the efficient flow of commercial goods into China. The Chinese government was most interested in having its political legitimacy and dominance recognized—above all to ensure the stability of their southern borderlands—as it was in establishing commercial goals as the basis of relationships. The Chinese thus looked for a strong, dominant port-polity in the area that would be able to maintain trade and prevent plundering by the sea pirates based in Southeast Asian waters.

The Chinese apparently favored consistency, preferring not to shift alliances from one port-polity to another. They would recognize one port and attempt to maintain a tributary relationship with it. If the state stopped sending envoys to the Chinese court, the Chinese would try to reestablish contact with that tributary state before granting official recognition to another. Southeast Asian states in a tributary relationship with China received token reciprocal material gifts from the Chinese court and the even more valued Chinese recognition of their legitimacy and trading status. Appeals for direct military aid or patronage were almost always ignored. Southeast Asian states did capitalize on Chinese recognition, however, to attract trade to their ports. Chinese

support bestowed on them a legitimacy that contributed to their rise. Traders who frequented a "legitimate" coastal trading center were given preferential treatment in their trade with China. The Southeast Asia-based seamen who provided shipping for goods and merchants saw the potential for acquiring great wealth in the China trade and joined forces with the legitimized states. They turned to policing rather than pirating the sea channels and in return for their loyalty shared in the trade-derived prosperity.

So critical was Chinese recognition that any coastal trade depot wishing to share in this prosperity regularly sent a tribute mission to the Chinese court. According to one historian's analysis of these political missions, which were dutifully recorded by Chinese scribes, when they were few it meant stability in the area; that is, when one trade depot's authority over the sea lanes was unchallenged (Wolters: 1970, 38–48). Periods of internal dissension and political turmoil are reflected, on the other hand, by numerous tribute missions, as various coastal commercial centers competed for the preferred status the Chinese could bestow. For example, in the era of Funan's supremacy, Funan ports were officially recognized by the Chinese court and sent few tribute missions. But by the fifth century, when the pattern of trade was shifting from Funan to the Melaka and Sunda Strait region, numerous tribute missions from the former economic subordinates of Funan appeared at the Chinese court soliciting favorable trade relationships. Funan attempted to regain Chinese favor, sending both tributary missions and trade envoys to the Chinese court, but the Chinese, fully aware of the transition taking place in trading patterns, chose to ignore the Funan initiative and to give official recognition instead to the ports of a southeastern Sumatra state as well as to those of Funan's northern neighbor, and potential rival, the Cham state of Linyi.

THE INDIANIZATION OF EARLY SOUTHEAST ASIA

We have seen that the growing importance of the maritime route through Southeast Asia had a significant impact on the political and economic systems of the region. Just what that impact entailed can be illustrated by a case study of the earliest known Southeast Asian political entity, Funan.

As reported above, when in the 240s the first China envoys on record traveled to Southeast Asia to explore the nature of the sea passage, doing so at the behest of the Wu dynasty, they went to Funan on the southern Vietnam coast. The reports filed by the court's agent Kang Tai and his compatriot Zhu Ying offer a window on the origins of Funan (Wheatley: 1961, 114–15; Vickery: 1998, 33–37). Kang Tai's report provides a contemporary glimpse of the prosperous state, informing his emperor that the people of Funan



Map 2.3. Southeast Asia in the Funan Age

live in walled cities, palaces, and houses [that are built on wooden piles]. . . . They devote themselves to agriculture. In one year they sow and harvest for three [i.e., they leave it in and it will grow back three years before they have to replant]. . . . [Customs] taxes are paid in gold, silver, pearls, and perfumes. . . . There are books and depositories of archives and other things. Their characters for writing resemble those of the Hu [a Sogdian people of Central Asia whose alphabet and script was of Indian origin]. (Pelliot: 1903, 252)

At the beginning of the first millennium, ports on the lower Vietnam coast, said by the Chinese to have been under Funan's authority, were among the coastal centers in the vicinity of the upper Malay Peninsula that quickly developed to service the growing numbers of merchants traveling the sea and overland Isthmus of Kra route. Revisionist historians, citing new archeological data obtained since the 1990s from extensive excavations and surveys in the lower Mekong River basin, believe that the Funan realm was populated by a mixture of ethnicities. Largely Khmer agricultural societies developed in the Mekong River upstream in modern Cambodia, while mixtures of Mon, Cham, and Malayo-Austronesian fishing and hunting groups populated the lower Mekong and the coast (Vickery: 2003–2004; Bourdonneau: 2003). Already building their own ships, Funan-based seamen recognized that the location of their coast in relation to the new international route across the Isthmus of Kra enabled them to provide passage for Indian and Chinese goods. Soon a Funan port was booming. The latest archeological evidence documents the construction of the port facilities, including buildings for storing goods and hostelrys for merchants lying over until the next season's monsoon winds allowed their return voyage (Manguin and Khai: 2000; Miksic: 2003a; Vo: 2003, 47–69; Manguin: 2004).

Archeological data from the Óc Eo site on the northwestern edge of the Mekong Delta supports the Chinese ambassadors' early third-century reports on the evolution of Funan as a commercial center for the maritime trade destined for China; it also connects the Funan polity's rise to the parallel or previous development of Funan's agricultural base. Favorable water resources, soil, and seasonal weather allowed Funan's agriculturalists in the upper delta and lower Mekong River basin to produce multiple rice harvests annually, supplying sufficient surplus to easily feed foreign merchants resident in Funan ports and to provision their ships (Vickery: 1998, 300–1). Clearly Funan's rise had two sources: the productivity of its agrarian system and the area's strategic location opposite the Isthmus of Kra. A network of canals connect the coast to Funan's agricultural upstream, centered on its urban "capital" at the archeological site of Angkor Borei in modern southern Cambodia. It is unclear whether this canal network required a new level of technological competence or a central leadership for its construction (Malleret:

1959–1963; Liere: 1980; Stark: 1998, 2003, 2006a, 2006b; Stark and Sovath: 2001). The question arises whether Funan's emergence was the consequence of indigenous evolution or the result of a significant input of foreign expertise, especially Indian. To answer this question, it is necessary to examine Funan's earliest history.

INDIANIZED FUNAN

According to the Chinese sources, the Funan state was founded in the first century CE. Its origin is suggested by a local legend that was already old when Chinese visitors recorded it in the 240s. According to this legend, Funan began when a local princess (whom the Chinese called Linyeh) led a raid on a passing merchant ship of unspecified nationality. The ship's passengers and crew managed to fend off the raiding party and make a landing. One of the passengers was Kaundinya, a man from a country "beyond the seas" (India). Linyeh subsequently married him, and the legend says he drank of the local waters, suggesting an oath of loyalty. As Funan was a matrilineal society, Kaundinya thereby became part of the local lineage, and as its heir he became the first Funan monarch. The realm that Kaundinya and Linyeh inherited consisted of several settlements, principally along the Mekong, each with its own local chief. Kaundinya and Linyeh later transferred seven of these to their son, while retaining the rest as their own (Pelliot: 1925, 246–49).

During their reign, according to the legend, Funan began attracting merchant ships by providing secure facilities and harbor improvements. The Kaundinya myth suggests that Indians were using Southeast Asian ships on their passage through Southeast Asia, for the myth does not specify that Kaundinya was traveling on an Indian ship, but says simply that a man from beyond the seas was on a ship of unremarkable and thus presumably local origin. This is certainly plausible, for Chinese records report that ships were being built in Funan's ports, including the ships that the Funan monarch Fan Shihman had ordered constructed for his third-century expedition of conquest against Malay Peninsula port-polities (Miksic: 2003a, 22).

Legends like the Kaundinya story cannot be taken too literally, but as symbolic if not metaphoric references. Early societies did not compose oral or the earliest written history as "fact" in our modern sense, but as mythical references that were attuned to their audience, or what their audiences were preconditioned to hear relative to their own lifetime experiences. In this light the Kaundinya myth, and others to be encountered in subsequent chapters of this book, above all provide meaning relative to a specific local space, in references to mountains, water, and sky. The upstream homeland leading to

the mountainous interior offered security, while the coastal realm adjacent to the sea, which was the most physically threatening as the source of seasonal typhoons and subsequent flooding, was also the borderland to the unknown, from which came strangers.

This particular story combines a myth of the Indian origin of Funan's rulers with an older myth, common among the Malayo-Austronesian peoples, which described a marriage between a sky god and a foam-born *naga*/snake princess (or sometimes a princess born from a bamboo shoot). The Kaundinya legend parallels this latter myth, as Kaundinya, and the Indic celestial religious tradition he represents, is the "sky god" (foreigner) who unites with the *naga* (local) earthbound princess, representing local worship of animistic spirits, which together (the celestial Indic religious tradition that is localized with the preexisting indigenous animism) become the basis of Funan's future. The basic elements of the Kaundinya legend are reiterated elsewhere in Indic and Southeast Asian folklore, but historians have not been in agreement on its interpretation (Przyluski: 1925; Vickery: 1998, 36). What seems most likely is that it suggests that the rulers of Funan began a cultural dialogue with India at the same time as they were integrating their settlements into larger domains.

The details of this cultural dialogue are a matter of dispute. It used to be argued that Indian Brahmans, or perhaps Indian traders claiming to belong to this Indian upper caste, traveled to Southeast Asia and presided over an Indianization of the region. According to this view, South Asians united in marriage with the daughters of the local chiefs and then converted the rulers and their subjects to Indian ways. Because the local population had no equivalent vocabulary or understanding for the social, moral, and religious innovations brought by the foreigners, the Indians used their own terminology as they worked to uplift the native population culturally. Indic culture soon engulfed the more primitive local civilization, and the local population became subjects of Indianized states.

While not denying the role of South Asians in stimulating the formation of early Southeast Asian states, revisionist historians opposing these South Asian agency theories have more recently stressed the active role of Southeast Asia's indigenous rulers in forging the initial linkages with the bearers of Indian culture (Miksic: 2003a; Tingley: 2009). Some scholars have reasoned that the maritime traders most likely to have initiated contact with the Southeast Asians would have been incapable of transmitting the more subtle concepts of Indian thought, due to their lack of formal training. Revisionists, therefore, stress the idea of a mutual sharing process. According to this view, local rulers, having learned of Indian culture through their trading relationships with South Asia, invited trained personnel from India who then guided the Indianization process. One of these revisionist proposals has it that the

original contacts had been with Indians traveling to Southeast Asia, while according to another proposal the initial contact came through the agency of the Southeast Asian sailors who seem to have dominated the earliest East-West maritime routes.

Whatever the manner of the initial contacts, Southeast Asian rulers recognized in Indian culture certain opportunities for ritual, administrative, and technological advantages useful against local rivals. They also recognized that by Indianizing their courts they could facilitate trade with South Asia-based merchants and thereby increase their income. To obtain those advantages, the Southeast Asian rulers therefore encouraged the immigration of literate Brahmans to help them administer their realms. Thus, the early era of trade contact was one of adaptation and learning—an apprenticeship period during which rulers of emerging states were curious about Indian and other foreign cultural traditions and were in the habit of looking overseas for cultural and economic benefits. In this view the initiative was Southeast Asian, not Indian, and Indianization itself was a slow process of cultural synthesis dictated by local need, not a rapid imposition of Indic traditions caused by a massive influx of Brahmans (Wisseman Christie: 1995; Wolters: 1999, 107–25).

As discussed in chapter 1, the motives for these developments are clarified when we realize that the early Southeast Asian polities were not states in the modern sense. Rather, they were tribal societies that from time to time produced chiefs who were able to impose their hegemony over neighboring chiefs by mobilizing military power through family networks, clans of relatives and their allies, and marriage alliances to other chiefs' groups. Certain teachings from the Indic religious tradition would have supported these chiefs' efforts to distinguish themselves from their peers. In particular, the chief could build on the notable heroic accomplishments that had demonstrated his military prowess by referring symbolically to the Indic philosophical notion of ascetic achievement through meditation and ritual performance. Thus, after consolidating his position, whether by force or by offering access to new economic and culturally meaningful resources, the successful Southeast Asian chief would begin to practice Hindu asceticism to further enhance the local perception of his spiritual superiority. The local ruler's ascetic achievements and ritual performances demonstrated his close relationship not only with the indigenous ancestors and spirits, but also with the celestial and universal Indic deities.

In the early Southeast Asian polities the most significant of these deities was the god Siva, whom early mainland inscriptions depict as not only the source of fertility but also the patron of ascetic meditation and the supreme lord of the universe. Rulers of ascetic achievement were characterized in their

inscriptions as Siva's spiritual authorities on earth, and since Siva's authority over all that exists was absolute, in theory the rulers' own powers on earth had no limit (Tingley: 2009, 132, 144).

The ruler's claims to partake of divinity took his followers beyond their existing relationships with ancestors and local chthonic spirits, holding out the potential rewards of a relationship with an omnipotent Indian divine. Due to the political attractiveness of these notions, Southeast Asia's early rulers focused not on the development of state institutions of secular scholarship, but rather on the institution of religious cults that allowed followers to draw inspiration on the leader's spiritual relationships. Local populations responded by rallying behind these spiritually endowed leaders, who were supported by a blend of local and Indian cultural symbols and values. Successful leaders were therefore able to use these symbols and values to mobilize local populations for various intraregional adventures.

Economic relations were also important. Whatever our precise understanding of the process of Indianization—whether imposed by Indian immigrants or invited by Southeast Asia rulers—there is general consensus today that Funan's political development was stimulated in some way by contact with the entrepreneurial activities of traders of various cultures. Funan's chieftains were hardly passive actors in this process, for they oversaw the initial commercial transactions with foreign traders. The local chieftains were the instigators and organizers of Funan's ports. Furthermore, as mediators between the traders and the local population, they selectively adapted Indian-derived vocabulary and concepts for their own purposes.

This in turn had implications for the development of Funan's political culture, for as the international trade through its ports increased in volume, Funan's rulers were subjected to a range of experiences that expanded their statecraft capabilities beyond those of other land-based mainland populations, such as the Mons who were evolving in modern-day Thailand to the northwest. There smaller settlements called *ra* in seventh-century inscriptions were clustered around larger "urban centers" called *dun*, among these the U-Thong, Nakhon Pathom, and Khu Bua settlement sites; these sites and other archeological remains scattered across the Malay Peninsula and central and eastern Thailand are collectively referenced as marking the first-millennium CE Dvaravati civilization. Dvaravati artifacts include refined Buddhist statuary in the Indian style; Wheels of the Law, symbolizing the Buddha's first sermon and teaching, that were erected on the pillars of Buddhist temples; and distinctive pottery, all similar to the evolution of religious practices indicated in the remaining Funan artifacts (Vickery: 1998, 83–138; Dhida: 1999; Robert Brown: 1996; O'Reilly: 2007, 65–90).

Through their international contacts, Funan's leaders were exposed to new

life goals and new perceptions of the cosmos, becoming especially aware of new organizational possibilities. The local ruler thus became a cultural broker, while also being the principal beneficiary of profits directly derived from the commercial route. The Funan monarch's material rewards included ceremonial regalia, beads, textiles, and wealth that could be shared with clients (particularly precious metals, the cash of the period, and other items that could be useful to a submissive local chief attempting to stress his own superiority over potential competitors for power). Funan's paramount chief thus had a vested interest in continuing and expanding the evolving commercial system. The trade gave him the material means to consolidate his rule, while the Indian notion of divine kingship enabled him to assume a more illustrious personal status by using Indian-derived symbols and rituals to reinforce and enhance prior notions of legitimate and empowered leadership.

As previously discussed in chapter 1, Southeast Asia's local rulers traditionally had mobilized followers through ties of marriage and kinship. It is significant, therefore, that the Funan origin myth of Kaundinya and Linyeh, which localizes Indic religion, also weds the local social system with the culture of India. In this myth, the local princess married a foreigner and thus established for him a place within local matrilineal society. He subsequently "drank the waters," which suggests that he took an oath of loyalty to the local ruler (i.e., he entered his/her service), or that he in some way assisted in the development of the local agrarian system. The prominence of the local princess/chief in the legend denotes the importance of women in Funan society prior to its adoption of the Indianized style of patriarchal statecraft, in which males normally assumed leadership roles.

The story also carries the important moral that good things come not from attacking and plundering passing ships, but from befriending and servicing them. Funan's prosperity was ultimately tied to maintaining good relations between its own populations and the assorted traders and religious pilgrims who passed through the area. Note that the initial contact was a raid in which the princess Linyeh led a band of local seamen from the Funan coastline against the passing merchant ship. This is symbolic of initial efforts to bring shipping to Funan's ports by force, and it may demonstrate an early pirate stage in Funan's development (Wheeler: 2006). However, the myth ultimately rejects piracy, as only by the marriage of the local ruler with the ship's traveler was Funan's future prosperity guaranteed. The marriage of the princess and the foreigner therefore sealed a commercial and a cultural compact with foreign merchants and their Indic culture.

Though the Funan origin myth may not document an actual marriage between a native princess and a foreign traveler, it symbolizes a marriage of interests. In order to develop into a successful entrepôt, Funan had to present

a cosmopolitan character. The Kaundinya myth suggests that Funan's ports became such a neutral meeting ground. This transformation of the Funan realm's coastal centers into networked international ports depended on the local ruler's initiative in organizing and inspiring his supporters to facilitate this trade. First, port facilities had to be built. Second, these would-be commercial centers had to establish themselves as purveyors of the goods desired by international traders. In the case of Funan this was initially done by providing superior facilities or, if necessary, by using force to build up a supply of desirable goods in its ports.

Chinese and Western goods were the initial staples of the trade passing through Funan's ports, as traders from Funan went to China to exchange Mediterranean, Indian, Middle Eastern, and African goods (such as frankincense and myrrh, other plant resins, and assorted substances used to manufacture perfumes and incense) for China's silk and ceramics—critically, China was an indirect participant in the local marketplace, as China's products were exported rather than locally consumed (Miksic: 2003a, 18–22; Manguin: 2009). However, Funan also increasingly imported Southeast Asian goods that supplemented these staples. For example, copper and tin were transported downriver from the uplands of modern Thailand to supply the workshops of Óc Eo in Funan, where, according to the results of recent excavations, there was no lack of raw materials (Wolters: 1967, 52; Bronson: 1992; Miksic: 2003a, 18–22; Tingley: 2009, 138–39). In addition, a growing flow of goods was brought by Southeast Asian sailors from the islands of the Indonesian archipelago.

Initially, neither the Indians nor the other international traders using the ports of Funan were interested in the Southeast Asian specialties. But as the international transit trade at Funan grew, sailors from the Sunda Strait area to the south (in western Indonesia) began to introduce their own products for the Chinese market, beginning with some that might be construed as substitutes for goods from farther away. Sumatran pine resins were substituted for frankincense, and benzoin (a resin from a plant related to the laurel family, also known as gum benjamin) was substituted for bdellium myrrh. Soon the sailors from the western Indonesian archipelago began introducing their own unique new products.

One of the most important was camphor, a resin that crystallized in wood and that was valued as a medicine, as incense, and as an ingredient in varnish. The most highly prized camphor came from Sumatra's northwest coast (Ptak: 1998b). Products also began to arrive from Indonesia's eastern archipelago. Aromatic woods such as gharuwood and sandalwood (a specialty of Timor) became important commodities, as did Borneo's camphor, and the fine spices of the Maluku Islands also began to appear in international markets. Charaka,

a court physician of the northwest Indian monarch Kanishka at the end of the first century CE, references eastern Indonesian cloves in his medical text, as do fourth-century Gupta court poets (Wolters: 1967, 66).

Trade was not the only basis of the early Funan polity, for it was also generating an agricultural surplus. In addition to its references to the cultural and commercial compact on which Funan was based, the origin myth's depiction of the foreign traveler drinking the water of the land can be interpreted as an allusion to the construction of a Funan hydraulic system, which was the critical link to support the flow of hinterland produce to the coast. Air surveys of the Funan region substantiate the archeological evidence to show a network of skillfully laid out channels between the Bassac estuary and the Gulf of Thailand—hundreds of canals, estimated to cover 120 miles (200 kilometers), connecting at least a dozen population centers whose people lived within earthen ramparts in houses built on stilts (Paris: 1931, 1941; Bourdonneau: 2004; Sanderson: 2003).

The Funan origin myth in its different versions describes the early Funan domain as being comprised of several settlements, each ruled by its own chief. This would be consistent with the view of many scholars that early Southeast Asian states, including Funan, derived their power from networked control over manpower rather than from landholding rights (Wolters: 1979a, 1999). In the Chinese citation of the origin myth the first Funan king was said to have retained authority over the core sector of his realm, while eventually assigning to his son seven “centers” that together became a subordinate secondary “realm.” These seven networked population centers were thereafter ruled indirectly through the son. Whether they had been networked and ruled as a unit before this assignment is unclear. Were these new settlements that had come into existence when rice cultivation spread into unoccupied land, later grouped into a new administrative unit/region under the delegated authority of the Funan monarch's son? As networked territories under the authority of a subordinate Funan chief, how far would their loyalty have extended beyond the familial ties between Funan's ruler and the son who was their initial regional ruler/chief? More generally, what, beyond such personal ties and accompanying oaths of allegiance, would have created the continuing desire of regions beyond Funan's heartland to affiliate with the Funan monarch's leadership?

Some answers to these questions are suggested in the revisionist work of Southeast Asia specialist historians (Vickery: 1998; Higham: 2001, 13–35; Vickery: 2003–2004; Bourdonneau: 2003). Drawing attention to the archeological evidence of dispersed communal population centers (“villages”) in the area, there is common agreement that early Funan was a polity composed of networked villages, a vision consistent with the picture presented in the

third-century Chinese records. Drawing from later seventh- to eighth-century Khmer and Cham inscriptions and working backward to the Funan-era Chinese sources, scholars posit that Funan's influence extended over the scattered areas of fertility in the delta region, reaching roughly from Óc Eo near the coast to Angkor Borei on the northern edge of the Mekong Delta. Mountains separated this region as a whole from the developing Cambodian agricultural plain to its north.

In one scholar's view, in this early Mekong Delta domain, as was also the case in the neighboring Khmer regions to its north, local chieftains, known in the Khmer language as *pon*, held authority over networks of village population clusters that grew enough rice for self-sufficiency. The earliest inscriptions show that the traditional *pon*'s (chief's) power over the local population derived from his ritual strength rather than control over land. The *pon* was backed by his lineage group, whose familial guardian deity was locally pre-eminent. *Pon* and their kinsmen controlled the clan spirit house, where they worshipped a locally prominent female deity (*epon*) on the behalf of other community residents. (Vickery: 1998, 22, 258). Villagers committed to a *pon*'s authority because they believed the *pon* and his lineage group were more spiritually empowered than others. Initially, then, local authority was not economically derived except as it related to local agricultural communalism, for in purely economic terms the *pon* and his kinsmen were merely the highest among economic equals.

This local system of ritually empowered chieftainship changed with the rise of maritime trade, because the trade provided opportunities to accumulate wealth beyond the scope of the *pon*'s traditional share of communal production. This further enhanced the importance of family ties, while structuring them in new ways. The traditional system was a matrilineal one in which inheritance passed from the father's brother (the uncle) to the sister's son (the nephew); a man never inherited from his father (Vickery: 1998, 19, 23). By contrast, new externally derived wealth could be passed directly to the chief's own children or parceled among a network of client chiefs. While traditional wealth and production were subject to group/familial rights, the newer goods were subject to personal rights of possession. Thus, the new wealth from outside the community could be used to support personal authority over traditional community entitlements, and it enabled creation of broad alliance networks and concentrations of power that might sustain seizures of land and manpower. These contrasts between communal and individual conceptions of the basis of rights and power could lead to conflicts, as happened with the accession of the king Fan (*pon*) Shiman as described below. Though this externally derived wealth had made it possible for chiefs to build more

powerful self-centered networks, Funan was hardly a tightly organized, centrally controlled realm.

The Óc Eo archeological site remains document Funan's wide-ranging web of trading networks. The archeological remains include an abundance of Indian and western Indian Ocean artifacts, jewels, gold rings, merchant seals, and Indian ceramics and tin amulets with symbols of Visnu and Siva. There are also Roman materials dating to the second through fourth centuries, including glassware fragments, a gold coin minted in the reign of Marcus Aurelius (r. 161 to 180 CE), and a gold medal of Antoninus Pius dating from 152 CE. Imports from China include a bronze mirror dating from the Later Han dynasty (first to third centuries) and several Buddhist statuettes from the Wei period (386–534 CE) (Malleret: 1959–1963; Tingley: 2009, 120–22, 136–45, 162–71).

In addition to objects of Western and Eastern origin, there is ample evidence of local craft production. Glass beads, possibly produced by a local application of Western glass technology, are abundant in the Óc Eo excavations, as are significant quantities of local ceramics. More impressive, however, are the numerous molded and engraved tin decorative plaques, as this type of tin-working is not known to have been practiced elsewhere at the time.

In addition to these Western objects and local crafts, there are local adaptations of Indian religious art, especially in the sculptured stone architecture found in Funan's core area. These adaptations show features that are unique to Funan. While Indian stone carvers in this early era normally sculpted statues that were part of wall relief or were backed or enclosed by a stele or a wall, Funan sculptors developed their own freestanding style, which is demonstrated in several wooden standing Buddhas, believed to date to the sixth century, that were miraculously preserved in the mud near Binh Hoa (Tingley: 2009, 126–27, 134–35, 154–55). The standing wooden Buddha statues impressed one art historian with their "delicate and graceful [bodies], soft and smoothly rounded, with muscles indicated only slightly, yet with astonishing sensitivity, so that one feels the swing of a body motion, or the balance of a gently bending body at rest" (Groslier: 1962, 63). This sculptural expression reached its height in the early sixth century, as documented in a variety of stone carvings of Visnu and Buddhist statues discovered at multiple Funan sites. The sexless style of this statuary is characteristic of later Southeast Asian Buddhist sculpture, which was seemingly modeled on that of the Funan-era craftsmen (Vickery: 1998, 45–46; Christie: 1979; Cooler: 2010).

Also demonstrative of local initiative is a building ("K") at Óc Eo where local architects constructed a temple modeled on the rock sanctuaries that were popular in southern and central India during the late Gupta period (fifth

and sixth centuries). The crafting of this brick and granite temple in an area with no cliffs or large rocks demonstrates the sophistication of local technology. The skill by which the granite slabs were joined together shows the local control of technique. Such artistic initiative impressed the Chinese court, which received several stone Buddhist statues that the Indian monk Nagasena brought from Funan in the late fifth century. In 503, a Funan monarch also sent the Chinese emperor a coral statue of the Buddha and an ivory stupa as “tributary” gifts (Pelliot: 1903, 257–70, 294).

The coinage found at the Óc Eo excavations further substantiates Óc Eo’s contacts with the regions to its west (Malleret: 1959–1963, 3:948–49; Gutman: 1978; Wicks: 1985, 196–99; Miksic: 2003a, 23–24). Notable among the coins recovered, most of which date to the second-to-fourth-century period, are silver conch/Srivatsa (an auspicious Indian symbol of fertility and abundance usually associated with Sri Lakshmi or a tuft of hair on Visnu’s chest) weighing 8.3 to 8.6 grams, as well as later Rising Sun/Srivatsa coins weighing 9.2 to 9.4 grams, all of which originated in the coastal region of southern Burma. At Óc Eo, sixty-eight to seventy wedge-shaped pieces cut from Rising Sun/Srivatsa coins were recovered, and it is thought that the cut portions were used as fractional coinage in local marketplace transactions. Since no similar cut portions of the Burma silver coins (or of any other coinage from that era) have been recovered in Burma or Thailand, this evidence substantiates the Funan coast’s greater importance at this time, due to its need for smaller-denomination currency to sustain local exchange (Wicks: 1985, 196–99; Miksic: 2003a, 24).

The Óc Eo archeological evidence, together with information from recent study of Bengali scripts and seals, also provides important information on trade with South Asia. Kushana merchants from northwest India assumed an important role in that trade. The Óc Eo remains include unique seals of South Asian origin, similar to those found in sites associated with contemporary lower Burma, which are attributed to Kushana merchants. The scripts and seals of Gupta-era Bengal (fourth to sixth centuries) substantiate especially the existence of a luxury trade in horses, which were transported overland from India’s northwest frontier down the Gangetic plain to Bengal, where they were shipped by boat to south China via the Funan emporium. The archeological remains from Bengal, notably terra-cotta seals found there, depict the sea trade in horses and highlight the Kushana horse traders who were their source (Chakravarti: 1989, 348; 1999, 194–211). This and other evidence—consisting of plaques, seals, pots, and coins—supports the conclusion that Kushana merchants, whose trading network extended across the Gangetic basin from northwestern India, were present at the mouth of the

Ganges during the time of Óc Eo's commercial prominence (Ray: 1994, 87–120).

The horses that were shipped through Funan from northwest India were a very important item of trade for the Chinese, and their availability may have been an important factor in Funan's development as an entrepôt. During the second century, especially, the Chinese Han dynasty had required horses for their wars against the Xiongnu, seminomads who inhabited the steppe region of Central Asia (Creel: 1965). These wars in Central Asia, together with the political confusion in China that reigned in the chaotic years (190–225 CE) leading to the demise of the Han dynasty, created a need for a new trade link between China and the West. The need for the horses became even more acute when the Wei dynasty took control of the Silk Road approaches to China, forcing the southern China-based Wu dynasty (220–64 CE) to develop a maritime trade route that would also allow its elite to continue their consumption of the desired Western products.

The discovery that the maritime route could supply horses apparently came by accident. As was discussed above, Funan's contacts with China were said to have begun when Lu Tai, the Wu governor on China's southern frontier, was ordered to advertise China's interest in trade by sending envoys "to the south." As noted above, Funan and neighboring Linyi responded by sending diplomatic missions to the Wu court in 226 and 231 CE. In turn, the Wu envoy Kang Tai, who visited Funan ports to evaluate their potential for trade, reported that among the commodities available in Funan were Yuezhi (Arabian, Indo-Scythian) horses from Central Asia. In Funan, according to Kang Tai, "There is a saying [that] in foreign countries there are three abundances, the abundance of men in China, the abundance of precious things in Da Qin [the Roman West], and the abundance of horses among the Yuezhi" (Wolters: 1967, 41). Kang Tai reported that the Yuezhi horses were continually being exported to Funan by South Asia-based merchants and said that when he visited Funan he encountered a Persian Sogdian merchant with whom he explored the possibility of entering a horse importing partnership (Sen: 2003, 162; Wolters: 1967, 59–60).

Thus it was that the horses of Central Asia, which had made their way to the Bengal region of India and thence to Funan, were now reexported to China. This documentation, in addition to the archeological remains—particularly Funan's crafts and the evidence of its trade with China, central Thailand, southern Burma, Bengal, and points farther west—not only demonstrate Funan's economic prominence but supply part of the rationale for considering it a state.

FIFTH-CENTURY TRANSITIONS

In the fifth century, Funan's maritime dominance was crumbling and it consequently needed to refocus on developing its agrarian base as the principal source of royal revenue collections. Funan's irrigation innovations thus date to this fifth- and sixth-century era of Funan's transition to a more agrarian lifestyle, and Indianized statecraft, which favored a settled agrarian society, was potentially supportive of this transition from the earlier maritime focus to the agrarian sector. However, these adjustments were not enough to prevent the Funan state's collapse.

The changes came as improvements in navigation made it possible for ships sailing from distant ports to bypass Funan and deal directly with the Chinese. Chinese records make it clear that by the fifth century Holotan in western Java and Koying in the Sunda Strait were trading directly with China, rather than through Funan's intermediary ports (Wolters: 1979b). Funan and the east coast Malay Peninsula were thus being cut out of the India-to-China trade. The Isthmus of Kra portage had fallen into disuse, as ships from Sri Lanka and India were now sailing via the Straits of Melaka directly to these ports on the western edge of the Java Sea, putting them closer to the source of the Indonesian archipelago spices that were beginning to find an international market (Wolters: 1967; Miksic: 2003a, 28–33). The more direct sea passage from the Sunda Strait region north to China incorporated a stopover on the central (Linyi) and northern Vietnam coastlines rather than on the Funan coast of southern Vietnam.

Whether this refocusing of the international trade was directly responsible for Funan's dynastic crisis is not certain, but it had profound consequences for Funan's future. The shifting of the commercial shipping route to the Straits of Melaka passage and the subsequent omission of stops at Funan's ports in the Gulf of Thailand and the Mekong Delta region of the lower Vietnam coastline denied the Funan rulers important revenues. Deprived of this major source of royal income, the ruler as well as his followers, including subordinate chiefs and their supporters, found their prosperity diminished. Such a decline in royal income available for redistribution to their followers could well have touched off a dynastic crisis as rival claimants, promoting their ability to restore Funan's prosperity, attempted to gather enough supporters to seize the throne. As they did so, they competed for a shrinking realm.

By the end of the fifth century, Funan was losing ground to its northern neighbor Linyi (the future Champa), the sailors who had provided Funan's navy had turned to piracy, and the Malay entrepôts had begun sending their own embassies to China. In this same period, as noted earlier, Funan's canal

and irrigation networks were expanding rapidly in the Mekong Delta, as part of its transition to a more intensive agricultural economy. However, Funan's decline continued, as midway through the sixth century its Khmer vassals to the north broke away, and by the seventh century Funan was no more. Its irrigation networks in the Mekong Delta were reclaimed by jungle as the farmers moved northwest to the new Khmer-ruled centers in the central Cambodia Tonle Sap area.

The fall of Funan and the importance of this watershed is substantiated in a series of fifth- and sixth-century sources, which are cited here in detail as an example of the level of Chinese and China-related documentation of China's increased contacts with Southeast Asia and the importance of these early Chinese sources in the absence of this level of itemization in the early Southeast Asian written sources. China's court records record the arrival of Funan's embassies to China in 434 and 484. As noted above, some historians have argued that Southeast Asian embassies to the Chinese court increased in times of local upheaval or political transition, or in response to the ascension of a new Chinese emperor or a new Chinese dynasty. While O. W. Wolters placed emphasis on Funan embassies being sent in times of Funan crisis, this study has also taken into account political unrest in China to explain interruptions in tributary missions (Wolters: 1970, 39–48). This pattern can be seen in the dispatch of the earlier Funan embassies, notably the embassies sent in 268, 286, and 287, in a period marking the fall of the Wu dynasty and its replacement by the Jin (Pelliot: 1903, 251–52). These three embassies were apparently meant to ensure continued Funan commercial interaction with southern China under the new Jin rulers. Apparently the effort was successful, and Funan did not send another embassy until 357, which was reactive to the succession of a new Jin emperor.

In contrast, both of Funan's fifth-century embassies were associated with an era of crises, this time with crises in Funan itself. Since the 434 embassy took place around the time that the ruler of the previously subordinate Pan Pan port-polity on the Malay Peninsula coastline began to declare independence by sending his own diplomatic missions to the Chinese court, it is likely Funan's 434 mission was dispatched in an attempt to renew Funan's favored Chinese commercial relationship (Coedes: 1931). The one in 484 (described below) was understood by the Chinese sources as a vain attempt to recover the commercial business that Funan had already lost to other centers, and it was shortly followed by an equally vain attempt to gain Chinese assistance against Funan's neighboring Vietnam coast competitor Linyi.

Significant changes in the international trade networks from the mid-fourth century had a profound impact on Funan. When the Jin dynasty (265–420) came to power in the late third century, it briefly reunified China and thereby

gave southern China access to the central Asian overland trade routes. However, by the second half of the fourth century this unity was lost, and with it south China's access to the Central Asian trade. In response, the Jin redoubled their efforts to promote the maritime trade routes. They sent embassies to a wider array of Southeast Asian trade centers, including Holotan in western Java and Koying in the Sunda Strait, both of whom responded positively. The Chinese Buddhist pilgrim Faxian (337?-422?) and the fifth-century Indian Buddhist prince Gunavarman provide first-hand evidence that Funan was being bypassed. In 413-414, Faxian sailed directly to Guangzhou from Yehpoti, an Indianized port on the Borneo coast, without a stopover at a Funan port (Giles: 1959; Naerssen and de Jongh: 1977, 18-23). In the mid-fifth century, Gunavarman sailed nonstop to China from Shepo, a trading center on the north Java coast (Coedes: 1968, 54; Wolters: 1967, 35). Coincidentally, neither Faxian nor Gunavarman used the Isthmus of Kra portage in their travels, further evidence that ships were then sailing directly through the Straits of Melaka to and from Sri Lanka and India and bypassing Gulf of Thailand ports.

In 449, the Chinese emperor sent embassies to confer titles on the rulers of three new Indonesian "states." This is significant because, as noted above, normally the Chinese tried to maintain established commercial relations with a particular Southeast Asian port-polity instead of actively seeking out new ones (Wolters: 1970, 39-48). Also significant was that at this time the Chinese refused to recognize the embassy of the ruler of Funan, their old trade partner, implying that the Chinese court fully recognized by 449 that Funan's ports had been replaced by Java Sea emporia as the dominant ports in Southeast Asian commerce.

That Funan was being replaced by Linyi as the most important trading center along the Vietnam coastline was already apparent in the mid-fifth century, when Gunavarman traveled from the Javanese entrepôt of Shepo to China, for his ship was originally to have made an intermediate stop on the southern Vietnam coast above the Mekong Delta, not at Funan (see above). However, the most significant evidence of the change in Funan's fortunes is the record of a 484 embassy on Funan's behalf by the Indian Buddhist monk Nagasena. Apart from the 434 embassy, this was Funan's only recorded contact with China in the fifth century. Actually, Nagasena's 484 embassy followed a commercial embassy sent around the same year, when King Jayavarman of Funan had dispatched a group of merchants to Guangzhou to solicit Chinese trade. Nagasena had accompanied them on their return and then was sent back to the Chinese court to plead for the Chinese court's aid against Linyi. His entreaties brought no result. Nagasena's comments to the Chinese emperor acknowledged the lack of regular interaction between Funan and China, and

they hint that Funan no longer traded with any part of the coast of present-day Vietnam. Speaking on behalf of Funan, Nagasena reported that the realm he represented was “ceaselessly invaded by Linyi and has [therefore] not entered into relations with [the Red River delta region]. That is why their embassies so seldom come” (Pelliot: 1903, 267).

By then China was increasingly favoring Linyi. In 491, the Chinese court bestowed an important title upon Fan Tang, the ruler of Linyi, proclaiming him “General Pacifier of the South, Commander-in-Chief of the Military Affairs of the Seashore, and King of Linyi” (Maspero: 1928, 77–78). Clearly, by this time Linyi had surpassed Funan as the most important trade ally on the southern Vietnam coast, as Fan Tang’s new title put more emphasis on his role as protector of the Vietnam seacoast than on his role as Linyi’s monarch. Even the report of Funan’s envoy Nagasena accepted that by this time it was Linyi, and not Funan, that was considered responsible for curtailing acts of piracy on the lower Vietnam coast. In his report to the Chinese emperor, Nagasena related that he had been shipwrecked on the Linyi coast, where his possessions had been stolen. That he should have reported this to the Chinese court and that the Chinese should subsequently have invested Fan Tang as Commander of the Seashore indicates that it was Linyi, and specifically its ruler Fan Tang, who were now considered accountable for this area.

Even earlier evidence of Funan’s diminished power along this eastern coast comes from the 430 petition to the Chinese court of the Holotan port-polity, which was seeking protection for its ships sailing from the Sunda Strait coast to China. Sailors from Holotan and what is thought to have been the contemporary west-coast Borneo port-polity of Shepo had both been sailing within range of the lower Vietnam coastline on their South China Sea passage in order to avoid the navigational hazards associated with the Paracel Reefs south of Hainan Island (Manguin: 1976; Wheeler: 2006). Holotan’s petition suggests that by this time shipping along the route was threatened by piracy. Either this piracy resulted from Funan’s attempts to retain control over the maritime channels by forcing ships to utilize its ports (unlikely as evidenced in the case of Nagasena), or else it signaled Funan’s decline as a major commercial emporium, a decline that had forced its resident maritime supporters to resort to piracy. If the latter were the case, as seems likely, Funan’s loss of trade-derived revenue would have left its rulers unable to pay subsidies to the locally resident sailors, for whom piracy then was the more lucrative alternative, albeit a risky one.

In this period, Linyi may have been no more coherently organized than was Funan (Mabbett: 1977a, 154; Coedes: 1968, 59). Nevertheless, Fan Tang’s investiture by the Chinese court was not an arbitrary move. Rather, in

response to the instabilities precipitated by Funan's commercial demise, China was recognizing the local leader who seemed best positioned to restore order along the Vietnam coast. China's interest in Southeast Asia was at that time to keep the flow of shipping moving into south China's ports rather than any sort of political hegemony. It was interested not only in commercial trade, but also in facilitating the flow of Buddhist pilgrims, sacred texts, and relics to and from India, as in the fifth century the Chinese aristocracy was increasingly Buddhist, and the movement of religious items and travelers via the maritime passageway was therefore vital to its self-definition (Liu: 1988).

Thus it was that, despite the fact that throughout the third and fourth centuries Linyi had, with Funan's aid, continually contended for the control of the northern Vietnam coastline by harassing the Chinese Tongking (Giao Chi/Chiao Chau/Jiaozhi) Province in the Red River delta to the north, the Chinese emperor in 491 found himself able to overlook this unfortunate past misbehavior (Stein: 1947). However, in his doing so, it is also significant that the Chinese, always on the lookout for continuity, explained this transfer as an acknowledgment of the relocation of Funan's rightful patriarchal line of kings to Linyi, for which reason they cited Fan Tang's supposed descent from Funan's rulers. Significantly, Fan Tang's move to the Linyi domain and the growth of Linyi's maritime prominence coincided in the Chinese eyes, making even more plausible China's decision to recognize Linyi as the dominant port on the Vietnam coast.

Thus, by the mid-fifth century Funan was no longer a major international trade center. As it declined, its resident seagoing populations shifted to more prosperous Linyi ports, among others. By 431, Linyi's ruler had already been able to launch a force of over one hundred ships to pillage the northern Vietnam coast (Coedes: 1968, 56–57). Meanwhile, the remnants of the Funan realm began to internalize. The Chinese acknowledged this reality in their 491 eulogy of the Linyi ruler Fan Tang.

The emergence of Khmer civilizations coincided with the final demise of Funan, either destroying or incorporating its village communities. Funan's lands in the Mekong Delta were depopulated as cultivators shifted their labor to more productive and secure lands upstream, initially at and around Sambor Prei Kuk. By the eighth century what remained of the mixed agrarian populations to the south moved either by choice or by force to the Khmer rulers' developing economic base in the Tonle Sap area to the north and west. With Funan largely depopulated, Funan's hydraulic system fell into disuse, and Funan's downstream ricelands over the next five hundred years reverted to swamp and jungle (Liere: 1980, 271).

Nevertheless, Funan lived on in the traditions of the successor civilizations of the Chams and the Khmers. Both traced their lineage to Funan and rooted

their evolving polity on the Indianized patterns of statecraft initially developed by Funan rulers. In this they went well beyond the beginnings that Funan had made. While it was true that Funan's rulers had begun to bridge the gap between tribal politics and Indianized statecraft, it remained for the Chams and especially the Khmers to initially develop the mainland Southeast Asian state to its fullest.

EARLY BUDDHIST NETWORKING AND THE MARITIME ROUTE

By the sixth century Buddhism had become especially important to the Chinese, and Southeast Asia assumed a key intermediary role between South Asia, the source of Buddhism, and China. Buddhist monks passed along either the international sea network or a land route through the mountainous regions of Burma and Yunnan (Changli: 1993; Stargardt: 1971; Howard: 1989); Chinese monks traveled to India by sea with stopovers in Buddhist pilgrimage centers in Vietnam, Java, and Sumatra to acquire deeper understanding of their faith and of the Sanskrit and Pali languages, and Indian monks journeyed to China to share their knowledge with Chinese patrons (Sen: 2003, 15–101).

The first account of this passage comes from the Buddhist pilgrim Faxian (337?–422?), noted above, who traveled from China to India overland but returned by sea from Sri Lanka in 413–414 CE via the Straits of Melaka passageway. His description of the return voyage provides a vivid picture of the fateful fifth-century sea passage.

[I] took passage on board a large merchant vessel, on which there were over two hundred souls, and astern of which there was a smaller vessel in tow in case of accidents at sea and destruction of the big vessel. Catching a fair wind [i.e., the monsoon], [we] sailed eastwards for two days; then [we] encountered a heavy gale, and the vessel sprang a leak. The merchants wished to get aboard the smaller vessel; but the men on the latter, fearing that they would be swamped by numbers, quickly cut the tow-rope in two. The merchants were terrified, for death was close at hand; and fearing that the vessel would fill, they promptly took what bulky goods there were and threw them into the sea. . . . The gale blew on for thirteen days and nights, when [we] arrived alongside an island, and then, at ebb-tide, they saw the place where the vessel leaked and forthwith stopped it up, after which we again proceeded on [our] way. This sea is infested with pirates, to meet whom is death. The expanse is boundless. (Giles: 1959, 79)

After sailing through the Straits of Melaka, Faxian landed at the trade depot known to the Chinese as Yehpoti, on the west coast of Borneo (Naerssen and

de Jongh: 1977, 18–23), and voyaged directly from Yehpoti to Guangzhou, which he claimed to be a voyage of fifty days under normal conditions.

There was an economic as well as an intellectual dimension to this earliest Buddhist networking, as the Chinese sought religious artifacts and ritual objects as well as religious texts, all of which would, in their mind, allow them to legitimately perform Buddhist rituals in China. By the seventh century, for example, the Chinese Tang court's envoys exchanged coral, pearls, glass, and silk to acquire Buddhist relics; one envoy paid four thousand bolts of silk to purchase a small parietal bone of the Buddha from a Buddhist monastery in northwest India (Liu: 1996, 47; 1995). Patronage of Buddhism bestowed membership in the international Buddhist movement on Southeast Asian realms. Consequently early Southeast Asian civilizations raised their status above the "barbarian" image normally held by the Chinese of their southern neighbors and provided the basis for international and regional intellectual linkage as well as commercial exchanges among the numerous Buddhist communities that participated in the international maritime route.

As early as the third century an urban community near modern Hanoi on the edge of the Red River delta in Vietnam had become a center of Buddhism, with at least twenty temples and over five hundred monks in residence. By the seventh-century voyage of the Chinese pilgrim Yijing (635–713), this community was viewed as an important stopping point prior to one's entry into China, not only because it was a commercial layover of note, but also because it had become one among a network of Southeast Asia religious centers for Buddhist pilgrims traveling between China and India.

According to legend, Buddhism came to Vietnam in the first century CE, and by the end of the second century resident Indian monks led the important Luy Lau international intellectual center (in the modern Bac Ninh Province north of present Hanoi), at the capital of the Jiaozhi (Giao Chi/"Vietnam") Han administrative district. Luy Lau was the last stopover for Indian monks traveling to China along the international maritime passageway, as it was also for Chinese monks who had traveled to study in Buddhism's homeland. Here a number of important texts were translated into Chinese scripts (e.g., the *Anapanasati*, the *Vessantara-jataka*, and the *Milinda-panha*) prior to their delivery in China. Since Buddhism was initially imported directly from India, the original Vietnamese word for Buddha was *Bụt*, which is still used in Vietnamese folktales. *Bụt* was popularly localized as a folk deity who helped the good and punished the bad. By the fifth century, when Chinese Mahayana Buddhism became prominent, and Chinese rather than Indian monks dominated the maritime route, *Bụt* had lost its Buddhist association and *Phật*, the Chinese pronunciation of Buddha, prevailed (Cadiere: 1989; Cuong Tu: 1998).

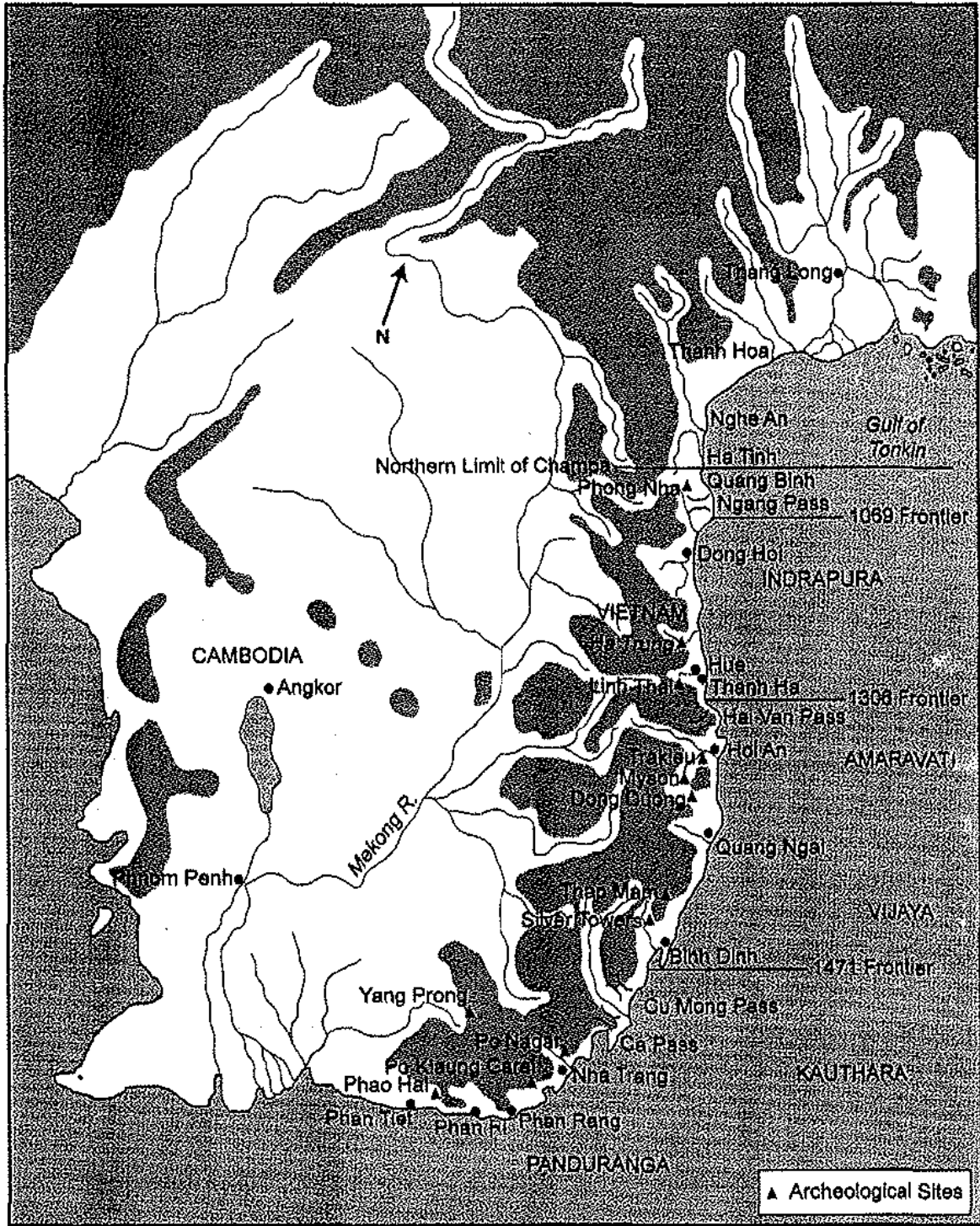
3

Competition on the East Coast of the Mainland

Early Champa and Vietnam Political Economies

The previous chapter's discussion of Funan's history has shown that early Southeast Asian monarchies gained control over population clusters by conquering or networking with a number of allied and competing regionally based elites. Funan's resulting political system was based on the interdependence of political, economic, and religious institutions, a form of hierarchical networking that culminated in a royal court. Funan's sovereignty was, though, inherently unstable because it overly depended on the fortunes of the international maritime trade routes rather than on the income from its productive hinterlands.

This chapter will initially examine the Champa successor network of port-polities on the central and southern Vietnam coast, which were subject to the ebb and flow of the international trade, reflected in the fluctuations in Cham sovereignty. The Cham "state" was dispersed among several competing river valley courts centered in productive downstream river valley ricelands that not only provisioned international traders making stopovers on their Straits of Melaka-to-China voyages, but also linked their coastal ports of trade to productive upstream highland sources of commodities in high international demand. In contrast, Champa's Dai Viet neighbor to the north, which was initially based in the fertile Red River plain and delta in and around modern Hanoi, exhibited developmental patterns toward centralization. When the Vietnamese Dai Viet state declared its autonomy from Chinese overlordship in the tenth century, its court's proactive support of economic expansion in both its agricultural and commercial sectors would ultimately reinforce royal hegemony relative to competing elites and institutions.



Map 3.1. Champa and Vietnam in the Pre-1500 Era

THE CHAMPA REALM IN OVERVIEW

It is now widely accepted that the Champa realm was never a unified kingdom, but was instead the name of a collection of ports of trade and their adjacent Truong Son mountain-range plateau hinterlands, from roughly above

modern-day Hue in the north to the northern edge of the Mekong River delta in the south (from the eighteenth parallel in the north to Phan Thiet and Bien Hoa at the eleventh parallel in the south). The earliest Sanskrit inscription in the Cham realm dates to the fourth century, at Vo Canh near the Nha Trang port. In roughly this same era most of the archeological evidence is in the vicinity of Tra Kieu to the north, which consisted of an offshore port complex on Cu Lao Cham Island linked to the sheltered coastal cove in modern-day Hoi An, known later as Cua Dai Chiem, "Port of Great Champa," and the adjacent Thu Bon Valley rice basin of the modern-day Quang Nam Province. While there are some fifth- and sixth-century remains, in the seventh century the Cham realm was a flourishing multicentered Indic civilization. Most of the inscriptions and archeological evidence from the fifth to the eighth centuries are from the areas surrounding Tra Kieu, which was the political and economic center of the region; My Son was the region's most sacred religious center and Dong Duong was alternately a fortified walled political and religious center.

In the earliest era the Nha Trang basin to the south and its temple center at Po Nagar was a secondary center, as was Phan Rang; its eighth-century Hoa Lai temple complex had a Cambodian architectural style that differed from that of the earliest temples at the My Son temple complex to the north. This was also the case with the Phu Hai temple near Phan Thiet even further to the south (Vickery: 2009, 47). Collectively these differences in architectural styles reinforce the conclusion that the river-mouth centers and their adjacent river systems were autonomous identities making independent adaptations of Indic culture. Phan Rang is also the site of the later architecturally distinct thirteenth- to fourteenth-century Po Klaung Garai and the very different sixteenth-century Po Rome temple complex, a reflection of its prominence as a Cham port of trade in this later era. Similarly Quy Nhon near the Binh Dinh port, between Tra Kieu in the north and Phan Rang to the south, has temple towers that date from the eleventh to fifteenth century. Known at that time as Vijaya in both Cham and Cambodian inscriptions, its temples used the same mixed stone-and-brick construction techniques as their contemporary Khmer neighbors, but their architectural system is distinct; nearby Thap Man has sculptures of monstrous animals that show Vietnamese/Chinese similarities (Vickery: 2009, 48; Guy: 2009).

From south to north the Champa realm consisted of what is called Panduranga in the south, consisting of Phan Thiet, Phan Rang, and sometimes Nha Trang, which was otherwise known as Kauthara and was the site of the sacred Po Nagar temple complex. To the north was Vijaya, centered in the Quy Nhon region, variously called Campanagara, campapura, and campadesa (Champa country, city, or region) in its inscriptions. In the Champa middle was Amara-

vati, which consisted of Indrapura, the Thu Bon Valley sites of Tra Kieu (then known as Simhapura), My Son, and Dong Duong, which was the center of new Mahayana Buddhist patronage by Cham kings who lived in a walled city from the ninth century, following a period in which the region seems to have been marginalized in favor of Panduranga in the late eighth to early ninth centuries. This transition of the favored port of trade/polity on the Cham coastline is reflected in Chinese sources, which had earlier distinguished Panduranga in the south from the middle Huan Wang (the circle of the king; i.e., Indrapura) in the earlier century and, significantly, dropped earlier references to the collective Linyi for the regions south of the northern Red River provinces that were subject to Chinese sovereignty. But from the ninth century the Chinese called this middle region *Zhan Cheng*, Cham city, and developed separate tributary relationships with Zhan Cheng and Huan Wang. Cham records confirm this division, as separate kings were ruling from the Indrapura central regions of Amaravati in the north and the collective Panduranga Nha Trang/Phan Rang southern regions. In the eleventh century, the Nha Trang-based king Pramabodhisatya claimed a victory that consolidated Panduranga's authority over the south. In the eleventh and twelfth centuries the southern Nha Trang- and northern Tra Kieu-centered polities began to interact on several levels with their Khmer neighbors to their west, notably as trade partners as overland commercial networking between Angkor and the Champa realm heightened. In the north were the port-polities of Amarendrapura, centered at Lai Trung near modern-day Hue, and Visnupura, centered at Nhan Bieu.

Nineteenth-century French archeologists were highly impressed with the remains of Cham urbanism and regional networking as they explored their new Indochina colony. They found primary and secondary centers linked in the Tra Kieu region, connected by road networks on raised embankments paved with stone; stone bridges built over canals; and urban ruins 16 feet (5 meters) high on stone foundations on a rectangle 984 feet by 1640 feet (300 by 500 meters). These were not exclusively military fortresses, but protected palaces, temples, and the general populace (Aymonier: 1891b, 21–22; Hardy: 2009, 109–10, 121).

Chinese records substantiate recent archeological excavations in their descriptions of early Cham urbanism. In the sixth-century *Shui Jing Zhu* geographical account of China's waterways and those of its borderlands, the author Li Daoyuan (d. 527) includes this account of the fortified Cham urban center at Hoa Chau (Thira Thien Hue) near modern-day Hue, where the ramparts, over 1.24 miles in length (2,000 meters) are still visible (Hardy: 2009, 121).

The ramparts were made up of a first brick foundation, six *li* and 170 paces in circumference, and measuring 650 paces from east to west; this foundation was [twenty feet] high; above, there was a ten-foot high brick wall, pierced by square slits. This brick wall was itself topped with a stockade, and the entire structure dominated by pavilions and belvederes attaining a height of up to 70–80 feet. The city had thirteen gates; all the public buildings open towards the south; we counted more than 2,100 residential houses. (Pelliot: 1904, 191; Hardy: 2009, 108)

A ninth-century Cham inscription describes a secondary town to the larger Dong Duong temple/administrative complex.

The town bedecked in the splendour of Indra's town, sparkling with white lotuses . . . founded by Bhrgu in ancient times . . . [this town] called Campa keeps here its invincible fortune. This illustrious [town] protected by His Majesty Jaya Sinharvarman, whose power unceasing renews its prosperity, [this town] inseparably untied with good fortune shines here. The king is the shelter of the virtues. (Finot: 1904a, 109; Hardy: 2009, 108–9)

This Cham self-image is authenticated in the collection of ninth-century stories circulating in Baghdad, collated in the *Kitab al-Aghani* by the Persian scholar Abu al-Faraj (897–967), which describes Buddhist worship at Dong Duong ca. 875: “The Indians have, in the town of Champa, a different temple from the above, . . . this temple is ancient and . . . all the Buddhas found there enter into conversation with the faithful and reply to all the requests made to them” (Ferrand: 1913, 123; Hardy: 2009, 109).

Similar to the contemporary regions of Southeast Asia, the Cham temples were equally sustained by meritorious tax-free transfers of income from designated lands that were dedicated to support the temples. The referenced Buddhist temple is an example, wherein a ninth-century Dong Duong temple stele inscription reports:

King Indravarman gave these fields with their harvests, slaves of both sexes, silver, gold, brass, copper, and other riches, to [the Divine Lord] Sri Laksmindralokesvara, for the use of the [resident monastic] community of monks, for the completion of the propagation of the Dharma. Those who . . . kings, ksatriyas . . . brahmans, ministers . . . merchants, who remove, destroy, or . . . [these goods], may they all go to Maharaurava [“Hell”]; on the other hand, keep them, reveal [those who have removed them], may they all go, according to their desire, to the City of Heaven and the City of Deliverance. (Finot: 1904a, 95; Hardy: 2009, 109)

CHAMPA AND INTERNATIONAL COMMERCE IN THE EIGHTH CENTURY

The Cham polities had compelling reasons to assert themselves as Funan's successor in the international commercial channels. This Malayo-Austrone-

sian people, ethnically, linguistically, and culturally related to the maritime regions to their south and east, developed into a series of Indianized civilizations from the second into the sixteenth centuries CE. As cited in chapter 2, the earliest Chinese references to a Cham state date to 190–193 CE. Then and later, it appeared in the Chinese records as the state of Linyi, but the state's own later epigraphy refers to the realm as Champa, after the Champa region of northeast India with which the Chams were in trade and cultural contact, for which reason the people are known as Chams (Vickery: 1998, 48–51, 64–69; Guy: 2009, 128–29).

Caught between the domain of Funan to the south and the Chinese province of Jiaozi to the north, the Cham realm's early history was characterized by shifting alliances among regional centers that were concentrated at the river mouths of the Cham coast, a situation not unlike that of the Straits of Melaka Srivijaya realm that will be examined in chapter 4 (Coedes: 1968, 17; Stein: 1947). In contrast to Srivijaya, however, the Cham realm had major neighbors to its north (Jiaozi) and west (the Khmer realm that would become Angkor). According to Chinese sources, during the early third century the great Funan ruler Fan Shihman brought the Chams under his authority. This report is corroborated by the earliest Sanskrit inscription in Cham territories, a third-century inscription that was placed in Cham territories and that has been interpreted by historians, based on the corresponding Chinese sources, to record that Linyi was then a networked territory under Funan hegemony. The third-century Sanskrit stele inscription of Vo Canh in the Linyi region of Nha Trang references the reigning king Sri Mara, who some scholars argue to be the prominent Funan king Fan Shihman, whose consolidations of the Funan realm are highlighted in Chinese sources (Coedes: 1968, 40; Gasparone: 1965). Revisionist historians are now asserting that the Linyi in Chinese references was not referential to the entire Champa coastline, but was referential exclusively to the borderlands south of the Chinese Jiaozi Province, whose population was always a threat to their northern neighbors, as these borderlands were continuously contested by the Chams and Vietnamese over the centuries (see chapter 7). Reports of the Chinese envoys Kang Tai and Zhu Ying, who visited Funan about the same time (arriving there in the 240s), say that Funan's ruler, whom they call Fan Hsun, had already established an alliance with the Chams around 220 and that together the Chams and Funanese were making naval raids and land attacks against the coast of the northern Red River delta region (Maspero: 1928: 54–55).

About a century later, in the mid-300s, the semiautonomous Cham ruler known to the Chinese as Fan Fo took the Sanskrit title Bhadravarman, developed a Sanskritic administrative core, and erected the first temples in the Cham holy city of My Son. This temple city focused on their fictitious Mount

Vugvan, the Cham equivalent of Mount Meru, the abode of the ancestors. Almost all the My Son temples, like elsewhere in the Cham realm, center on a core temple, known to Cham as a *kalan*, surrounded by smaller temples. Almost always Cham temples face east, from where the sun rises and believed to be the realm of the gods, and where cosmological movement begins. Here at My Son, Bhadravarman consecrated the Siva-linga Bhadresvara, thereby beginning the Cham tradition of assigning to the polity's central deity the reigning king's Sanskrit name, thus proclaiming the monarch's potential for achieving divinity upon his death, and he reinforced this by the strategic pairing of the most important Cham royal temples with a specific sacred mountain (Maspero: 1928, 53; Vickery: 1998; Phuong: 2009, 176).

Shortly afterward, in the fifth century, the Cham realm was an independent entity, responding in part to the new circumstances afforded when China's Jin dynasty rulers encouraged traders from the Southern Seas to trade in China's ports. Cham ports became intermediate stops for merchant ships navigating the South China Sea, and ships regularly put into Cham ports prior to their entry into China's harbors. This is demonstrated in the fifth-century travel itinerary of the Indian prince Gunavarman, who made a Cham port stopover sailing from the Java coast to China (Wolters: 1967, 35). According to Chinese accounts, perhaps trying to see a continuity of power, during the mid-fifth century a dynastic crisis in Funan resulted in the flight of a Funan prince to Linyi, where he became king of the Chams (Coedes: 1931). As noted above, the Chinese throne officially recognized this king, Fan Tang, in 491, when he was granted the title of General Pacifier of the South, Commander-in-Chief of the Military Affairs of the Seashore, and King of Linyi (Maspero: 1928, 77–78). Chapter 2 makes the case that this late fifth-century recognition was due to China's perception that Funan was no longer the dominant commercial center in the Southeast Asian realm, and that Linyi regional ports had become the major commercial powers on the lower Vietnam coast. Fan Tang's title of Pacifier reflected the Chinese court's view that he was responsible for maintaining control over Cham coast piracy that otherwise threatened international shipping. This was done by successfully engaging the loyalty of the coastal seamen.

This Cham state's effectiveness in controlling piracy was intermittent, however, and in 605 a Chinese general tried to forcibly open the Southern Seas region for commerce, most likely seeking to make the Cham coast fit for trade by deterring piracy (Coedes: 1966b, 77). According to the Chinese sources the Cham state reacted favorably and soon became a secondary entrepôt on the main international route, servicing shipping and sailors traveling between the Malay world and Guangzhou. At the time, a Cham capital was located at Tra Kieu near present-day Hoi An, and by 758 the Chinese reported

that the Cham state, which they mistakenly viewed as a unified polity, had also developed secondary commercial centers at Kauthara (present-day Nha Trang) and Panduranga (present-day Phan Rang). As previously noted, around this time the Chinese began to call the Cham state Huan Wang (Wang: 1958, 90–91). According to Chinese sources, around 875 a new Cham dynasty came to power at Indrapura (Quang Nam), and reference in Chinese accounts is henceforth made to Zhan Cheng, “the Cham city,” or Champapura (Maspero: 1928, 6).

The Chinese apparently thought of the Cham domain as principally a maritime state, possibly due to its place in their own commercial preoccupations. This preoccupation is reflected in the fourteenth-century *Annam Chi Luo*, written by a Vietnamese, Le Tac, who gives the following brief note on Champa (*Zhang Cheng Kuo*): “[They] established [their] state on the shore of the sea. Chinese merchant ships cross the sea. The outer barbarians who come and go all congregate here to take on fuel and water” (Le Tac: 1961, 31; Taylor: 1983, 350). However, early Cham epigraphy well documents that the Cham downstream river plains were productive centers of rice agriculture. Scholars are currently agreed, based on the considerable archeological work done in the former Cham realm over the past twenty years, that Champa was never a centralized single state except in the minds of the Chinese, but instead was a series of variable networked river valleys that sometimes worked as allies, and at other times were in competition (Hardy: 2009). We know from archeological and epigraphic evidence that Champa had a river valley focus to its agriculture. Politically, the leader of a Cham riverine network practiced Indic-inspired statecraft, initially drawing legitimacy from Hindu-Buddhist cults that emphasized the Cham king’s association with Siva and his consort Bhadratisvara. As with its Angkor neighbor to the west (chapter 6), temples were often responsible for bringing the lands of the Cham political elites under cultivation (Sox: 1972, 60; Wachtel: 1998).

As was the case with their Srivijaya and Khmer contemporaries, the naga/snake motif remained a prominent Cham visual connection between the Indic and indigenous religious traditions. The Siva-linga was a male divine figure, symbolic of creative energy of the celestial realm, seated with legs partly crossed, hands on hips, on the coils of a naga or seated on a five-headed naga throne, symbolic of natural deities (*yaksa*) in Brahmanical imagery of the subterranean world of the naga presided over by the *yaksa* Kavera, protector of riches and treasures (Guy: 2009, 122ff; Guillon: 2001, inscription 62). Linga, the focal phallic ritual centerpieces in Cham temples, are also a syncretism of the Indic and the local. The male linga rises from the receptive female *yoni* circular bowl-like base. Cham linga are often three-tiered, as the foundational Hindu divine Brahma and Visnu are symbolized in staggered

rectangular or square bases for the culminating rounded penis head of Siva. Cham scholars assert the acceptance of the Indic linga as a powerful symbol in local culture, as the linga is the traditional male spiritual force (Ahier) and the yoni is the female (Awar), which together are the two most powerful dualistic creative forces in the Cham animistic realm. This male/female duality is also the basis of the ritual relationship between the most sacred My Son (Indrapura) and Po Nagar (Vijaya) temple complexes: My Son was the sanctuary of the god Siva (male/father), while Po Nagar was the sanctuary of the goddess of Po Inu Nugar (female/mother) (Nakamura: 2009, 103).

By the seventh and eighth centuries the Cham realm had evolved a loose balance between its wet-rice economy and its participation in the international trade. An important factor necessitating this balance was the fact that the Cham coast was by then strategically located on the principal maritime route between the Srivijaya Melaka Straits-based realm and China, a position that allowed the Chams the opportunity to take advantage of the economic benefits offered by participation in the trade as the trade heightened in the Tang and Song eras (618–1279). In doing so, to some degree Champa inherited the entrepôt position filled in earlier centuries by Funan to the south, though it was Srivijaya that assumed the primary emporium role, maintaining this position generally from the seventh century until the eleventh century. In the eyes of the Chinese, Champa, though important, was ultimately a region of intermediary ports, the last stopover between Srivijaya and China before ships reached China's ports of trade. In time, however, the Cham realm would become increasingly important as a source of commodities desired by the Chinese elite (Hardy: 2009).

A rare oblique reference to external commerce comes from eighth-century Cham inscriptions reporting two sea raids that threatened the state's very existence. A Sanskrit inscription from Nha Trang informs us that in 774 "ferocious, pitiless, dark-skinned men born in other countries, whose food was more horrible than corpses, and who were vicious and furious, came in ships . . . took away the [temple *linga*], and set fire to the temple," thus desecrating the Po Nagar temple near Nha Trang in the Kauthara region (Barth and Bergaigne: 1885–1893, 253). This was followed by a second raid by a similar group in 787, when a Panduranga temple to the south was burned (Aymonier: 1900–1904, 191; Barth and Bergaigne: 1885–1893, 217). The desecration of these temples represented the destruction of the Cham kings' legitimacy, and in the first of these raids the temple's sacred linga was taken away. The Po Nagar temple inscription recording this event reports that the Cham king followed with his navy and defeated the raiders in a sea battle. He was unable to recover the original linga, which was said to have been lost in the battle, but he used the booty acquired from the defeated marauders to

reconstruct the damaged temple, where he installed a replacement linga, the symbol of his legitimacy (Barth and Bergaigne: 1885–1893, 253).

Historians have traditionally identified these dark-skinned and demonic raiders with Javanese or Malay sailors, though they are most likely a multi-ethnic group similar to the Malayo-Austronesian sea nomads who were the strength behind Srivijaya's hegemony (see chapter 4), but who were also a maritime diaspora active along the entire Cham and Vietnam coastline. These sea nomads were seasonally resident oceangoing sojourners who could be used by local rulers to control shipping, but who in times of political turmoil might turn to piracy as the source of their livelihood (Wolters: 1967; 1970). It is notable that the two referenced raids were directed at the southernmost of the Cham regions, the two port areas recognized by the Chinese as being of greatest commercial importance in that time. The maritime raids therefore reflect three possible conditions. First, the Srivijaya state may have seen the rise of the Cham ports as a threat to its economic hegemony (Barth and Bergaigne: 1885–1893, 252). Alternatively, if Srivijaya was not such a powerful force at this particular time, as some historians have proposed, then the raids on the Cham ports may have been undertaken by the very sea pirates who in more settled times might have supported Srivijaya's control over the Southern Seas, but who now would have seen Cham ports as attractive sources of plunder (Bronson and Wisseman: 1976). A third possibility is that the attack could have been mounted by rebel seamen based in the variety of settlements along the lower Cham coast and numerous offshore islands.

CHAMPA AND INTERNATIONAL COMMERCE IN THE TENTH AND ELEVENTH CENTURIES

After these eighth-century records, there is little documentary evidence of the Cham realm's commercial activities until the eleventh century, when several inscriptions, supported by Chinese records, allow further consideration of the Cham relationship with international commerce. Moreover, we know a good deal about Champa's internal structure during this period. Champa's multi-centered civilization was distributed among several river valleys and their upstream highlands, each of which was separated from the others by rugged mountains. In this regard, the state's geographical features were similar to those of the earliest multiple-riverine-system polities in the Straits of Melaka region. Yet despite this similarity to Srivijaya, the Cham polity also resembled contemporary Java (chapter 5), in that its river systems had settled downstreams that were adjacent to fertile upstream centers that lay between the coast and the upstream highlands, as the downstream produced sufficient rice

surpluses to support the expenses of networked temples. By contrast, as described in chapter 4, the internal economic and political development of the Srivijaya realm was hampered by its region's extensive downstream swamps. Champa's economic and religious networks reinforced their multiple river systems' upstream and downstream cultural and economic linkage, while also proclaiming the legitimacy of their Cham elite patrons (Quach-Langlet: 1988, 28–37).

By the tenth century Champa was divided into five core regions. The northern region that bordered Vietnamese territory, which had port sites known as Amarendrapura (Lai Trung/Hue) and Visnupura (Nhan Bieu), was a narrow, sandy coastal plain of scattered agricultural settlements that was punctuated by numerous short streams connecting the coast with its mountainous interior. Amaravati incorporated the earlier Indrapura middle region. This was the site of the important port now known as Hoi An (Redfern: 2002; Wachtel: 1998; Wheeler: 2001). Its multiple short, fertile river valleys were sealed by steep mountain ridges, a geography affording the security necessary for the development of the local wet-rice works that supported these early religious and political complexes.

Amaravati's prior leadership was superseded in the twelfth and thirteenth centuries by its southern neighbor, Vijaya, which developed overland links with the evolving Khmer realm of Angkor, which used Vijaya's port, now known as Sri Banoi/Sri Banoy, as a point of contact with the South China Sea international trade, as an overland road network connected the Khmer heartland with the western Cham highland region, and from there via upstream river valleys to the coast. Continuing southward, the fourth region was Kauthara, which was situated in a narrow coastal strip with little agricultural hinterland between the rugged mountains and the rocky seacoast, but which also developed overland commercial and cultural connections to the Khmer heartland via Sambor (Sambhupura) on the Mekong River. Though the topography was less hospitable for large-scale agriculture, it had several bays (notably, Nha Trang and Cam Ranh) that afforded accommodation for assorted maritime communities. Here, too, was the important early cult site of Po Nagar. To Kauthara's south lay the fifth region, Panduranga (Phan Rang), which had a mixed economy based on hydraulic agriculture, salt production, and fishing. This mixed economy and distance allowed Panduranga to enjoy a degree of autonomy from its northern neighbors.

The five core regions were surrounded by border zones in each of three directions. On the northern periphery of the core was the Nghe Thanh region, which was long contested between the Vietnamese and the northern Cham polities. Although the Chams occasionally raided into this borderland, they verily controlled it. To the west of the core was an autonomous region of

Nevertheless, the region was becoming more internally focused, and Jambi continued to decline politically; a 1347 inscription from a ruined Jambi temple reports that at that time Adityavarman, ruler over the upstream highlands, held authority over Jambi (L. Andaya: 2008, 88–89). As for Palembang, not until the early Ming period in the late fourteenth century did this port seem to regain some degree of independence. In response to an imperial command presented to Palembang in 1370, a mission was sent to the Ming court in 1371, and subsequent missions were sent in 1373, 1374, 1375, and 1377 (Groeneveldt: 1887, 192–93). O. W. Wolters interpreted this frequency as an attempt by Palembang's rulers to recapture the old position of Srivijaya in the China trade (Wolters: 1970: 49–76; 187–90). If so, they failed. Retrospective Ming histories viewed Palembang as a minor commercial center, attributing its poverty to the Javanese conquest and the fact that thereafter “few trading vessels [went] there.” To underline the point, it was referred to as the Old Harbor (Groeneveldt: 1887, 197; Heng: 2009).

Thus, by the fourteenth century the southeastern Sumatra coast had become insignificant in the international trade. Even on Sumatra itself, the southeast was now overshadowed by the developing pepper production and port centers clustered along Sumatra's northern coast. While southeastern Sumatra did not disappear entirely from the politico-economic map (tribute to China continued intermittently through the fourteenth century, coming first from Jambi and later from Palembang), commercial prominence had passed to the north. Even so, in the late thirteenth century only two ports on the northern Sumatra coast were invited by the Yuan to send tribute missions to China. One was Lamuli (Lamuri/Ramni), a port on the northern tip of the island (the future Aceh) frequented by Middle East traders since at least the tenth century (Tibbetts: 1979, 138–40). The second was Sumutula (Samudra), which during the thirteenth through the fifteenth centuries came to dominate north coast trade, as will be discussed in chapter 9.

CHAM AND VIETNAM COMPETITION FOR THE VIETNAMESE COASTLINE, 1200–1471

While the Thai and Javanese prospered and southeast Sumatra declined, the Champa realm was enjoying a period of relative strength, albeit one that would come to a sudden end in the fifteenth century. The theme of cultural and religious restoration is center stage in Cham inscriptions dating from the 1220s and 1230s, as they followed an era of Khmer dominance over the Cham realm that had dated to Jayavarman VII's late twelfth- and early-thirteenth century reign (as described in chapter 6). A Cham inscription from

included porcelain, musk, quicksilver, copper, vermillion, and large quantities of raw and woven silks, damask, satin, and brocade (Ptak: 1998; Vogel: 1993; Heng: 2001, 2009). Privately financed trade from China also included pottery, camphor, and pearls, as well as the less valuable alum, saltpeter, sulfur, iron, and copper and iron utensils. Regular shipping also came from Thailand, Vietnam, Japan, and the Philippines, which contributed foodstuffs, jungle goods, and a variety of other trade items (Wade: 2004; Wang: 1970; Chan: 1968).

In addition, Melaka drew on trade within the archipelago (the fifth zone, which will be described further below). This trade had become highly profitable, and the spices of the Maluku—nutmeg, mace, and cloves—had assumed global importance. Intra-archipelago trade was at that time dominated by merchant-seafarers based in the Muslim-ruled ports of Java's north coast, but eastern archipelago sojourners known collectively as the Bugis were becoming a factor. From the Straits polities themselves—notably from Kedah on the west coast of the Malay Peninsula and Samudra-Pasai on the northwest coast of Sumatra—came tin, gold, jungle products, and pepper, in return for cloth, opium, and foodstuffs. By the end of the fifteenth century, when the first Portuguese missions reached Asia, Melaka was the commercial hub of Asian trade. Early arriving Portuguese, whose home ports in the Atlantic must have seemed poor and provincial by Melaka's cosmopolitan standards, were awed by what they saw. They left with impressive accounts of the bustling Melaka urban center.

In the words of the early fifteenth-century Portuguese scribe Tomé Pires, Southeast Asia was “at the end of the monsoon, where you find what you want, and sometimes more than you are looking for” (Corteseo: 1944, 2:228). When Europeans came to Southeast Asia in the early sixteenth century, they saw Melaka as more than a marketplace. It was a symbol of the wealth and luxury of Asia. They were eager to circumvent the monopoly of Venice on the priceless spice trade, and the great wealth and luxury available in this trading had enticed them halfway around the world in their tiny, uncomfortable ships on an extraordinarily hazardous journey. When the Portuguese entered the Indian Ocean in the early 1500s, therefore, their objective was to seize Melaka, which they rightfully considered to be the dominant center of contemporary Asian trade (McRoberts: 1991).

The third trade zone was centered around Thailand and the lower coast of Vietnam, what Leonard Andaya has recently detailed as the Sea of Melayu (L. Andaya: 2008), including the upper Malay Peninsula's eastern coast and the mainland regions bordering the Gulf of Thailand, and the east coast of Sumatra. The Thai state of Ayudhya developed in the first half of the fourteenth century in the lower Chaophraya valley and thrived as a result of new

foreign contacts. Though it was initially hostile to the rise of Melaka in the south, which it viewed as an intruder into the Thai political and economic sphere, Ayudhya began to export rice to Melaka in the fifteenth century while also being a commercial center for trade with the Philippines and China (Kasetsiri: 1976; Vickery: 2004). Thai participation in Southeast Asian trade is well documented by deposits of their porcelains at the sites of numerous Southeast Asian ports active during the post thirteenth-century era (Roxanna Brown: 2008b; Miksic: 2010a). Meanwhile, following the demise of Angkor in the thirteenth and fourteenth centuries, the remnants of the Khmer civilization of Cambodia established a new base at the edge of the Mekong Delta, which provided them with a commercial link to the Malay populations on the north fringe of the South China Sea (Wolters: 1966b).

The Sulu Sea region comprised the fourth commercial zone. In this region the western coasts of Luzon, Mindoro, Cebu, and Mindanao, along with the Brunei region of Borneo's north coast, all served to varying degrees as facilitators of trade between China and the Spice Islands to the south and east (Ptak: 1992). These Spice Islands were the source of nutmeg, mace, cloves, sandalwood, and other more exotic commodities, such as parrots and birds of paradise, all of which flowed through the Sulu Sea to China and Thailand in the north, as well as to the central Vietnam coastline, Java, and Melaka in the west.

The Chinese presence was not new—Chinese traders had established these bases in the Philippines during the eleventh and twelfth centuries (Hutterer: 1974). The first mission to the Chinese court from the Philippines arrived in 1003. In 1007, envoys were again sent by the ruler of Butuan in northwest Mindanao, requesting that the Song court bestow upon them the same class of flags that Cham envoys had received in 1004. The request was rejected because Butuan, the Chinese reasoned, was beneath Champa in commercial importance (Wolters: 1983, 58).

By the fourteenth century an intensive and extensive network of native trade had evolved to distribute imports and gather the forest products desired by Chinese traders. This trade in both its internal and external dimensions stimulated major changes in Philippine society. It called for formal regulation of commercial contact between indigenous populations and the foreign traders and encouraged the formation of village clusters (*barangay*) that were controlled and protected by local chiefs (*datu*) (Hutterer: 1974, 297). Archeological research has revealed population clusters of over five hundred households in the Manila area dating to the pre-Spanish period, as well as other clustered residential sites on the Mindoro, Mindanao, and Cebu coasts. Each of these communities' trade links with China are demonstrated by the communities' association with significant deposits of Song and Ming porcelain

Annex 298

Rodolfo Severino, *Where in the World is the Philippines?: Debating its National Territory* (2011)

WHERE IN THE WORLD IS THE PHILIPPINES?

*Debating Its
National Territory*

Rodolfo C. Severino



Carlos P. Romulo Foundation

Philippines



INSTITUTE OF SOUTHEAST ASIAN STUDIES

Singapore

First published in Singapore in 2011 by
ISEAS Publishing
Institute of Southeast Asian Studies
30 Heng Mui Keng Terrace
Pasir Panjang
Singapore 119614

E-mail: publish@iseas.edu.sg
Website: <http://bookshop.iseas.edu.sg>

Co-published with
Carlos P. Romulo Foundation
30th floor, Citibank Tower
8741 Paseo de Roxas
Makati City, Philippines
<www.carlospromulo.org>

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ISEAS Library Cataloguing-in-Publication Data

Severino, Rodolfo C.

Where in the world is the Philippines? : debating its national territory.

1. Jurisdiction, Territorial—Philippines.
 2. Territory, National—Philippines.
 3. Territorial waters—Philippines.
 4. Philippines—Claims to Sabah.
 5. Philippines—Claims to South China Sea.
- I. Title.

KPM2055 S49

2011

Library of Congress

ISBN 978-981-4311-70-0 (soft cover)
ISBN 978-981-4311-71-7 (hard cover)
ISBN 978-981-4311-72-4 (e-book PDF)



2011

315023

Typeset by Superskill Graphics Pte Ltd
Printed in Singapore by Utopia Press Pte Ltd

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THE SOUTH CHINA SEA

The Treaty of Peace with Japan, signed in San Francisco on 8 September 1951, states in its Article 2, “Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands,” which Japanese forces occupied just before and during World War II and from which they launched attacks on other countries in the region. However, the treaty does not say which nation is to have such right, title or claim to those islands, although the Vietnamese have asserted that, since those islands belong to Vietnam, it can be assumed that they reverted to Vietnam after Japan was divested of them.¹ The Chinese have made a similar claim on behalf of Chinese ownership.

The Philippines and Vietnam were among the forty-nine states that signed the treaty. Neither the People’s Republic of China, which had taken control of the Chinese mainland almost two years earlier, nor the “Republic of China”, which had fled to Taiwan but claimed to be the government of all of China, was invited to the San Francisco conference that produced the treaty. This was mainly because some of the participants in the conference recognized the People’s Republic as the rightful government of China, while others continued to give recognition to the authorities on Taiwan as the government of all of China.

On 28 April 1952, the same day that the San Francisco Treaty entered into force, Japan and the “Republic of China”, which Japan then considered as the Chinese government, signed a separate Treaty of Peace in Taipei. In it, the two parties “recognized” that, under the San Francisco Treaty, Japan had “renounced all right, title, and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratley Islands and the Paracel Islands”, again without specifying which nation would have such right, title or claim. On

29 September 1972, Japan shifted its diplomatic relations from Taipei to Beijing by means of the Joint Communiqué issued during Prime Minister Kakuei Tanaka's visit to China. Without explicitly referring to the Paracels or the Spratlys, the communiqué stated that Japan "firmly maintains its stand under Article 8 of the Potsdam Proclamation" issued by the leaders of the Republic of China, the United Kingdom and the United States on 26 July 1945, which limited Japanese sovereignty "to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine". Six years later, on 12 August 1978, Japan and the People's Republic signed a Treaty of Peace and Friendship, which reaffirmed the 1972 Joint Communiqué but was otherwise silent on territorial issues.

THE CLOMA CLAIM

Meanwhile, in 1947, fishing boats belonging to Tomás Cloma, a Filipino marine educator and entrepreneur, mainly in fishing-related ventures, started visiting the islands of the South China Sea that are closest to the Philippines. According to A.V.H. Hartendorp, Cloma "considered plans to establish an ice plant and cannery on Itu Aba and also to exploit the guano deposits on the islands."²

In 1956, after sending the training ship of his Philippine Maritime Institute on an expedition to the islands in early March, Cloma on 15 May proceeded, through a "Notice to the Whole World", to claim ownership of an area in the South China Sea of 64,976 square nautical miles. The coordinates indicated were roughly congruent with the area that the Philippine government was to claim as Kalayaan twenty-two years later.³ On the same day, in a letter enclosing the "Notice" and its accompanying maps, Cloma wrote the Secretary of Foreign Affairs, then Vice President Carlos P. García, informing the Philippine government that "about forty citizens of the Philippines were undertaking survey and occupation work 'in a territory in the China Sea outside of Philippine waters and not within the jurisdiction of any country', and that the territory being occupied was being claimed by him and his associates".⁴

Six days later, on 21 May, Cloma sent another letter to the Secretary of Foreign Affairs informing him that the territory that he was claiming had been named "Freedomland" and enclosing a list of the new names that he had given the individual islands and other features. Stressing that the claim to the territory had been made by citizens of the Philippines and not by the Philippine government or on its behalf, Cloma urged the government to

support that claim rather than make one of its own lest a government claim invite “opposition from other countries”.⁵

From July to September 1956, Cloma issued a flurry of documents, including a “Charter of the Free Territory of Freedomland” on 6 July providing for the country’s territory, seal and flag. The territory included “all the islands, islets, isles, atolls, banks, reefs, shoals, fishing grounds and waters” within the set of coordinates laid down in the “Notice” and reiterated in the Charter, without specifying the nature or extent of the fishing grounds and waters. The Charter prescribed the structure of government and adopted all Philippine laws and judicial decisions. It incorporated the Universal Declaration of Human Rights and the Philippine Bill of Rights. An announcement signed by Cloma, a younger brother of his and three of his four sons on 7 July named him “Chairman, Supreme Council of State of Freedomland and Head of State” and two others as “Supreme Solon” and “Supreme Magistrate”. A letter sent out by Cloma as “Head of State” on the same day announced the formation of the equivalent of a cabinet. In September, Cloma issued rules on citizenship and on coinage and currency.⁶

In a 6 July press statement, Cloma cited the strategic reasons behind his claim to “Freedomland” and his establishment of an independent state there. He warned that “Red China” could be recognized by the United Nations by the end of the year and thus could take over the claim of Nationalist China. He pointed to the resurgence of Japan, France and England and the rise of “the Vietnams” as other potential sources of threat to the Philippines. An independent “Freedomland”, he said, would help avert these threats while sparing the Philippines the legal complications of annexing new territory.⁷

Although Cloma’s activities had the whiff of farce — President Ramon Magsaysay has been quoted as calling them “comic opera” in asking Vice President and Secretary of Foreign Affairs García to cut them short⁸ — they were taken seriously enough to provoke protests, starting as early as May 1956, from Nationalist China on Taiwan, the Chinese Foreign Ministry in Beijing, *Guangming Daily* (a Hong Kong Chinese-language newspaper leaning towards the People’s Republic of China), France, and South Vietnam (which called Cloma’s endeavours a “burlesque adventure”⁹), all asserting opposing claims to all or parts of the area in question. Beyond protests, Nationalist Chinese forces took naval action against the activities of Cloma and his group.

After months of declining to do so, the Philippine government finally adopted a position on the “Freedomland” issue. This took the form of a letter, dated 8 February 1957, by Secretary of Foreign Affairs García in reply to a letter that Cloma had sent President Magsaysay, dated 14 December 1956.

The Cloma letter had complained about Taiwanese activities, reported in the Taipei press, “trying to grab phosphate mining operation which is presently undertaken by us”.¹⁰ García carefully limited his response to the views of the Department of Foreign Affairs rather than the Philippine government itself. The Department of Foreign Affairs, he said, “regards the islands, islets, coral reefs, shoals, and sand cays, comprised within what you called ‘Freedomland’, with the exclusion of those belonging to the seven-island group known internationally as the Spratlys, as *res nullius*”, that is, something that does not belong to anyone. This meant, he continued, “that they are open to economic exploitation and settlement by Filipino nationals, ... so long as the exclusive sovereignty of any country over them has not been established”. García added that “the Philippine Government considers (the Spratly) islands as under the *de facto* trusteeship of the Allied Powers of the Second World War, ... there being no territorial settlement made by the Allied Powers ... with respect to their disposition”. Finally, the Vice President invoked the Philippines’ interest in the islands encompassed by “Freedomland” — their proximity to the Philippines, their historical and geological relations with the archipelago, their strategic value, and their economic potential. However, he took care to refrain from asserting a claim to sovereignty or ownership on the part of the Philippines itself.¹¹

THE PHILIPPINE CLAIM

By 1971, the Philippine position seemed to have changed. A communiqué read by President Ferdinand Marcos at a press conference on 10 July 1971 announced the results of discussions at an emergency meeting of the National Security Council on the security implications for the Philippines of the occupation by Taiwanese forces of Itu Aba, referred to as Tai Ping in Chinese and as Ligaw by the Philippines. Repeating the view that “Freedomland” was not part of the Spratlys,¹² the announcement reaffirmed the Philippine position that the Spratlys were “under the *de facto* trusteeship of the allied powers”, by virtue of which “no one may introduce troops on any of these islands without the permission and consent of the allied powers”. It revealed that the Philippine government had asked Taipei to remove its troops from Itu Aba, since their deployment there did not have the consent of the allies. The Marcos statement reiterated that, on the other hand, “Freedomland” was *res nullius* that could be acquired by “occupation and effective administration”. It concluded by announcing that “we are in effective occupation and control of Pagasa (Thitu), Lawak (Nanshan Island) and Patag (Flat Island)”.¹³ Both Taipei and Beijing immediately issued protests.

On 17 November 1971, Secretary of Foreign Affairs Carlos P. Romulo submitted a memorandum to Marcos recommending, in the light of increasingly dangerous encounters between Philippine and Nationalist Chinese forces in “Freedomland”, that the Philippine military presence in the area be augmented. The memorandum urged that the islands be developed and populated, the place used as a penal colony, the Philippine flag kept hoisted in the territory, and Philippine governmental processes extended there. Romulo asserted that these measures would reinforce the Philippine position that “these islands are part of Philippine territory”.¹⁴ The Philippines’ Undersecretary of Foreign Affairs, José D. Ingles, was to recall that in March 1972 he had asserted at the UN Seabed Committee “the effective occupation by the Philippines of the Kalayaan Islands”.¹⁵

In a letter to Marcos on 22 March 1972, a former Philippine diplomat, Juan Arreglado, signing himself as “Chairman Advisory Council of the Free Territory of Freedomland”, complained that “the claims now put forward by the Philippine Government run counter to its formal commitments as expressly stated in the letter” of Secretary García of 8 February 1957. Arreglado claimed that the exchange of letters between Cloma and García made clear the Philippines’ “recognition of the existence of the Free Territory of Freedomland as a ‘Protected State’” of the Philippines. Quoting Ingles as saying at the UN that “Freedomland ... has been and is now under effective occupation and control of the Philippine Government”, Arreglado stated that the undersecretary had indicated a change in the official position of the Philippines “by laying claim directly to ownership and occupation of Freedomland”.¹⁶

This internal Philippine dispute seems to have been resolved by the “Deed of Assignment and Waiver of Rights” that Cloma, on behalf of Tomás Cloma & Associates, signed on 4 December 1974 transferring to the Philippine Government “all rights and interests they might have acquired” over “Freedomland” on the strength of “discovery and occupation” and by virtue of “exploration, development, exploitation, and utilization”. The deed reproduced the coordinates laid down in the original proclamation and charter, both dated 6 July 1956.¹⁷

However, the deed was apparently executed under duress. In their biography of Cloma, José V. Abueva, Arnold P. Alamon and Oliva Z. Domingo write:

The Philippines’ subsequent claim to Freedomland since 1974 is based on Cloma’s involuntary cession of his rights to the Government under the martial law regime of President Marcos.... In December 1974, the

Government forcibly took over Freedomland from Cloma and Associates while Cloma was still under house arrest after spending 57 days in prison at Camp Crame, the headquarters of the Philippine Constabulary in Quezon City... . Under extreme duress, (Cloma, then 70) had to cede all the rights over Freedomland acquired by Cloma and Associates to the Philippine Government.... His daughter, Celia, convinced him to finally cede his rights over Freedomland/Kalayaan Islands in exchange for his freedom.¹⁸

In a 15 July 1987 memorandum addressed to President Corazon C. Aquino, Arreglado and Pedro Vargas, writing for Tomás Cloma & Associates, asked for the reimbursement of “expenses” incurred from 1947 to 1974 in the “exploration, occupation, development, administration, organization and settlement of Freedomland”. The memorandum charged that “the arrest and detention of Atty. Tomas Cloma, Sr. was motivated solely by the overwhelming desire of the Martial Law Regime ... to induce and compel Tomas Cloma & Associates to accept and sign the ... Deed of Assignment and Waiver of Rights...” It claimed that, “in view of the fact that Atty. Tomas Cloma, Sr. was already more than seventy years of age at that time, with frail physical constitution and whose health required then medical care and attention, and the threat hanging over his head that he would be rearrested and detained again in the stockade for an indefinite period of time, Tomas Cloma & Associates had no other alternative but to agree and sign the aforesaid DEED.”¹⁹

Then, Tomás Cloma & Associates stated that, “despite all the acts of injustice, compulsion and abuse of power inflicted on the person of Atty. Tomas Cloma, Sr. by the ruling authorities of the Martial Law Regime, we are in perfect accord with the issuance on June 11, 1978 of Presidential Decree No. 1596” claiming possession of and sovereignty over “Freedomland”. After setting forth the bases and reasons for its claim to “Freedomland” and describing its background, Tomás Cloma & Associates requested 50 million Philippine pesos from the Philippine government as “just, equitable and reasonable” compensation for laying the basis for “the eventual acquisition of ownership and sovereignty over Freedomland by the Philippines.”²⁰ Thus, despite the charge that Cloma had signed under duress the transfer of all rights to and interests in “Freedomland” to the Philippine government in 1974, Tomás Cloma & Associates was now, in 1987, freely affirming that transfer.

On 11 June 1978, under his martial-law powers, Marcos had issued a decree formalizing the Philippine claim, declaring that an area off Palawan outside the Treaty of Paris limits, “including the seabed, subsoil, continental margin and air space”, was to “belong and be subject to the sovereignty of

the Philippines". To be known as "Kalayaan", meaning freedom, the area was almost entirely congruent with but slightly larger than Cloma's "Freedomland". The decree, numbered PD 1596, designated, both in the preamble and in the operative part, the coordinates bounding the claimed area:

From a point [on the Philippine Treaty Limits] at latitude 7°40' North and longitude 116°00 East of Greenwich, thence, due West along the parallel of 7°40' N to its intersection with the meridian of longitude 112°10' E, thence, due north along the meridian of 112°10' E to its intersection with the parallel of 9°00' N, thence northeastward to the intersection of parallel of 12°00' N with the meridian of longitude 114°30' E, thence, due East along the parallel of 12°00' N to its intersection with the meridian of 118°00' E, thence, due South along the meridian of longitude 118°00' E to its intersection with the parallel of 10°00' N, thence Southwestwards to the point of beginning at 7°40' N, latitude and 116°00' E longitude.

The area thus claimed covered 70,150 square nautical miles (see Figure 2).

The decree constituted Kalayaan "as a distinct and separate municipality of the Province of Palawan". It asserted that "much of the ... area is part of the continental margin of the Philippine archipelago" and that "by virtue of their proximity" the island group was "vital to the security and economic survival of the Philippines". It invoked "history, indispensable need, and effective occupation and control established in accordance with international law" in supporting the Philippine claim, affirming that other states' "claims to some of these areas ... have lapsed by abandonment". Since then, the residents of the islands occupied by the Philippines, including the troops there, have taken part in Philippine elections. By June 1978, Philippine forces had occupied four more islands or other land features, in addition to the three whose occupation Marcos had announced in July 1971. Afterwards, the Philippines is reported to have taken possession of two more land features in the Spratlys.

Although it is outside the limits set by the Treaty of Paris and other international agreements governing Philippine territory, the Philippines considers Scarborough Shoal, a group of islands, reefs and rocks in the South China Sea about 200 kilometers west of Subic Bay in Luzon, as part of the main Philippine archipelago. It has been the scene of much Philippine activity. For centuries, Filipino fishermen have used its waters for fishing and its lagoon for shelter. When the United States was still in control of large military bases in the Philippines, the United States, as well as the Philippine, Air Force used Scarborough for target practice. Media reports state that the Philippines constructed a lighthouse and raised its flag on the shoal in the 1960s. The Philippine Navy has operated in the area and occasionally

arrested or chased away foreign fishermen, particularly those engaged in illegal fishing methods. Scarborough's official Philippine name, Bajo de Masinloc, meaning "below Masinloc" in Spanish, refers to Masinloc, a town in Zambales province, the Spanish-language name of Scarborough obviously dating it back to Spanish times.

In November 2007, Representative Antonio V. Cuenco of Cebu filed a bill in the House of Representatives seeking further to amend the baselines act of 1961, as amended in 1968. In doing so, the bill would extend the Philippines' baselines to connect the outermost points of the area in the South China Sea claimed in the 1978 Marcos decree and in the Scarborough Shoal area. There would be twelve such points in the Kalayaan Island Group and six at Scarborough Shoal. The bill prescribed that, in the case of each of two base points in Kalayaan, Iroquois Reef and Sabina Shoal, a "permanent structure such as a lighthouse should be established on its low-tide elevation".²¹ This suggestion was obviously motivated by the need to have the proposed base points conform to the UNCLOS requirements on such base points and the baselines that connect them.

Evidently with the UNCLOS requirements and foreign policy and tactical considerations in mind, however, the Department of Foreign Affairs opposed the move to draw the baselines to encompass the entire Kalayaan claim and Scarborough Shoal. President Gloria Macapagal-Arroyo, in January 2009, endorsed a version introduced in the Senate by three of its committees and six individual senators, including Miriam Defensor-Santiago. Supported by the Department of Foreign Affairs, the Senate bill would *not* extend the baselines to the Kalayaan Island Group or Scarborough Shoal. Instead, it would declare a "regime of islands", as envisioned in Article 121 of the UNCLOS, for the land features in the Kalayaan Island Group as defined in the Marcos decree and Bajo de Masinloc, that is, Scarborough Shoal.²² The Senate version substantially prevailed in the bill that the Congress finally passed and President Arroyo signed into law on 10 March 2009.²³

The new act invokes Article 121 of the UNCLOS in declaring a "regime of islands" for the land features in the Philippine-claimed Kalayaan Island Group and Scarborough Shoal. According to that article, an island may have its own territorial sea, contiguous zone, exclusive economic zone and continental shelf as determined in the same way as other land territory. However, "(r)ocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf". The Philippines has refrained from designating which of the South China Sea land features that it claims are islands and which are mere "rocks" in the UNCLOS sense, apparently preferring to reserve for itself a measure of

ambiguity. Moreover, the Philippines retains the option of amending the new law in the future so as to draw baselines around the Kalayaan islands or Scarborough Shoal or both. Nevertheless, by maintaining its baselines only around its main archipelago, instead of using Scarborough shoal and other land features in the South China Sea as base points, and declaring a regime of islands for those features, the new law brings the Philippine claim closer to conformity with the UNCLOS as far as the maritime regimes in these areas are concerned. This is something that still cannot be said of the Chinese or Vietnamese claim. China and Vietnam promptly lodged protests against the enactment of the new law, asserting their claims to both the Spratlys and Scarborough Shoal. Unfortunately, some commentators confuse the original Cuenco bill, which would have extended the Philippines' archipelagic baselines to the Spratlys and Scarborough Shoal, with the act as finally passed and signed into law, which does not.

CHINA'S CLAIM

Partly in response to the Cloma group's activities, Taiwanese forces, in July 1956, returned to re-establish a permanent presence on Itu Aba. After the Japanese defeat in the Pacific War, those forces had planted Nationalist Chinese flags and stone markers on Itu Aba, Spratly Island and West York Island and set up a garrison on Itu Aba in December 1946, mainly to forestall apparent French attempts to return to the area. Moreover, the Allies had designated the (Nationalist) Chinese as recipients of the surrender of the Japanese forces in the area north of 16° North latitude. However, the Nationalists abandoned Itu Aba in June 1950, evidently for two reasons. One was the fall of the southern Chinese island of Hainan to the Communist Chinese, which made it difficult for the Nationalists to supply the garrison on Itu Aba. The other reason was that all Nationalist forces were deemed necessary for the defence of Taiwan itself.

On 7 July 1956, Cloma and several Philippine Maritime Institute cadets delivered to the (Nationalist) Chinese embassy in Manila a Nationalist Chinese flag that Cloma said they had removed from Itu Aba. The removal of the flag had evoked a protest from the Nationalist Chinese government. At the beginning of October, as the institute's training ship lay at anchor in the northwest corner of the area claimed by Cloma, it was approached by two Nationalist Chinese naval vessels. Filemon Cloma, Tomás Cloma's younger brother, who was in command of the Philippine ship, was invited to board one of the Nationalist Chinese vessels, where a heated four-hour discussion of the islands' ownership took place. During this time, a "Chinese boarding

party” searched the PMI ship and confiscated arms, maps and documents. Hartendorp’s citation of Tomás Cloma’s account continues:

The next day, the Captain was again invited aboard the Chinese ship, and this time he took two of his officers with him and was treated “more formally.” But “even under grave threats to their lives, Captain Cloma refused to sign a statement that they will leave Freedomland and will not come back. He also refused to recognize that Freedomland is Chinese territory. However, he was forced to accede to surrender the arms against receipt.”²⁴

Lu Ning, a Chinese academic who used to be an official at the Chinese Foreign Ministry, cites a different version of those events. Quoting Taiwan’s “An Account of Naval Patrol in the Spratly Sea Frontiers”, he states that the (Nationalist) Chinese “obtained” from Captain Cloma the following note, which the Chinese had evidently written for him:

We assure that we received your friendly visit and check with no disturbance or anything lost on board of our ship. In order to keep up sincere friendship between the Republic of China and the Republic of the Philippines, we will not make further training voyages or landings in the territorial waters of your country and will accept your proper disposal after investigations in conformity with national laws of the Republic of China and international law in case we break our promise.²⁵

China claims that it has long considered the Spratlys, as well as the Paracels, as its own, calling the Spratlys and environs Nan Sha and the Paracels area Xi Sha. The Chinese claim, espoused by both Beijing and Taipei, which basically have the same outlook on territorial issues, goes all the way back to the Han Dynasty (206 BC to 220 AD) and invokes sporadic contacts by Chinese people with the islands of the South China Sea, as reflected in travel reports, classical literature and local chronicles. Also cited have been the maps drawn in the Tang Dynasty (618–907) and the standardization of the islands’ names and descriptions of currents in the Song (960–1279). So have been the establishment of an astronomical observation point in the Spratlys by the Yuan Dynasty (1271–1368) and the identification of the South China Sea islands in records of the Zheng He voyages during the Ming period (1368–1644). The more or less permanent presence of Hainanese fishermen in the South China Sea islands from as early as the Jin Dynasty (265–420) to the twentieth century has been noted.

As international acceptance of the Western concept of jurisdiction over fixed territories gained momentum, China — imperial, Nationalist and the People’s Republic — took actions to assert its claim to the South China Sea islands in contemporary ways, like official statements, protests, the

reaffirmation of claims, maps, agreements and conventions, laws, and various other acts of sovereignty. These often took the form of protests against the claims and encroachments of others while asserting Chinese ownership of and sovereignty over the islands and, ambiguously, the seas around them. In 1883, the Chinese protested against German surveys of the Paracels and the Spratlys. As a result of China's defeat by France in a war over French designs on Vietnam, the Chinese were compelled in 1887 to sign a treaty that, among other provisions, apparently assigned the Paracels and the Spratlys to China. To pre-empt further French moves and thwart French ambitions, China sent in 1902 a naval task force to inspect the South China Sea islands, planting flags and markers there. In 1907, as an outcome of another inspection tour, detailed plans were drawn up for the exploration of resources in and around the islands. In 1911, the new republic that had replaced the Qing Dynasty (1644–1911) placed the Paracels and the Spratlys under a county on Hainan. In December 1947, even as the Chinese civil war was going on, the Chinese communists incorporated the two groups of islands into Guangdong province.²⁶

In 1947, the Nationalist government of China published a map, the Location Map of the South China Sea Islands, in which nine bars or an “interrupted line” enclosed the South China Sea. The U-shaped series of bars starts, on the north, between Luzon and Taiwan, skirts the western coast of Luzon and Palawan and East Malaysia, and, from 4°N latitude, rises northwards along the eastern coast of Vietnam. It remains unclear what those nine bars signify — whether they represent a Chinese claim to all the waters within them, a claim that would contravene the UNCLOS, which does not recognise “historical” claims to open seas, or merely to the land features that they encompass and the maritime regimes that those features generate.

Sam Bateman, a Senior Fellow at the S. Rajaratnam School of International Studies of the Nanyang Technological University in Singapore and a former Australian naval officer, asserts that it cannot be the former, since the bars are merely drawn on a map without the coordinates required for establishing jurisdictional boundaries.²⁷ B. A. Hamzah of the University of Malaya, formerly with the Maritime Institute of Malaysia and Malaysia's Institute of Strategic and International Studies, agrees that “without the coordinates the line is not legal”, only showing China's “dominion or suzerainty” in the South China Sea. He points out that, the nine bars having antedated the UNCLOS's coming into force, no Chinese political leaders would be willing to drop the line lest they be accused of abandoning China's historical claim to the South China Sea. “Nevertheless,” Hamzah stresses, “it will indeed be a gesture of goodwill to take steps to make the line consistent with UNCLOS.”²⁸ In any

case, ASEAN delegations have asked Chinese officials directly what the nine bars indicate, but have not elicited a definitive response. It is interesting to note that Indonesia, concerned over a possible Chinese claim to its gas-rich Natuna archipelago, has put the query down in writing.

Although China was not a participant in the 1951 San Francisco conference, Zhou Enlai, then foreign minister of the People's Republic of China, issued a statement before the treaty of peace with Japan was signed asserting Chinese sovereignty over the Spratlys and the Paracels. The new government in Beijing had hit out at a U.S.-U.K. draft for the treaty. The draft, eventually adopted in substance, declared that Japan was renouncing all claims to the Paracels and the Spratlys but did not specify which party would have sovereignty over them. (A Soviet attempt to declare Chinese ownership of and sovereignty over the islands had been soundly voted down.) A similar provision was included in the 1952 Japan-(Nationalist) China treaty of peace. Although the provision also failed to state to which party the Paracels and Spratlys belonged, Lu Ning argues:

The Sino-Japanese Treaty is different from the San Francisco Treaty in two ways. The former is a bilateral treaty, dealing with only bilateral issues. The intended recipient for the territories, though not mentioned, is obvious. Secondly, unlike the San Francisco Treaty which treats the Paracels and the Spratlys in a separate paragraph from the one dealing with Taiwan and the Pescadores, the Sino-Japanese Treaty includes them in one single paragraph, thus indicating that Japan considers the legal status of the South China Sea archipelagos the same as those of Taiwan and the Pescadores.²⁹

In September 1958, the People's Republic of China issued a Declaration on the Territorial Sea. That document extended the breadth of China's territorial sea to 12 nautical miles, a concept that had been gaining currency in international discussions on maritime issues and was to be finally enshrined in the 1982 UNCLOS. The declaration, at that time still using the Wade-Giles system of English orthography, applied the extension "to all territories of the People's Republic of China, including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu (Pescadores) Islands, the Tungsha Islands, the Hsisha Islands (Paracels), the Chungsha Islands (Macclesfield Bank), the Nansha Islands (Spratlys) and all other islands belonging to China which are separated from the mainland and its coastal islands by the high seas".³⁰ The designation of the waters between the mainland and the claimed island possessions as "the high seas" could be interpreted as ruling out the notion that the Chinese considered the entire South China Sea as territorial or internal waters.

In 1988, China created a new province, called Hainan, out of Hainan island, the Paracels, Macclesfield Bank and the Spratlys, all of which, according to Chinese law, had belonged to Guangdong Province. In February 1992, the Standing Committee of China's National People's Congress passed a law proclaiming the country's 12-nautical mile territorial sea and a contiguous zone with a breadth of 12 nautical miles beyond the territorial sea, as the UNCLOS prescribes. Its Article 2 states, using *pinyin* in the English translation, "The PRC's territorial sea refers to the waters adjacent to its territorial land. The PRC's territorial land includes the mainland and its offshore islands, Taiwan and the various affiliated islands including Diaoyu Island, Penghu Islands, Dongsha Islands, Xisha Islands, Nansha (Spratly) Islands and other islands that belong to the People's Republic of China."³¹ Although the law reaffirms China's claim to the land features in the South China Sea as its "territorial land", it does not make the distinction between islands, which, under the UNCLOS, can generate their own territorial sea, contiguous zone and exclusive economic zone, and mere rocks, which cannot. The nature of the maritime regimes around those land features thus remains unclear and ambiguous.

VIETNAM'S CLAIM

From the late 1920s to shortly after World War II, the French, too, actively maintained a claim to the Spratlys, a claim that Vietnam was to press as its own in its capacity as successor-state to France. A June 1929 letter from the governor of Cochinchina, in today's Vietnam, indicated that Spratly Island had been "administratively joined" to Baria province. In April 1930, the French raised their flag on Spratly Island, and their Indochinese authorities announced the island's annexation. Three years later, they sent vessels to the Spratlys and occupied six islands there, publishing in July 1933 an official notice of their annexation and, later in the year, declaring them as part of Baria province, an act that the Republic of Vietnam confirmed in 1956. Claiming the islands as theirs, the Chinese protested the 1933 French actions. So did the Japanese, who started in late 1937 to occupy some of the islands in the Spratlys. In 1939, the Japanese declared their occupation of the Pratas, the Paracels and the Spratlys, placed the Spratlys, which they named Shinnan Gunto (New Southern Archipelago), under the administration of Kaohsiung on Taiwan, then a Japanese colony, and later used them to launch attacks on Southeast Asia. The British, too, who were also claiming Spratly Island and Amboyna Cay, had protested against the French claims and actions in the Spratlys.

Annex 299

Thang Nguyen Dang “Fisheries Co-operation in the South China Sea and the (Ir)relevance of the Sovereignty Question”, *Asian Journal of International Law*, Vol. 2, No. 1 (2011)

Fisheries Co-operation in the South China Sea and the (Ir)relevance of the Sovereignty Question

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Abstract

Joint petroleum development has often been considered as a viable solution to the seemingly intractable Spratly Islands dispute in the South China Sea (SCS). This is, however, more easily said than done. On the other hand, little attention is paid to fisheries co-operation in the SCS despite the fact that fisheries constitute an important part in the economies of coastal states. The present laissez-faire approach to fisheries in the disputed area gives rise to friction and tension. By highlighting the salient features of existing fisheries' co-operative arrangements in the world, this article demonstrates the merits of a fisheries arrangement in the SCS. It also argues that fisheries co-operation, as a low-profile undertaking, is probably easier to achieve than joint petroleum development. A fisheries arrangement would serve the immediate interests of parties to the Spratly Islands dispute and may pave the way for their future high-profile co-operation, i.e. joint petroleum development.

The South China Sea (SCS), the second largest semi-enclosed sea in the world, has long been fraught with complicated maritime and territorial disputes, the most notorious of which is the dispute over the sovereignty of the Spratly Islands. The Spratly Islands are a group of hundreds of islands¹ and are claimed, in whole or in

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1. No official number of the total features is confirmed. According to Vietnam, the Spratly Islands consist of about a hundred features lying over an area of about 160,000–180,000 km². See Ministry of Foreign Affairs of the Socialist Republic of Vietnam, *The Hoang Sa (Paracel) and Truong Sa (Spratly)*

are tenable.¹² Most importantly, it is politically improbable that *all* the parties to the Spratly Islands dispute will limit the potential maritime zones of the Islands and leave the rest of the SCS as the high seas,¹³ given that the real interest behind ownership of these Islands is marine resources.¹⁴

I. THE FACTUAL BACKGROUND

Factual elements relevant to a discussion on fisheries in the SCS include the biological characteristics of the SCS, the socioeconomic significance of fisheries in the SCS region, and the political climate of the region.

Biologically speaking, the SCS, flushed by several large rivers, is considered as one of the world's most productive fishing grounds.¹⁵ It is noteworthy that most of the

Netherlands Year Book of International Law 139. For discussion in the context of the SCS, see Oude Elferink, *supra* note 10 at 173–4; Nguyen, *supra* note 10 at 51–61.

12. It is interesting to note that two judges of the International Tribunal for the Law of the Sea (ITLOS) give completely different classifications to Heard Island in *The 'Volga', Russian Federation v. Australia, Prompt Release*, ITLOS Case No. 11, Judgment of 23 December 2002. See Declaration by Judge Vukas and Dissent by Judge Anderson, footnote 3.
13. A paper commissioned by Vietnam argues that the features in the Spratly Islands fall within the definition of Article 121(3) and hence are not entitled to an exclusive economic zone and continental shelf. But it is doubtful if this represents the *official* position of the government of Vietnam. It has been interpreted that the joint submission by Malaysia and Vietnam to extend their continental shelf from coastlines indicates that Malaysia and Vietnam consider the features of the Spratly Islands as having twelve nautical miles of territorial seas only. See Robert BECKMAN, "South China Sea: Worsening Dispute or Growing Clarity in Claims?", RSIS Commentaries 90/2010, S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University (Singapore), 16 August 2010. See also Ted L. MCDORMAN, "The South China Sea After 2009: Clarity of Claims and Enhanced Prospects for Regional Cooperation?" (2010) 24 *Ocean Yearbook* 507 at 516–17, 521. But it is plausible to argue that a submission acknowledging the limited territorial reach of the Spratly Islands should not be considered as a bar to future continental shelf claims by the two countries based on these features since any limitation on state sovereignty should not be presumed. As McDorman, *supra* at 522, acknowledges, "there is still uncertainty such that it would be unwise to dismiss totally the features of the Spratlys as being the basis of ocean claims to an adjacent EEZ and continental shelf beyond 200 nm, particularly in the case of China". This prudent observation turns out to be true. In its recent diplomatic note to the Secretary-General of the United Nations, China stated categorically that the Spratly Islands are fully entitled to their own exclusive economic zone and continental shelf. See "Note Verbale No. CML/8/2011 (14 April 2011) of the Permanent Mission of the People's Republic of China to the United Nations", online: <<http://www.un.org/depts/los>>. The position of the Philippines is less clear, stating vaguely that the regime of islands under Article 121 of UNCLOS will apply to the Spratly Islands, which it claims as the Kalayaan Island Group. See "Philippines: Republic Act No. 9522: An Act to Amend Certain Provisions of Republic Act No. 3046, as Amended by Republic Act No. 5446, to Define the Archipelagic Baselines of the Philippines, and for Other Purpose" (2009) 70 *Law of the Sea Bulletin* 32, sec. 2(a). This position is reaffirmed in "Note Verbale No. 000228 dated 05 April 2011 of the Permanent Mission of the Republic of the Philippines to the United Nations", online: <<http://www.un.org/depts/los>>. Non-parties to the Spratly Islands dispute not surprisingly made their views clear. Indonesia, for example, in its diplomatic note sent to the Secretary-General of the United Nations, officially stated that none of the Spratly Islands is capable of generating an exclusive economic zone and continental shelf of its own. See point 3 of the 19 July 2010 diplomatic note of Indonesia sent to the UN Secretary-General, online: <<http://www.un.org/Depts/los>>.
14. Schofield, *supra* note 3 at 12–18, states that the features of the Spratly Islands do not have much intrinsic value in themselves but have the potential to generate large maritime zones and hence entitle claimant states to exploit marine natural resources there, particularly oil and gas.
15. David ROSENBERG, "Fisheries Management in the South China Sea" in Bateman and Emmers, eds., *supra* note 3 at 61. Timo KIVIMA KI, ed., *War or Peace in the South China Sea?* (Copenhagen: NIAS Press, 2002) at 44, ranks the SCS fourth in the nineteen richest fishing zones in the world.

fishery resources in the SCS are either highly migratory or transboundary stocks,¹⁶ such as scad, mackerel, and tuna.¹⁷ These species are also the common commercial stocks,¹⁸ with tuna being the most valuable and sought-after species in and around the SCS.¹⁹

The socioeconomic importance of fisheries to the East Asian countries, particularly the parties to the Spratly Islands dispute,²⁰ cannot be overestimated. In fact, fish has been, and continues, providing an important source of protein for countries in the region.²¹ The already high annual per capita fish consumption in China and Southeast Asia is estimated to increase from 33.6 million and 18 million tons in 2005 by 4.5–5.5 million and 3 million tonnes respectively by 2015.²² Fisheries have always been of great social importance to the East Asian countries, creating jobs for a large portion of the population living in the coastal subregion. Economically speaking, fishery exports are an important source of foreign currency for coastal states (see Tables 1 and 2).

In 2002, the Association of South-East Asian Nations (ASEAN) and China signed the Declaration on the Conduct of Parties in the SCS²³ with a view to enhancing peace, stability, economic growth, and prosperity in the region.²⁴ China also acceded to the Treaty of Amity and Co-operation one year later.²⁵ The overall political atmosphere for co-operation between ASEAN member countries and China now seems more favourable than ever. However, friction may wax and wane but it never ceases.

The waters around the Spratly Islands, given their abundant fishing resources, have long been traditional fishing grounds for fishermen from China, Chinese Taipei (Taiwan), Vietnam, Malaysia, and the Philippines. It is not surprising that skirmishes have occurred between these fishermen. On the other hand, just as in other marine disputed areas, the parties to the Spratly Islands dispute are trying to enforce laws and regulations in the Spratly Islands areas which they consider to be under their jurisdiction. These enforcement activities have sometimes given rise to violent incidents, involving excessive use of force and resulting in casualties.²⁶ More frequent

16. For definition see *infra* note 49.

17. Wang, *supra* note 7 at 535–6. See Plate 13 in Valencia, Van Dyke, and Ludwig, *supra* note 1 at 266 for the migration route of yellowfin tuna in the SCS.

18. Wang, *supra* note 17, at 534.

19. Rosenberg, *supra* note 15 at 62.

20. Among the parties to the Spratly Island disputes, only in Brunei do fisheries play an insignificant role in an economy where industry makes up almost three-quarters of the GDP.

21. Rosenberg, *supra* note 15 at 62. See FAO, *The State of World Fisheries and Aquaculture 2008* (Rome: Food and Agriculture Organization of the United Nations, 2009) at 154.

22. See FAO, *supra* note 21, at 171–2.

23. *Declaration on the Conduct of Parties in the South China Sea*, reproduced in Alan Vaughan LOWE and Stefan TALMON, eds., *The Legal Order of the Oceans: Basic Documents on the Law of the Sea* (Oxford: Hart Publishing, 2009) at 69.

24. *Declaration on the Conduct of Parties in the South China Sea*, Preamble at para. 2.

25. China's Instrument of Accession, online: <<http://www.aseansec.org/15271.htm>>

26. The latest incident involving the use of force was in early July 2007 when Chinese naval vessels fired on a group of Vietnamese fishing boats near the Spratly Islands, killing one Vietnamese fisherman and sinking one boat. See Roger MITTON, "Vietnam, China Clash Again over Spratlys" *Straits Times* (19 July 2007). For other incidents involving the use of force, see the International Boundaries Research Unit's (IBRU) searchable *Boundary Archive* webpage at <<http://www.dur.ac.uk/ibru/resources/newsarchive/>>

Table 1. Marine fish capture production (in tonnes) in marine areas of six parties to the Spratly Islands dispute in comparison with Asia and the world between 2000–2008.¹

Land area	2000	2001	2002	2003	2004	2005	2006	2007	2008
Brunei Darussalam	2 409	1 216	1 544	1 612	1 813	2 279	1 848	2 041	2 179
China	8 787 186 <i>F</i>	8 526 841 <i>F</i>	8 584 043 <i>F</i>	8 868 810 <i>F</i>	8 845 057 <i>F</i>	8 919 119 <i>F</i>	9 036 636 <i>F</i>	8 916 644	9 342 973
Malaysia	1 065 065	1 043 277	1 082 483	1 097 688	1 136 485	1 054 981	1 099 264	1 185 327	1 196 617
Philippines	1 608 505	1 670 128	1 755 281	1 887 698	1 924 453	1 981 724	2 017 453	2 184 110	2 239 959
Taiwan	817 468	826 714	913 374	916 700	901 674	929 597	805 244	872 672	775 744
Vietnam	1 027 005	1 120 461	1 189 591	1 227 525	1 333 811	1 367 500	1 396 500	1 433 000	1 480 800
Subtotal	13 307 638 <i>F</i>	13 188 637 <i>F</i>	13 526 316 <i>F</i>	14 000 033 <i>F</i>	14 143 293 <i>F</i>	14 255 200 <i>F</i>	14 356 945 <i>F</i>	14 593 794	15 038 272
Asia	29 357 407	29 644 809	29 855 568	30 848 014	30 902 353	31 120 738	31 638 116	31 972 924	32 733 729
World	71 103 446	69 041 684	69 663 597	66 806 988	71 136 334	70 252 277	67 136 661	66 936 695	67 090 091

¹Compiled from Global Capture Production 1950–2008, online: <http://www.fao.org/fishery/statistics/global-production/query/en>, query made on 15 July 2010. NB: “*F*” means FAO estimate from available source of international or calculation based on specific assumptions.

Table 2. Export value (in thousand US\$) of six parties to the Spratly Islands dispute in comparison with Asia and the world between 2000–2006.²

Land area	2000	2001	2002	2003	2004	2005	2006
Brunei Darussalam	296	334	459	706	683	1 053	5 305
China	3 706 339	4 106 214	4 600 704	5 362 366	6 779 909	7 674 305	9 150 328
Malaysia	200 469	220 126	381 983	256 197	573 238	619 653	624 015
Philippines	455 984	420 184	453 030	464 463	454 384	384 766	418 364
Taiwan	1 762 576	1 815 892	1 617 687	1 305 633	1 809 403	1 670 938	1 442 352
Vietnam	1 484 283	1 823 102	2 044 630	2 203 499	2 450 112	2 765 365	3 363 446
Subtotal	7 609 947	8 385 852	9 098 493	9 592 864	12 067 729	13 116 080	15 003 810
Asia	19 181 799	19 061 659	19 617 024	20 703 567	24 154 475	26 090 315	29 102 083
World	55 612 746	56 558 704	58 623 403	63 925 994	71 856 899	78 809 185	86 370 655

²Compiled from Commodities 1976–2006, online: <http://www.fao.org/fishery/statistics/global-commodities-production/query/en>, query made on 15 July 2010.

is the arrest of fishermen from other states,²⁷ not necessarily parties to the Spratly Islands dispute.²⁸ Such arrests are themselves a source of diplomatic controversies.²⁹ Worse still, they elicit retaliatory measures by other parties, which in turn may cause more controversies and tensions in the SCS as shown by the string of events in early 2010. These events concerned the Chinese decision to regularly dispatch patrol vessels to the SCS in order to protect and assist its fishing vessels against continued arrest and other types of harassment by other countries.³⁰ From the very first dispatch by Chinese authorities in April 2010,³¹ Vietnam voiced a strong protest, considering it a violation of Vietnam's sovereignty over the Spratly Islands.³² More dramatic is

(1991–2001) and reports on China-Southeast Asia on the *Comparative Connections* webpage at <http://csis.org/program/comparative-connections> (1999–present).

27. MA Liyao, “Chinese Fishermen held in Philippines” *China Daily* (2 June 2010) (reporting that in May 2010 nine Chinese fishermen were arrested by the Philippines near a feature of the Spratly Islands, and twenty-eight others were arrested within ten days by other coastal states in the SCS while these fishermen were working in “China’s traditional waters”.) It should be noted that this type of arrest is not typically directed against Chinese fishermen. Newspapers from Vietnam also reported the arrest of Vietnamese fishermen fishing in the South China Sea. According to the statistics of the Vietnamese Ministry of Agriculture and Rural Development, between 2006 and 2010, 1,186 vessels with 7,045 fishermen were arrested by foreign authorities in 641 incidents and 751 fishermen are being detained abroad. See “Ngu dân Việt Nam bị Malaysia bắt giữ ngày càng nhiều” [in Vietnamese: More and more Vietnamese fishermen have been arrested by Malaysian authorities], online: <http://vitinfo.com.vn/Muctin/Xahoi/LA78120/default.htm>. Though the geographical locations of these arrests are not specified, it is reasonable to believe that they include incidents in the Spratly Islands area. See also Malaysian National News Agency, “252 Foreign Fishermen Detained in First Six Months” *Bernama* (30 June 2010).
28. Brian MORTON, “Fishing for Diplomacy in China’s Seas” (2003) 46 *Marine Pollution Bulletin* 795 at 795, reporting the arrest of Thai and Indonesian fishermen in the SCS by Malaysia and the Philippines respectively.
29. For example, the Philippine Justice Secretary asked the Foreign Secretary in September 2002 to declare China’s ambassador a *persona non grata* because of the latter’s bullying tactics in trying to secure the release of 122 mainland Chinese detained for fishing illegally in Philippine waters. See Morton, *supra* note 28.
30. See “China Starts Regular Patrols of South China Sea” *Xinhua* (25 April 2010); Will CLEM, “Patrol Boats to Escort Fishing Vessels in Disputed Spratlys” *South China Morning Post* (3 April 2010).
31. Clem, *supra* note 30.
32. Vietnam Ministry of Foreign Affairs, “Chinese Dispatch of Fishery Administration Ships to Truong Sa a Serious Violation of Vietnam’s Sovereignty”, Press and Information Department of the Ministry of Foreign Affairs (5 April 2010), online: http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns100405191529#GBL9iiKoleER.

the scenario from the other side of the SCS, where Chinese patrol vessels met with confrontation from the Malaysian navy in the waters claimed by the latter.³³

It is noted that fisheries incidents are not related only to waters in the Spratly Islands area. In the absence of an agreement on the geographical extent of the Spratly Islands and their maritime zones, the national jurisdiction zones of coastal states abutting the Spratly Islands are not clearly delimited. As a consequence, fishermen of one country sometimes unknowingly operate in areas that unquestionably belong to another state.

The present state of affairs not surprisingly gives rise to unsustainable fishing practices.³⁴ Indeed, depletion has been witnessed from the declining yields of some important fish stocks in the region.³⁵ Though such depletion occurs as a result of various factors, it is no exaggeration to say that overexploitation is one of the main reasons. Indeed, marine scientific research in part of the SCS³⁶ has revealed evidence of such overexploitation.³⁷ Philippine and Vietnamese scientists, based on the results of their joint marine scientific research expeditions in the SCS over a decade, note that most of the fish and marine organisms have started to disappear in the Spratly Islands area.³⁸

II. THE LEGAL FRAMEWORK GOVERNING FISHERIES IN THE SCS

UNCLOS provides the legal framework for coastal states' management of fisheries. All but one of the parties to the Spratly Islands dispute are parties to the Convention and hence are bound by its provisions. The exception is Taiwan, which is not recognized as a state and therefore technically cannot participate in the Convention.³⁹ Nevertheless, Taiwan is bound by those provisions of UNCLOS which are considered reflective of customary international law.⁴⁰ The fisheries regime of UNCLOS relevant in this context is the coastal

33. 范如石, 邢苗 and 周冬华, "中国护渔编队遭马来西亚军骚扰" 金羊网-新快报 (2010年5月1日) [in Chinese: Rushi FAN, Miao XING, and Donghua ZHOU, "Malaysian Military Ship Harassed Chinese Fishery's Guards", *Jinyang Web - Xinkua Newspaper*, 1 May 2010], online: <http://news.online.sh.cn/news/gb/content/2010-05/01/content_3465483.htm>.

34. This typically occurs to tuna. See Rosenberg, *supra* note 15 at 64.

35. *Ibid.*, at 66.

36. Due to the presence of military garrisons on the Spratly Islands, no comprehensive survey involving all parties to the dispute has yet been conducted.

37. See e.g. Angel C. ALCALA, "Summary of the Marine Biology Results of JOMSRE-SCS I, II, and IV and Their Management Implications"; and NGUYEN Van Long, PHAN Kim Hoang, and HOANG Xuan Ben, "Status of the Marine Biodiversity in the Northern Spratly Islands, South China Sea"; and Brian STOCKWELL and NGUYEN Van Long, "Reef Fish Stocks of the Northern Spratly Islands: A Summary of the Findings of JOMSRE-SCS III and JOMSRE-SCS IV" in Angel C. ALCALA, ed., *Proceedings of the Conference on the Results of the Philippines-Vietnam Joint Oceanographic and Marine Scientific Research Expedition in the South China Sea (JOMSRE-SCS I to IV)*, 26–29 March 2008, Ha Long City, Vietnam (Dumaguete: Silliman University Press, 2008), 5, 11, 21, respectively.

38. Alex PAL, "Spratly's Fish Stock Dwindling, Say Scientists" *Inquirer* (3 May 2007).

39. See Clive SCHOFIELD and Ian TOWNSEND-GAULT, "Brokering Cooperation Amidst Competing Maritime Claims: Preventative Diplomacy in the Gulf of Thailand and South China Sea" in Aldo E. CHIRCOP, Ted L. MCDORMAN, and Susan J. ROLSTON, eds., *The Future of Ocean Regime-Building: Essays in Tribute to Douglas M. Johnston* (Leiden: Martinus Nijhoff Publishers, 2009), 643 at 649, stating that Taiwan will become a member of UNCLOS should it be allowed to.

40. See PARK Hee Kwon, *The Law of the Sea and Northeast Asia: A Challenge for Cooperation* (The Hague: Kluwer Law International Law, 2000) at 14. In the following discussion, an attempt will be

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Brantly Womack, "The Spratlys From Dangerous Ground to Apple of Discord", *Contemporary Southeast Asia*,
Vol. 33, No. 3 (Dec. 2011)

The Spratlys: From Dangerous Ground to Apple of Discord¹

BRANTLY WOMACK

The South China Sea, and the Spratly Islands in particular, have become the focus of tension between the uncertain limits of China's rise and the discomfort of its Southeast Asian neighbours at the prospect of becoming China's backyard. The regional concerns of Southeast Asia overlap with the global concerns of the United States. The tension has been reframed by the global crisis of economic uncertainty that began in 2008 and sharpened by rhetorical confrontations in 2010. Because of the limited utility and adverse consequences of decisive unilateral action by any party, the dispute is likely to continue as a symbol of discord until it is defused by multilateral guidelines.

Keywords: Spratly Islands, South China Sea, China, Southeast Asia, asymmetry.

The Spratly Islands were long known to mariners as “Dangerous Ground” because of their many uncharted reefs. The South China Sea — where the Spratlys are among the many disputed islands — has proven to be hazardous to diplomatic navigation as well. Because of conflicting sovereignty claims, the South China Sea has become the fulcrum of concerns between the People's Republic of China (PRC) and Southeast Asia. The United States joined the dispute when Secretary of State Hillary Clinton expressed an American “national interest” in the area during her speech to the ASEAN Regional Forum (ARF) July 2010 in Hanoi.²

But the South China Sea — and the Spratlys in particular — are an unlikely centre of attention. The reason that there are overlapping

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claims is that there has never been an indigenous population and there are no significant above-ground resources to which historical claims might be attached. The possibility of oil and gas is tempting but remains to be proven, and in any case it would be a major technological and logistical challenge to produce and transport petroleum there. If any state, including China, attempted to seize the Spratlys by force, they would find development difficult, supply lines vulnerable and the costs in regional relationships excessive. If any state used territorial claims in the South China Sea to obstruct innocent passage of international commerce they would be violating international law to which all are parties. The only reasonable approach to dispute management is the one outlined in the ASEAN-China 2002 Declaration on Conduct of Parties in the South China Sea (DoC): peaceful cooperation.³

Why, then, has the South China Sea dispute between China and its neighbours become more acute since 2008, and why the increase in American interest in the controversy? The answer does not lie in the details of conflict, but in changes to the big picture of regional and global relations since the beginning of the global financial crisis in 2008. China's "peaceful rise" was already quite strong by 2008, but with the crisis China's economy made a "peaceful leap forward". The PRC's GDP growth went down to 8.7 per cent in 2009, but this was a much better performance than any other economy in the crisis, and its large cash reserves made possible both a massive domestic stimulus package and large-scale purchases of natural resources abroad. Moreover, the prospects for continued growth remain better for China than for any other major economy.

The South China Sea played no role either in China's prosperity or in the difficulties faced by other countries. However, China's peaceful leap forward has had two effects. First, it has increased the economic distance between China and its Southeast Asian neighbours, making them feel more exposed and vulnerable to China. Second, at the same time it has decreased the economic distance between China and the United States, prompting Washington to worry more about China as a potential rival and challenger. These two changes in China's relative economic position have strong implications for China's political and military relationships as well.

The difference between Southeast Asia's interests and those of China is symbolized by the South China Sea and its disputed atolls. The sea is a common space claimed by China, and the People Liberation Army Navy's (PLAN) new submarine base on Hainan Island gives China the military reach to support its claim.⁴

The Paracel and Spratly Islands are disputed, and every claimant, China included, uses the rhetoric of sacred territory to describe its claim and declares that any other claim is totally unfounded. The nationalist rhetoric precludes compromise in principle and implies a willingness to resort to force despite the DoC. China's reluctance to move beyond the DoC into more binding guidelines strengthens the suspicions generated by its rhetoric. With China becoming relatively more powerful day by day, the South China Sea is easily imagined to be a flashpoint of conflict, even if there is little to be gained by conflict and there has been no military bloodshed since 1988 when the PLAN attacked Vietnamese forces at Johnson Reef in the Spratlys.

The United States does not have a claim in the South China Sea nor has it ever supported one claim against another. Why, then, did Secretary Clinton express a renewed interest? The major reason is that China's capabilities are getting too close for comfort to the United States. China is not able to challenge America's role as superpower, but it is becoming powerful enough such that the superpower cannot simply do what it wants in Asia. The military dimension is most obvious. New submarines and new missiles make US intervention too costly in the Taiwan Straits, and the Hainan base extends these capabilities to the South China Sea. There are also the dimensions of debt and trade. The United States will be forced to treat China with respect or else it will make unhappy discoveries about the limits of its own power.

The obvious solution to the South China Sea problem is a multilateral agreement for the joint development and management of its resources. However, its status as a symbol of tension and the rhetorical utility of the conflict for domestic audiences make resolution more difficult. Nevertheless, both China and Southeast Asia have strong traditions of asymmetric cooperation. In Asia, and more generally in an uncertain, multipolar world, the task of neutralizing touchpoints of conflict is likely to grow in importance.

The issues in the South China Sea can be divided into the maritime issues of the sea itself and issues of island ownership, and the latter can be subdivided into the Paracels, disputed only by China and Vietnam and occupied only by the PRC, and the Spratlys, which involve overlapping claims and island occupations by China, Vietnam, the Philippines, Malaysia and the Republic of China (ROC, or Taiwan), and the exclusive economic zone (EEZ) interests of Brunei. This paper concentrates on the Spratlys because of the multiple claims and the importance of land features for the maritime



disputes. China's maritime claim beyond the islands is ambiguous, and there are no competing occupations in the Paracels.

The Spratlys in Perspective

The oldest (and more appropriate) name for the thousand kilometre-long Spratly area of reefs and low islands in the South China Sea is "Dangerous Ground", and danger was its defining feature until the prospect of petroleum raised interest in the dispute in the late 1960s. Traditional Asian trade avoided the central areas of the South China Sea and clung to coastal routes along Vietnam or along the western Philippines and the Sulu Sea.⁵ Both of these routes were active and the coasts were well mapped, but in the middle was the Bermuda Triangle of uncharted danger.⁶ Early Western merchants followed suit, but the desirability of a direct blue water route between India and China led to the exploration of the blank spaces on the map. The British Admiralty published its first general mapping of the area in 1821, but the complex topography required a century of further exploration to pin down the various reefs and low-lying islands.⁷ The first mapping of safe transits through Dangerous Ground was made only in 1935–37.⁸ There was no indigenous population, no fresh water and little dry land. As in the Paracels, the most prominent features of some islands and reefs were the remains of shipwrecks. It is still an area to be avoided. According to the US Defense Mapping Agency in 1994, "Avoidance of Dangerous Ground is the mariner's only guarantee of safety."⁹

Conflicting jurisdictional claims began to emerge in the twentieth century, and they became especially complicated after optimistic estimates of offshore oil possibilities were made in 1968.¹⁰ Utilizing Greg Austin's dissection of the claims,¹¹ it could be said that China (combining the claims and activities of the ROC and the PRC) has a stronger claim to the whole of the Spratlys than Vietnam, the other whole claimant. However, the partial claims and occupations of China (ROC sustained occupation from 1956), Vietnam (1973), Malaysia (1983), and the Philippines (1971) raise the issue of whether lawful possession should be determined as a whole or in piecemeal.¹² It should be noted that claims to land features are distinct from claims to EEZs, which opens up a vast new terrain of conflicting claims.

The method of establishing territorial claims in international law has the pernicious effect of maximizing confrontation and hostility. Each state claims more than it occupies, and, given the absence



of population (and often of dry land), unchallenged occupation is nine-tenths of the law. Thus each has an incentive to increase its presence and to protest or oppose occupation by others, and all parties to the dispute have done both repeatedly over the past forty years. As experts have noted, “The expansion of hydrocarbon concessions in disputed ocean areas is a common but provocative way for claimant states to exercise jurisdiction.”¹³ To take a typical example, on 4 March 2011, the Philippines claimed that Chinese patrol boats harassed a Filipino oil exploration vessel in waters off Reed Bank near Palawan Island. The Philippines scrambled military aircraft, but no violence occurred.¹⁴ To China this appeared to be Philippine trespassing, and to the Philippines it appeared to be China flexing its muscle, but in fact the actions of both were dictated by their claims. If the Philippines never acted as if its territorial claims were genuine, their claims would be dismissed as hollow. If China did not challenge Philippine oil exploration, that could be taken as an implicit admission of the Philippine claim and abandonment of its own. Fisheries have the additional complications of conservation and large-scale employment, but the basic problem is the same. As put by Ta Quang Ngoc, former fisheries minister of Vietnam, “In our waters, where our fishermen are, [sic] there our sovereignty is represented, confirmed and defended.”¹⁵ And if that sovereignty is disputed, there it must be challenged. Law, not ambition, drives the petty crises.

The desire for territorial aggrandizement is driven to a fever pitch by the prospect of oil. Although there are as yet no proven reserves in the Spratlys, the total proven reserves of the rest of the South China Sea are 7.5 billion barrels of oil, about half that of the North Sea.¹⁶ The potential for natural gas is larger. The royalty revenues of offshore energy are painless government windfalls. But besides energy, the economic prospects of the region depend upon reliable access to the South China Sea, and the dreams of each state are set by the prospect of controlling what they presently claim. Vietnam hopes to earn over half of its GNP from maritime activities by 2020.¹⁷

Occupation, however, is done simply for the sake of staking claims. The occupiers are uniformed Robinson Crusoes, not prospering colonists or native islanders. No state has or can foresee a commercial advantage in the establishment by force of its claims. If China (or Vietnam) attempted a unilateral expulsion of other claimants it would incur immediate and severe costs to its current regional and

extra-regional relationships. In an environment of regional hostility it would be difficult to develop whatever oil or especially natural gas resources there might be.¹⁸ To put it simply, there is no threshold of military superiority that would make it beneficial for China to establish its control over all the Spratlys at the cost of strategic hostility with Southeast Asia. Therefore, ironically, all parties can persist in their contention without fear of a major international conflict since the costs of decisive victory exceeds the benefits even for the strongest contender, and the prospect of oil wealth makes each anxious to expand claims and reluctant to yield. The DoC, signed by China and ASEAN in Phnom Penh in 2002, has reduced the likelihood of even minor military-to-military confrontations, but it has left the contending claims frozen in place.

The Spratlys as Synecdoche of Tension

The above picture of thin and tangled claims growing from a shallow historical bed matches neither the nationalist rhetoric of the contenders nor the global impression of the dispute. The talk of defending every inch of sacred territory held since time immemorial rings hollow against the reality that the few stray fishermen and merchants who struggled ashore there considered it a great misfortune to have done so. Had Britain sustained its nineteenth century presence, when Dangerous Ground was in fact a *terra nullius*, then it would have the only unimpeachable claim under international law. As it is, the vitality of each claim must be maintained by elbowing the others and protesting when others do the elbowing.

Similarly, the concerns expressed by US Secretary of State Hillary Clinton about freedom of the seas are irrelevant to the Spratlys conflict. No normal sea lanes pass through the Spratlys, nor do they pass within twelve nautical miles of any claimed feature. Even if the Spratlys qualified for a 200 mile EEZ, innocent passage by foreign ships would neither require permission nor could it be lawfully prohibited. China's disputes with the US over aerial and naval intelligence activities in China's EEZ concern the definition of innocent passage, not the rights of innocent passage.¹⁹

What, then, is going on when states magnify the importance of the Spratly controversy? The Spratlys, and more generally the South China Sea, provide a synecdoche²⁰ of the tension between a rising China and a vulnerable Southeast Asia; between an established

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Hong Thao Nguyen, "Vietnam's Position on the Sovereignty over the Paracels & the Spratlys: Its Maritime Claims", *Journal of East Asia & International Law*, Vol. 5, No. 1 (2012)

REGIONAL FOCUS & CONTROVERSIES

Vietnam's Position on the Sovereignty over the Paracels & the Spratlys: Its Maritime Claims

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The South China Sea has long been regarded as a major source of tension and instability in Pacific Asia. To clarify the position of claimants is a research task for creating the confidence building measures and promoting efforts to manage the possible conflicts in the region. The purpose of this article is to address the Vietnamese position on the sovereignty disputes over the Paracels and Spratlys, and maritime zones in the South China Sea. The Vietnamese position will be examined from three aspects: (1) the sovereignty of the Paracels and the Spratlys; (2) the maritime zones around these islands; and (3) the settlement of disputes in the South China Sea.

Keywords

Dispute Management, Maritime Zones, Paracels, Sovereignty, South China Sea, Spratlys

1. Introduction

The sovereignty disputes over the Paracels (Hoang Sa in Vietnamese / Xisha in Chinese)

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The existence of dangerous islets had been recorded by Western explorers, at least since the fourteenth and fifteenth centuries under various names such as Pulo Pracela, Pracels, Isle Pracel, or Paracels.²⁷ The name Spratly was used for the first time in 1843.²⁸ Those archipelagos might be *terra res nullius* until the seventeenth century.

State actions to possess the Paracels and Spratlys were first recorded in official historical accounts under the Vietnamese Nguyen Dynasty at the beginning of the seventeenth century, and later in the Western and Chinese record books.

The following observations regarding the Paracels and Spratlys can be drawn from Vietnamese, Chinese, and Western documents about the Vietnamese activities concerning those features.

First, the descriptions of the islands and the Vietnamese State actions over them have been recorded in official historical accounts. Among them, the most important were made by the National Institute of History under the Nguyen Dynasty (Quoc Su Quan), including: *Dai Nam Thuc Luc Tien Bien* (Accounts of Dai Nam's Former Dynasties, 1600-1775) and *Dai Nam Thuc Luc Chinh Bien* (Accounts of Dai Nam's Present Dynasty, 1865-1882), *Dai Nam Nhat Thong Chi* (Geography of Reunified Dai Nam, 1865-1882), *Kham Dinh Dai Nam Hoi Dien Su Le* (The Dai Nam Administrative Repertory 1843-1851), Phan Huy Chu, *Lich Trieu Hien Chuong Loai Chi* (Regulations of Successive Dynasties by Subject-Matter, 1821), *Hoang Viet Dia Du Chi* (Geographical Treatise of Imperial Vietnam, 1833), *Viet Su Cuong Giam Khao Luoc* (Brief History of Vietnam 1876), etc. The activities, organization, and time of operations of the *Hoang Sa* and *Bac Hai* detachments in the Paracels and the Spratlys are described in a detailed and lively manner. In earlier documents such as *Phu Bien Tap Luc* (Miscellany on the Government of the Marches) by Le Qui Don, or *Toan Tap Thien Nam Tu Chi Lo Do Thu* (Route Map from the Capital to the Four Directions, 1686), a Vietnamese atlas compiled and drawn by Do Ba, *alias* Cong Dao, gives a valuable account of the existence of the *Hoang Sa* and *Bac Hai* detachments, at least during the seventeenth century. *Toan Tap Thien Nam Tu Chi Lo Do Thu* has a note attached to the map of Quang Ngai district, Quang Nam province, describing Hoang Sa as "an elongated sandbank lying in mid-sea known as the Golden Sandbank." The work also notes that:

²⁷ PIERRE-YVES MANGUIN, LES PORTUGAIS SUR LES COTES DU VIETNAM ET DU CAMPA. ETUDE SUR LES ROUTES MARITIMES ET LES RELATIONS COMMERCIALES, D'APRES LES SOURCES PORTUGAISES (16e, 17e, 18e siecle) (1972). See also Pierre-Yves Manguin, *La traversée de la mer de chine meridionale, des detroits a Canton, jusqu'au XVIIe siecle (La question des iles Paracels)*, ASIE DE SUD-EST CONTINENTALE-ACTES DU XXI^E CONGRES INTERNATIONAL DES ORIENTALISTES 110-115 (1976); GUNTER SCHILDER, AUSTRALIA UNVEILED: THE SHARE OF THE DUTCH NAVIGATORS IN THE DISCOVERY OF AUSTRALIA 278 Map N 18 (1976).

²⁸ Geoffrey Marston, *Abandonment of Territorial Claims: The Cases of Bouvet and Spratly Islands*, 57 BRIT. Y.B. INT'L L. 350 (1986).

In the middle of the sea emerges an elongated sandbank called Bai Cat Vang, about 400 dam²⁹ in length and 20 dam in width, facing the coastline between the harbor of Dai Chiem and that of Sa Vinh. During the South-West monsoon, foreign commercial ships sailing along the coast side of the sandbank would often be blown off course and run aground there. The same thing would happen to those sailing on the other side of the sandbank during the North-East monsoon. Men on board the wrecked ships often starved and wrecked cargoes amassed there... Every year, in the last month of winter, the Nguyens would send eighteen boats to Bai Cat Vang (Hoang Sa) to retrieve ship-wrecked cargoes, which included jewels, coins, arms and ammunition.³⁰

Dai Nam Thuc Luc Tien Bien 1844 (Accounts of Dai Nam's Former Dynasties 1600-1775) wrote:

Far out in the middle of the sea beyond the coast of An Vinh village, Binh Son subdistrict, Quang Ngai district there are over 130 sandbanks separated by sea distances of a full day's voyage or just a few watches' and scattered on a length of several thousand dam, hence the popular designation of Van Ly Hoang Sa. Fresh water springs are found on many sandbanks. Sea products there include sea-cucumbers, conches, tortoises, turtles, etc.

During the early days of the dynasty, the Hoang Sa detachment was created and it was made up of 70 men recruited from among An Vinh villagers. It set out every year in the third month and used to reach the islands after a three days and nights voyage. There the men collected articles from wrecked ships. Its home trip would normally begin in the eighth month of the year. In addition, there was a Bac Hai team whose members were recruited from Tu Chinh commune in Binh Thuan province or from Canh Duong village. The team was sent to Bac Hai areas and the island of Con Lon to gather articles from wrecked ships. The Bac Hai team was placed under the Hoang Sa detachment commander.³¹

Besides official historical records, the Vietnamese sources relating to the Paracels and the Spratlys include royal orders in the king's handwriting, comments, signature in red ink and seals, geographic records and maps, family annals, collection of folk-songs, and custom. They are preserved to the present day in Ly Son Island, the main naval base of

²⁹ Ly & dam are traditional distance measure units. One dam (or ly) is about 500 meters.

³⁰ See Ministry of Foreign Affairs of the Socialist Republic of Vietnam, *The Hoang Sa And Truong Sa Archipelagoes Vietnamese Territories 9-11* (1981) [Vietnam White Paper 1981]. For the map, Vietnam White Paper 1981, at 19 (*Toan Tap Thien Nam Tu Chi Lo Do Thu / Route Map from the Capital to the Four Directions, 1686*), available at http://www.google.co.kr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCQQFjAA&url=http%3A%2F%2Fngghien.cuubiendong.vn%2Ftrung-tam-du-lieu-bien-dong%2Fdoc_download%2F157-the-hoang-sa-and-truong-sa-archipelagoes-vietnamese-territories&ei=MMuCT7zKNM7mmAXQneT1Bw&usg=AFQjCNHC_qm-PrwFCXAE1YBwtsXiZwlTzg&sig2=x5QhiW8R-fdeMyiXQkOAjg (last visited on Mar. 30, 2012).

³¹ *Id.* at 11.

the Hoang Sa detachment. In the Sino-Vietnamese Language Institute in Hanoi, one can find dozens of solo-notes of the Ministry for Public Works, Ministry for Internal Affairs, and other agencies of the King about enforcement activities of Vietnam's sovereignty over the islands. In the solo-note of the Ministry of Public Works on February 12, 1836 (the 17th year of Ming Mang's reign) the King in his own handwriting approved a report and gave orders to the garrison commander Phạm Hữu Nhật "to lead the fleet and to prepare 10 wooden posts to mark the visited places (each post is 5 *thuoc* long, 5 *tac* wide, and 1 *tac*³² thick). Each post bears the following inscription engraved on one of its faces: the garrison commander Phạm Hữu Nhật of the navy has come here to Hoang Sa for reconnaissance and topographical survey and leaves this post to mark the fact."³³ This event was recorded in *Dai Nam Thuc Luc Chinh Bien*, Book No. 165. A solo-note from Quang Ngai province on July 19, 1838 (the 19th year of Ming Mang's reign) asked for tax exemptions for two ships carrying civilians and soldiers to the Paracels with the mission of surveying and measuring from March to June.³⁴

The solo-note of the Ministry for Internal Affairs dated December 28, 1847 stated: "Every year in Spring, as a rule, a crew of soldiers is dispatched to visit Hoang Sa (Paracels), which belong to our home sea for improving knowledge on the routes. In the fifth year of Thieu Tri (1845), a royal order postponed the annual visit due to busy schedule."³⁵

In the genealogies of the Pham and Dang families of Ly Son Island, some royal orders of King Ming Mang, which have been well preserved, show that young and strong swimmers were ordered to join the Hoang Sa detachment. After studying those documents, Monique Chemillier Gendreau drew the following conclusion: "They make it abundantly clear that the Vietnamese emperors pursued the task of organizing (as mentioned in an account of 1776) a maritime company whose purpose was the economic exploitation and maritime exploration of the archipelagos. These measures formed part of national policy with a concern for maritime interests."³⁶

Second, the names Bai Cat Vang (Golden Sandbank), Hoang Sa (黃沙; English: Golden Sand), Vạn Ly Hoàng Sa (萬里黃沙; Ten-Thousand-Ly Golden Sand), Dai Truong Sa (大長沙; Great Long Sand), or Van Ly Truong Sa (萬里長沙; Ten-Thousand-Ly Long Sand) indicate an area with various Paracel and Spratly features.³⁷ In the early

³² Tac, thuoc are measure units in the old feudal regime of Vietnam.

³³ The Royal Handwriting Collection under the Ming Mang Regime, vol. 64, at 143, conserved at the Sino-Vietnamese Institute, Hanoi-Vietnam.

³⁴ *Id.* at 146.

³⁵ The Seventh year of Thieu Tri's reign, in Book 51 of Thieu Tri's royal notes, at 235.

³⁶ Chemillier-Gendreau, *supra* note 6, at 76.

³⁷ National Committee for Border Affairs & Ministry of Foreign Affairs & Socialist Republic of Viet Nam, *The*

days, navigators and fishermen only knew that there was a large area of submerged cays dangerous for watercrafts in the middle of the SCS, without separating them into two distinct archipelagos. *Dai Nam Nhat Thong Chi* (Geography of Reunified Dai Nam 1865 to 1882), book VI, on the province of Quang Nghia, wrote:

To the East of the island Re (Ly Son), Binh Son district, is Hoang Sa, which can be reached from the Sa Ky coast in 3 to 4 days and nights with a favourable wind. The archipelago comprises in all more than 130 peaks separated from one another by one day or by a few geng. In the middle of the archipelago is the Hoang Sa (Yellow Sand Shoals, which spreads over one doesn't know how many thousand dam, commonly called Van Ly Truong Sa (Ten-Thousand-Ly Long Sand); fresh water, sea birds in innumerable flocks, holothurians, snails and goods from wrecked ships are found there.³⁸

The popular Vietnamese names Hoang Sa (Cat Vang — Yellow Sand), Vạn Ly Truong Sa (Ten-Thousand-Ly Long Sand) are also used in the foreign articles. In an article, *Memoir on the Geography of Cochichina*, published in the *Journal of the Asiatic Society of Bengal*, September 1837, French Bishop J.L. Taberd described “Pracel or Paracels” as a part of Cochinchina’s territory.³⁹ He indicated that Cochinchinese people referred to Paracels as ‘Cat Vang.’⁴⁰ In *An Nam Dai Quoc Hoa Do* (Tabula Geographica Imperii Anamitici, 安南大國畫圖: The Map of the An Nam Empire), published in 1838, Bishop Taberd depicted part of the Paracels and noted *Paracel seu Cat Vang* (Paracel or Cat Vang).⁴¹ In his book, *The Universe, History and Description of All Peoples, Their Religions, Customs and Habits: Japan, Indochina, Ceylon, etc.*, Dubois de Jancigny spoke of the name Katvang (Paracels). Gutzlaff, an Englishman, in the article, *Geography of Cochinchina* inserted in the review *Geographical Society of London* of 1849, also calls it Katvang. *Li Da Yu Di Tu Mu* (List of Geographic Maps), by a Chinese author Yi Du Yang, which lists Chinese maps from the time of establishment of China to the Minh Dynasty, has a map on the district of Tu Di, near Guangdong, with the note, *Hoang Sa Chu* (Bai Hoang Sa; Yellow Sand).⁴²

Indisputable Sovereignty of Viet Nam over the Paracel Islands, published online on Jan. 30, 2011, available at <http://www.biengioilanhtho.gov.vn/Media/bbg/News/Archives/vie/chu%20quyen%20tren%20%20quan%20dao%20Hoang%20Sa%20-%20Truong%20sa.pdf> (last visited on Mar. 30, 2012).

³⁸ Luu, *supra* note 6, at 35.

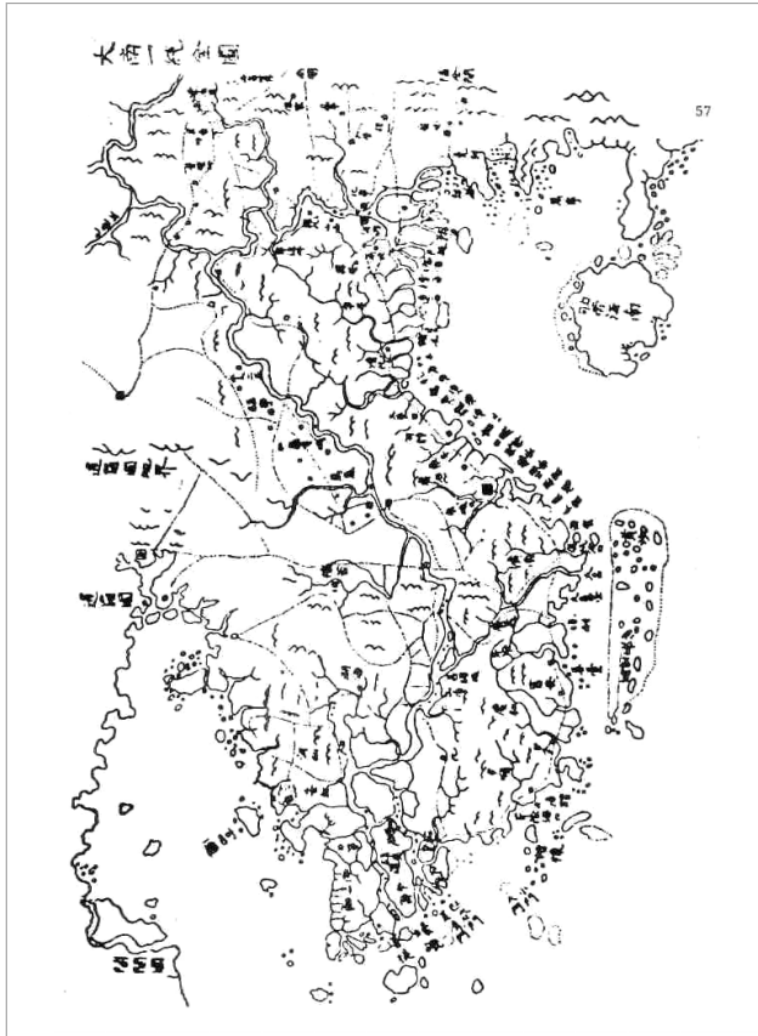
³⁹ Jean-Louis Taberd, *Note on the Geography of Cochinchina*, 6 J. ASIATIC SOC'Y BENGAL 737-745 (1837).

⁴⁰ *Id.*

⁴¹ “Tabula Geographica Imperii Anamitici” is attached in the 1938 Latin-Annamese Dictionary (*Dictionarium Latino – Anamiticum*). See Luu, *supra* note 6, at 98.

⁴² Nguyen, *supra* note 15, at 38.

Map 1: Dai Nam Nhat Thong Toan Do
(The Complete Map of the Unified Dai Nam of 1838)



Source: *Dai Nam Nhat Thong Toan Do* (The Complete Map of the Unified Dai Nam, Ministry of Foreign Affairs of the Socialist Republic of Vietnam, The Hoang Sa And Truong Sa Archipelagos Vietnamese Territories (1981) [Vietnam White Paper 1981], at 19. See also <http://biengioilanhtho.gov.vn/eng/Album.aspx> (last visited on Apr. 1, 2012).

Subsequently, during the Nguyen Dynasty, references to the two distinct archipelagos became clearer. The name, Hoang Sa was kept for the Paracels, and Truong Sa for the Spratlys. In *Dai Nam Nhat Thong Toan Do* (The Complete Map of the Unified Dai Nam), published in 1838, each archipelago has its own name: Van Ly Truong Sa and Hoang Sa. However, they are still presented on the map as a unit encircled by dotted lines. From an administrative point of view, ancient documents frequently mentioned another team called Bắc Hải, which was part of Hoang Sa detachment in charge of the southern part

of the SCS and Poulo Condore region.⁴³ Activities of the Bac Hai detachment appeared to concern the Spratlys area.⁴⁴ At the time, the number of islands and rocks of both archipelagos was estimated at approximately 130.

The inaccuracy of Vietnam's technical charts at that time can be seen in Portuguese and Dutch maps. The islands were represented by a series of points off the coast of Vietnam. It is difficult to distinguish the Spratlys from the Paracels. These points usually denote dangerous grounds to be avoided by marine vessels. They may be found in a number of western nautical maps depicting the Paracel and the Spratly Islands as a single archipelago located to the east of Viet Nam's mainland, e.g.:

- The map by Bartholomen Velho (1560) and an anonymous map in *Livro da Marinharia* in the book *Peragrinacao* (The way to travel), by FM Pinto, describe the maritime route from Malacca to Macao which goes through the Paracel Islands, known as Pulo Pracela and a submerged reef chain considered to be very dangerous for navigation.⁴⁵
- The *Sinensis Oceanus* painting by the famous Dutchman Henricus Van Langren in 1595, portrays Hoang Sa and Truong Sa as a group of islands in the form of a flag offshore central Vietnam, separate from the coastal islands, with the caption, Isle Pracel and Costa de Pracel for the coast opposite to them.⁴⁶
- In the *Indiae Orientalis Nova De Scriptio* map painted by the East India Company in 1633, the Paracels and Spratlys are portrayed as a group of islands off the coast with the largest island under the name of Pracels.
- The seventeenth and eighteenth century's Dutch nautical charts of with codes Ge D 8693, Ge B 220 in the National Library of France.
- A New Chart of the China Sea with Its Several Entrances, printed for Robert Sayer, London in 1791, demonstrates the difference between that nautical chart and the others in that it shows the Paracels archipelago according to the Draft of Cochinchina Pilot in 1764.⁴⁷

⁴³ See Le Qui Don, *supra* note 22; Luu, *supra* note 6, at 39; Chemillier-Gendreau, *supra* note 6, at 72.

⁴⁴ Bac Hai (North Sea) is the name of the Spratlys, called by the Vietnamese and Chinese fishermen at that time to indicate the sea in the north of province Hatien and near to Puolo Condor. For references, see *Guangdongshengbowuguan* (Guangdong Museum), *Xishawenwu* (Study on things of Xisha Islands in the South China Sea) (Beijing, 1975), at 11, quoting *Shuilubo* (Book of Maritime Routes of Fishermen from Hainan Island) that described 29 shipping routes for *Donghai* (Paracel) and 11 routes to *Beihai* (Nansha).

⁴⁵ Manguin, *supra* note 27.

⁴⁶ Schilder, *supra* note 27.

⁴⁷ Hong Thao Nguyen, *Sang xu bo tot tim ban do Hoang Sa* (Going to Spain to find the map on the Paracels), VIETNAMNET (Apr. 3, 2009).

· *Annam Dai Quoc Hoa Do* (Tabula Geographica Imperri Animistici) painted by J.L. Taberd and published in 1838 by J. Silvestre.

Only later progress in science and navigation allowed a distinction between the two groups of islands. It was the Kergariou-Lochmaria survey mission that first helped distinguish the Paracels from the Spratlys in the south.⁴⁸

Third, those sources provided proof of Vietnam's intention and activities in reaffirming that Bai Cat Vang belonged to Vietnam. *Dai Nam Thuc Luc Chinh Bien* writes: "The land of Hoang Sa belongs to our territorial sea and is of great strategic importance..." *Kham Dinh Dai Nam Hoi Dien Su Le* confirms: "Hoang Sa is an integral part of our territory and is of a great strategic importance."⁴⁹ *Dai Nam Nhat Thong Chi*, Book No. 6, writes, on the province of Quang Nghia: "In the East, the sand shoal of Hoang Sa spreads and joins the blue sea to make a rampart on the sea." In addition, other historical records and geographical studies have texts and maps which confirm that the Paracels were a part of Quang Ngai, such as *Su Hoc Bi Khao* (Historical Study) by Dang Xuan Bang, *Dia Du Toat Yeu* (Geography Compendium), *Quang Thuan Dao Su Tap* (Quang Thuan Master File), *Trung Ky Dia Du Luoc* (Central Geographical Terms), *Quang Ngai Tinh Chi* (Quang Ngai Province Study).

Fourth, the Vietnamese State activities in Paracels and Spratlys were comprehensive, continuous, peaceful, and uncontested. Five types of activities were implemented as follows:

1. The systematic exploitation of the islands;
2. The organization of the geographical surveys to better know the islands and routes, and to control and survey the sea;
3. The building of shrines and temples, and the planting of trees as a symbol of sovereignty over the islands;
4. The organization of local tax revenue collection and commercial exchanges with other countries; and
5. Providing assistance to foreign vessels in distress.

The texts in the above-records stated that under the Nguyen Rulers the State naval detachments Hoang Sa and Bac Hai were established. Every year, from March to August, they were sent to Paracels and Spratlys to collect remains from shipwrecks

⁴⁸ French National Archive, Mar. Box of files B. 4/276, at 161, 203. See also Chemillier-Gendreau, *supra* note 6, at 57. See also HONG THAO NGUYEN, LE VIETNAM ET SES DIFFERENDS MARITIMES DANS LA MER DE BIEN DONG (MER DE CHINE MERIDIONALE) 212 (2004).

⁴⁹ LONG TE VO, LES ARCHIPELS DE HOANG SA ET DE TRUONG SA SELON LES ANCIENS OUVRAGES VIETNAMIENS D'HISTOIRE ET DE GÉOGRAPHIE (1974); Chemillier-Gendreau, *supra* note 6, at 71.

(silver, tin, porcelain bowls, and copper guns).

With the establishment of a military unit dedicated to exploring the islands, the Vietnamese monarchs (Nguyen Lords and Kings, and Tay Son Rulers and Kings) made clear their determination to put Paracels and Spratlys under their sovereignty. This activity was conducted annually under state order. Even under the Tay Son Dynasty, the mission was maintained continuously during the time of internal conflict.⁵⁰ The soldiers of the Hoang Sa and Bac Hai detachments were exempted from personal tax collection and rewarded with money. Conversely, those who did not complete the task were punished according to the gravity of their failure.⁵¹

In the early years of his rule, King Gia Long paid attention to the mapping of the territory. *Dai Nam Thuc Luc Chinh Bien* and other historical records provide his programme. In 1815, King Gia Long ordered Pham Quang Anh of the Hoang Sa detachment to “go to the Hoang Sa to study and to chart the maritime routes.” In the year Binh Ty, the 15th year of the reign of Gia Long (1816), the King ordered the navy and the Hoang Sa detachment to go in junks to the Hoang Sa to study and measure maritime routes. This programme was continued by King Ming Mang. More detailed instructions were given in the matter of cartography. *Dai Nam Thuc Luc Chinh Bien* recorded an instruction in 1836 as follows:

Everything shall be noted and described in detail for submission to the supreme attention of His Majesty. As soon as the junks reach any island or sandbank, regardless of what kind, they shall from that point measure the length, breadth, height, surface area, and circumference of that island or sandbank, the depth of the surrounding waters, identify any submerged sandbanks or reefs, record whether access is dangerous or poses no problem, undertake a careful examination of the terrain, take measurements and make a sketch.⁵²

Temples and sovereignty markers were built and trees were planted as sovereign manifestations. They constitute the state management of the territory consistent with the requirements of international law (the *animus* and *corpus* elements and the continuous

⁵⁰ See the Royal Order signed by Tay Son Lord in 1786 urged: “Hoi Duc Hau commander of the Hoang Sa compagny to bring four boats to Hoang Sa to collect all kinds of objects in gold, silver, copper, the small and big guns with tortoises, preciuos fishes for the Court upon under the law.” The Royal Handwriting Collection under the Tay Son Ruler, conserved at the Sino-Vietnamese Institute, Hanoi-Vietnam. See Luu, *supra* note 6, at 97

⁵¹ The solo-note of Ministry of Public Works on July 13, 1837 (in the 18th year of Minh Mang Rulers) recorded the case of mariners Pham Van Bien, Vu Van Hung, Pham Van Sinh fined by 80 floggings for the delay departure. The commander of the garrison Truong Viet Soai, in the course of the voyage in 1836, did not return with the maps and for that was condemned to capital punishment. See Institute of National History, 165:2 *Dai Nam Thuc Luc Chinh Bien* (Accounts of Dai Nam’s Present Dynasty, 1865-1882), vol.165, pt. 2 (1848).

⁵² Institute of National History, *id.*

actions). The *Dai Nam Thuc Luc Chinh Bien* wrote:

In the eighth month, in the autumn, of the year Quý Ty, the 14th year of the reign of Minh Mang (1833)... the King told the Ministry of Public Works: On Hoang Sa in the waters of Quang Nghia, in the distance, one can see the sky and the sea join in the same colour, which makes it difficult to estimate the depth of the sea. Recently, commercial vessels sunk there... In year late (1836), the Ministry of Public Works reported:... the land of Hoang Sa belongs to our territorial sea and is of great strategic importance... We have sent our men there to draw maps, but in view of the large area of the sea and of its distance, we have managed to carry it out in one place and we don't know how to continue the work... The King approved the report and gave order to the Suat Doi (Commander) of the navy, Pham Huu Nhat, to lead the fleet and to prepare 10 wooden posts to mark the visited places (each post is 5 thuoc long, 5 tac wide, and 1 tac thick). Each post bears the following inscription engraved on one of its faces: the Chanh Doi trung Suat Doi Pham Huu Nhat of the navy has come here to the Hoang Sa for reconnaissance and topographical measures, and leaves this witness-post to mark the fact.⁵³

In 1849, the Englishman, J. Gutzlaff, wrote about the tax collection and fishermen protection of Vietnamese Kingdom on the Paracels as follows:

We should not mention here the Paracels (Katvang) which approach 15-20 leagues to the coast of Annam, and extend between 15°-17° N. Latitude and 111°-113° E. Longitude, if the King of Cochin-China did not claim these as his property, and many isles and reefs, so dangerous to navigators... From time immemorial, junks in large number from Hainan, have annually visited all these shoals, and proceeded in their excursions as far as the coast of Borneo... The Annam government, perceiving the advantages which it might derive if atoll were raised, keeps revenue cutters and a small garrison on the spot to collect the duty on all visitors, and to ensure protection to its own fishermen.⁵⁴

The assistance which the Nguyen Rulers provided to foreign ships in the dangerous grounds was also recorded. At least two cases had been recorded regarding Dutch ships: the Gootebrok, wrecked in 1634 in the sea of the Paracels, and three Dutch sailed ships coining back from Japan and going to Batavia in 1714 near the Paracels, were surprised by a tempest.⁵⁵ Report of the Governor of Da Nang, dated the 11th year of Minh Mang (1830) recorded the assistance to a French merchant ship sunk in Hoang

⁵³ *Id.*

⁵⁴ J. Gutzlaff, *Geography of the Cochin-chinese Empire*, 19 J. GEOGRAPHICAL SOC'Y LONDON 93-94 (1849).

⁵⁵ Luu, *supra* note 5, at 43.

Sa.⁵⁶ By *Quoc Trieu Chinh Bien Toat Yeu* (National Dynasty Chronology) in 1836, a British merchant ship shipwrecked in an open ground near the Paracels. More than 90 sailors from this ship managed to reach the shores of Binh Dinh.⁵⁷ In all cases, Lords and Kings of the Nguyen gave them shelter, money, and food before repatriation.

Fifth, Vietnamese State activities on Paracels and Spratlys were noted in several foreign works, including the Chinese works. J.B. Chaigneau, Counsellor of Emperor Gia Long, writes in his memoirs as follows:

Cochinchina, the sovereign of which has today the title of Emperor, is composed of Cochinchina proper, Tonquin, a part of the kingdom of Cambodia, some uninhabited islands not far from the coast and the Paracels archipelago, composed of uninhabited reefs and rocks. It is only in 1816 that the present Emperor took possession of this archipelago.⁵⁸

The Italian Compendium of Geography written by Adriano Balbi in 1850 (page 641) described the Annam Kingdom and its belongings as Paracels, Pirates Islands, and Puolo Condor. In the section dealing with Chinese geography of the same book, there was nothing about the Paracels or Spratlys.

Shi Da Shan, a Chinese high monk under the *Kangxi* reign, wrote in his *Story Overseas* (Volume III) that:

[T]he sandbanks, which had a width of one hundred miles dam, a very long length, out of sight, was called "Van Ly Truong Sa," no tree, no house. The junks so against the wind and attacked by the waves swirling would be either completely destroyed, or sailors deprived of rice and portable water would die of hunger. This place was far from Dai Viet to a seven days of navigation, i.e. about seven hundred dam (miles). In the time of the Lords (Nguyen), every year, they had sent the fishing junks sailing along of the sand to pick the gold, silver and gears on the shipwrecks.⁵⁹

These facts, taken from Vietnamese historical documents and notes of various foreign authors, demonstrate that the Nguyen Lords and Kings of Vietnam, in the pre-colonial period, displayed specific interest in the archipelagos, and performed sovereign acts there at a time when no other State had shown any sovereign interest towards them.

⁵⁶ See Documents conserved in the Sino-Vietnamese Institute of Hanoi, Vietnam with the code VN/CT 1 Han, M M 11/27 (MM Q43/57), VN/ CT 3 Han, MM 11/27.6 (MM 43/59).

⁵⁷ See *Quoc Trieu Chinh Bien Toat Yeu*, vol. 3, folio 104a, conserved in the Sino-Vietnamese Institute of Hanoi.

⁵⁸ Le Mémoire sur la Cochichine de Jean Baptiste Chaigneau par Salles A, dans Bulletin des Amis du vieux Hue No. 3 Avril – Juin 1923, at 25-83.

⁵⁹ See SHI DA SHAN, HAIWAI JISHI (Record of Events of Overseas) 62 (2000); *Record of Events of Overseas*, vol. 3, sheets 23b & 24b, The Tokyo Bunko - Oriental Library [日本東洋文庫].

The establishment of sovereignty and administrative executions of Nguyen Lords and Kings over Hoang Sa and Truong Sa have the two factors, *animus* and *corpus*, required by the international law in regard of *terra res nullius*.⁶⁰ Vietnam was the owner of those archipelagos before the arrival of the French. Heinzig remarked:

Provided that the historical information given by Saigon is correct, we may accept that, as a state, Vietnam apparently was showing a definite interest in the Paracels somewhat earlier than did China.⁶¹

B. From the Early Twentieth Century to the End of World War II

International law on territorial acquisition has changed profoundly. The two obligations related to effective occupation formulated by the Berlin General Act of 1885. Originally applied only to African territories became the rule of general international law to guide the search for a legal solution to the territorial disputes. They have been consolidated and developed by numerous cases related to the acquisition of sovereignty over the uninhabited islands.⁶² For *terra res nullius*, the rules for acquisition of sovereignty are effective, uninterrupted, and peaceful occupation, as well as an official notification of the occupation and rights of the claimant to other powers through the diplomatic channel. *Terra res derelictio*, abandoned territories, can be taken by a new claimant through its effective, uninterrupted, and peaceful occupation of the territory, and an official relinquishment of the old State possessing the sovereign title over that territory.⁶³ The territory can be also acquired through the way of cession from a State to a new one through international agreement. The use of force to conquer a territory was prohibited by the United Nations Charter and other international legal instruments. During the post war period, the right of self-determination of peoples has been recognized in international law. All armed actions or repressive measures directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence and the integrity of their national territory shall be respected.⁶⁴ Any attempt aimed at the partial or total disruption of the national unity and territorial

⁶⁰ *Legal Status of Eastern Greenland Case*, supra note 10, at 45. It reads: "A claim to sovereignty based not upon some particular act or title such as a treaty or cession but merely upon continued display of authority, involves two elements each of which must be show to exist: the intention and will to act as sovereign, and some actual exercise or display of such authority."

⁶¹ DIETER HEINZIG, *DISPUTES ISLANDS IN THE SOUTH CHINA SEA* 25 (1976).

⁶² MALCOLM SHAW, *INTERNATIONAL LAW* 502-507 (6th ed. 2008).

⁶³ IAN BROWNLIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 138-139 (5th ed.1998).

⁶⁴ G.A. Res. 1514(XV) ¶4, U.N. Doc. A/L.323 and Add.1-6 (Dec. 14, 1960) titled, Declaration on the Granting of Independence to Colonial Countries and Peoples, available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/152/88/IMG/NR015288.pdf?OpenElement> (last visited on Mar. 30, 2012).

integrity of a country is incompatible with the purposes and principles of the Charter.⁶⁵

The two archipelagos have been under the administration of Vietnamese Dynasties since at least the seventeenth century. The sovereign title over those islands has been consolidated and maintained for centuries, before the arrival of the French.

The French colonial authority in Indochina, which was responsible for the external relations of the Vietnamese Kingdom,⁶⁶ recognized its State succession status over the Hoang Sa islands from the Vietnamese Kingdom.⁶⁷ The French colonial authority carried out several acts to consolidate the sovereign title over Hoang Sa islands such as: granting licences for private companies to exploit the islands in 1898; preparing the establishment of navigational lighthouses in 1899;⁶⁸ and sending naval surveillance and scientific missions from 1925 to 1927. Several administrative decrees were issued by the French colonial authority for Hoang Sa. In Decree No. 156-SC dated June 15, 1932, the Governor General of Indochina established an administrative unit in the Paracel Islands under the name of “Delegation des Paracels” and merged the islands into Thua Thien Province. In a subsequent Decree on May 5, 1939, the French Governor General divided the archipelago into two Delegations: “Crescent et Dependences” and “Amphitrite et Dependences.” In spite of losing its independence, the Vietnamese took advantage of every opportunity to confirm their right of self-determination as a people. Than Trong Hue, War Minister of the Vietnamese Kingdom, in a letter dated March 3, 1925, stated that: “These islands still belong to Annam, there is no dispute on this score.”⁶⁹ By an imperial ordinance on March 30, 1938, Emperor Bao Dai confirmed the merger of the Paracel Islands with Thua Thien Province. A division of Vietnamese police was regularly stationed there. A newly found imperial ordinance signed by Emperor Bao Dai, the Honor Award, was presented to the division and officials stationed on the Paracels is further proof of the Vietnam’s exercise of authority over the islands.⁷⁰

In that context, the expedition carried out by Chinese Admiral Li Zhun in 1909 was

⁶⁵ *Id.* ¶ 6.

⁶⁶ Patenote Treaty, *supra* note 25.

⁶⁷ Chemillier-Gendreau, *supra* note 6, at 108. The Official Telegram of 4 July 1931 by Governor of Indochina Mr. Pasquier reads: “Annam had possessed rights since the XVIIIth century. The French position was therefore to have the appearance of the simple exercise of preexisting sovereign right.”

⁶⁸ In 1898, a private person, Mr. Chabrier, had asked permission to establish on the Paracels a base to supply for fishermen. In June 1899, the Governor General of Indochina, P. Doumer asked Paris to build a lighthouse in Paracels. But the plan failed due to lack of budget. See Note from the Ministry of Foreign Affairs to the Minister of Marine, Paris (Jan. 14, 1921), Archives of the MFA of the French Republic, AS 18-40, NS China, file 312, at 16-18. See Lapique, *supra* note 20, at 610.

⁶⁹ Chemillier-Gendreau, *supra* note 6, at 108.

⁷⁰ To quoc, *Them mot Chau ban khang dinh chu quyen Hoang Sa* (A new found imperial ordinance to reconfirm the sovereignty over the Paracels), HNSV NEWS (Dec. 25, 2009), available at <http://news.hnsv.com/viet-nam/them-mot-chau-ban-khang-dinh-chu-quyen-hoang-sa-28924/> (last visited on Mar. 30, 2012).

considered as a violation of Vietnam's firmly established title of possession over the Paracels. According to the Chinese reference,⁷¹ two small gunboats investigated some of the Paracel Islands on June 6, 1909; they made some symbolic acts (hoisting the flag, firing cannons) to declare those islands a part of the "sacred territory of China" and returned to Guangzhou on June 7, 1909. A close look at this reference demonstrates that the expedition in 1909 was considered as a mission to discover the islands because of its symbolic acts. This disproves the argument that China had been the owner of the archipelagoes since the Sung, Ming, or Han Dynasties. How could China 'discover' a territory that it had previously owned? Distant countries far from the SCS, such as Portugal, England, and France have a series of documents and maps recording the administrative actions by the Emperor of Vietnam on the islands. The argument that China, a neighbour of the Vietnamese Kingdom, did not know about those activities is not convincing. If 1909 is taken as the critical date for the dispute over the Paracels, the official proof of each claimant would be considered carefully by an international tribunal.

The Spratlys were considered by France as a *terra res nullius*. On that basis, France sent the naval vessels to occupy it in 1930 and 1933. By a Decree on July 26, 1933, the French Government proclaimed the occupation to the whole world.⁷² Furthermore, in December 1933, the Governor of Cochinchina, Mr. J. Krautheimer, signed decree 4762-CP to incorporate it into Ba Ria province under the Cochinchine Authority.⁷³ Only a single objection from Tokyo was recorded in the archives.⁷⁴ Before the French occupation, China showed complete indifference to the Spratlys. A Chinese Government report was released in Guangzhou in 1928. An official Note of the Republic of China Diplomatic Mission in Paris dated September 29, 1932, still asserted that: "The Amphitrite Group and the Crescent Group [of the Paracels] constitute part of the Chinese territory in the southernmost place."⁷⁵ The legal disputes over the Spratly Islands would probably have become more complicated if French authorities had retained sovereignty over the islands for themselves. However, this did not happen. With the Treaty of Ha Long Bay signed in March 1949, France officially transferred sovereignty over Cochinchina (which was a French colony), including the Spratlys, which was claimed to be possessed by the French Government since 1933, to the Bao

⁷¹ See PEOPLE'S DAILY (Nov. 25, 1975)

⁷² JOURNAL OFFICIEL DE LA REPUBLIQUE FRANCAISE No. 26, 7837 (1933).

⁷³ Chemillier-Gendreau, *supra* note 6, at 111 & 225 (Annex 30).

⁷⁴ Note du Service juridique du Ministère des affaires étrangères pour la Direction d'Asie-Océanie, le 6 Septembre 1946; Archives du Ministère des affaires étrangères de la République Française, AS 44-55, Dossier 213, at 16.

⁷⁵ Nguyen, *supra* note 48, at 232.

Dai Administration.⁷⁶ No matter whether the rights of the ancient Vietnamese Kingdom were lost or abandoned, the effective occupation by French authorities over the Spratlys additionally consolidated the historic rights of the Vietnamese Kingdom.

The San Francisco Peace Treaty of 1951 also supports Vietnam's position. In Article 2, paragraph (f) of the Treaty, Japan relinquished all rights, titles, and claims to the Paracels and Spratlys. Mr. A. Gromyko, Minister of Foreign Affairs of the USSR during the San Francisco Conference, offered a proposal to give those islands to the Chinese administration (who was absent from the Conference), which was rejected by a 48 to 3 vote. Based on the texts of the Cairo and Potsdam Declarations, Article 2 paragraph (f), which refers to the Paracels and Spratlys, was separated from the paragraph that refers to territories intended to be assigned to China. The text of the Cairo Declaration of 1943 classified the territories over which Japan had to relinquish all rights, titles, and claims into the three kinds: Pacific islands, Chinese territories, and other territories seized by force. The Declaration committed to "divest Japan of all the Pacific islands... to restore to the Chinese Republic all the territories such as Manchuria, Formosa, and the Pescadores which the Japanese had stolen from the Chinese, and to expel Japan from all other territories it has seized by force."⁷⁷ The Paracels and Spratlys islands were not referred to as Chinese territories during the three international conferences of Cairo, Potsdam, and San Francisco. Clearly, they were territories that Japan acquired through the use force and should have been returned to their prior owners. However, these conferences did not even suggest that the owner was China. The silence of the ROC at the Cairo and the Potsdam conferences regarding the Paracels and the Spratlys constitutes proof of the Chinese indifference to these islands.⁷⁸ On the other hand, at the San Francisco Conference of 1951, Prime Minister and Minister of Foreign Affairs Tran Van Huu from the Associated State of Vietnam solemnly declared that the two islands should belong to Vietnam.⁷⁹ This declaration did not elicit any protests from the other delegates of the Conference. When Japan relinquished the Paracels and Spratlys, it must have been in favour of Vietnam, the country that had long established its sovereignty before the French came and well before World War II. This is particularly true in the case of the Spratlys, because before World War II Japan was the only country that contested this archipelago with France.

The arguments raised by Chinese scholars that the Franco-Chinese Treaty of June 26, 1887⁸⁰ gave the Paracels and Spratlys to China by virtue of their being East of East

⁷⁶ *Id.* at 242.

⁷⁷ See Cairo Declaration of 1943, available at <http://avalon.law.yale.edu/wwii/cairo.asp> (last visited on Mar. 30, 2012).

⁷⁸ See Chemillier-Gendreau, *supra* note 5, at 120; Nguyen, *supra* note 48, at 242-244.

⁷⁹ See LE MONDE (Sept. 9-10, 1951).

⁸⁰ See the official Note of the Republic of China ("ROC") Diplomatic Mission in Paris dated on September 29, 1932. Nguyen, *supra* note 48, at 232. Renmin Ribao Peking N. 3 of July 1956, Chinese authors claimed that Paracels and

longitude 108° is fallacious as that treaty did not apply to islands outside the Gulf of Tonkin. Furthermore, that treaty was superseded when China and Vietnam concluded the Agreement on the Delimitation of Territorial Waters, Exclusive Economic Zones (“EEZ”), and Continental Shelves in the Gulf of Tonkin on December 25, 2000.⁸¹

C. After World War II

After World War II, the ROC occupied the eastern part of the Paracels and Itu Aba (Ba Binh in Vietnamese), an island in the Spratlys. At the same time, France and the Bao Dai Administration reoccupied the western part of the Paracels and some islands in the Spratlys. The eastern part of the Paracels came under the control of the PRC in 1956. The western part of the Paracels was taken by Chinese force in 1974. The PRC gained its first foothold in the Spratly archipelago in 1988 by force. Since then, China has expanded its control over nine reefs in the Spratly area. The Philippines officially claimed sovereignty over almost the entire Spratly archipelago (called Kalayaan Island Group [KIG] by the Philippines), with the exception of the Spratly Island itself, for the first time in 1978. Malaysia claimed sovereignty over the southern part of the Spratly archipelago by its 1979 maps. In this context, in 1976, a reunified Vietnam continued to maintain the position that the sovereign titles for the Paracels and Spratlys, consolidated for a long time by the Nguyen Lords and Kings as well as by the French and Saigon Administrations, had never been abandoned. The ROV took the titles, rights, and claims over from the French on the islands in conformity with the 1954 Geneva Accords - Three Agreements on the Cessation of Hostilities for Vietnam, Laos, and Cambodia.⁸² As the rightful title-holder, South Vietnam conducted administrative organizations, economic investigation and exploitation, and effective protection of those archipelagos.

In 1956, the Ministry of Economy of the ROV granted licenses in the Paracels to exploit guano on the island Quang Anh, Huu Nhat, and Phu Lam for Le Van Cang. In

Spratlys lying east of the frontier line traced by the Franco-Chinese Treaty of 26 June 1887, *i.e.* the 108° 03' 13" E would be under the Chinese administration. In fact, the text of Franco-Chinese Treaty of 26 June 1887 said that: “The north-south line passing through the eastern point of island of Tcha’s-Kou or Ouan-Chan (Tra Co) which form the boundary, are also allocated to China. The island of Gotho (Kao Tao) and other islands west of this meridian belong to Annam.” The purpose of the text is allocation of coastal islands in the Gulf of Tonkin. It did not mention the two archipelagos.

⁸¹ Zou Keyuan, *The Sino-Vietnamese Agreement on Maritime Boundary Delimitation in the Gulf of Tonkin*, 34 OCEAN DEV. & INTL. L. 22-24 (2005); Hong Thao Nguyen, *Maritime Delimitation and Fishery Cooperation in the Tonkin Gulf*, 34 OCEAN DEV. & INTL. L. 41-44 (2005); Ted McDorman, *People’s Republic of China-Vietnam*, 5 INT’L MAR. BOUNDARIES 3755 – 3758 (2005).

⁸² MIKE GRABEL, THE PENTAGON PAPERS(v.1): THE DEFENSE DEPARTMENT HISTORY OF UNITED STATES DECISIONMAKING ON VIETNAM, *Origins of the Insurgency in South Vietnam, 1954-1960*, (Ch. 5/Sec. 2) 270-282 (1971), available at <http://www.mtholyoke.edu/acad/intrel/pentagon/pent12.htm> (last visited on Mar. 30, 2012).

1959, a license was granted to the Phosphate Company of Vietnam, who undertook the guano exploitation until 1963. In 1973, a joint study was carried out by the Company and its Japanese partner Marubeni Corporation. Administratively, the Paracels were moved from Thua Thien Province to Quang Nam Province by Decree N 174-NV of July 13, 1961. The ROV Navy patrolled regularly in the waters surrounding the islands.

With respect to the Spratlys, the ROV Navy landed on the Spratly Islands and erected a monument asserting sovereignty on August 22, 1956. By Decree 143/VN of October 20, 1956, the Spratly Islands were incorporated into Phuoc Tuy Province. From June 11 to 16 of 1961, the escort ships Van Don and Van Kiep (HQ02 and HQ06) were dispatched to inspect Song Tu Dong, Thi Tu, Loi Ta and An Bang in the Spratly Islands. The naval units landed on the Truong Sa, An Bang, Loi Ta, Thi Tu, Song Tu Dong, Song Tu Tay, Nam Yet in 1962, 1963 and 1964 in order to erect sovereignty pillars on them. On September 6, 1973, by Decree N 420 - BNV/HCDP/26, the ROV government incorporated the Spratly Islands into Phuoc Hai Commune, Dat Do District, Phuoc Tuy Province.⁸³

The seizing of the Paracels by force in 1974 by China constitutes a breach of the fundamental principles of international law and cannot create a legal title to the archipelagos. This position has been firmly reaffirmed in several White Books published by Ministries of Foreign Affairs of Vietnam (both ROV and SRV);⁸⁴ the Government Declarations on the Vietnamese maritime zones and straight baselines in 1977 and 1982; the 1994 Resolution of National Assembly on ratification of the UNCLOS and the official speeches of the Vietnamese leadership. For instance, Vietnamese Prime Minister Nguyen Tan Dung reaffirmed in front of the National Assembly on November 25, 2011, that: “We have sufficient legal and historical evidence to assert that Hoang Sa and Truong Sa belong to Vietnam. We are the owner of the two archipelagos from the 17th century, since before any country claimed them.”⁸⁵ At present, Vietnam controls more than twenty islands, cays, and reefs in the Spratly archipelago.

China maintains its position that the Paracels and the Spratlys belongs to it and that Vietnam has more than once recognized China’s sovereignty over these islands.⁸⁶ This

⁸³ Information and Press Department, Ministry of Foreign Affairs, Vietnam’s Sovereignty over the Hoang Sa and Truong Sa Archipelagoes (1979) [Vietnam White Paper 1979]; Vietnam White Paper 1981, *supra* note 30; Vietnam White Paper 1988, *supra* note 7.

⁸⁴ *Id.*

⁸⁵ Ban Bien Tap, *Vietnamese PM Nguyen Tan Dung’s explanatory report at 2nd session of 13th NA*, (Dec. 5, 2011), available at <http://nguyentandung.us/vietnamese-pm-nguyen-tan-dung-s-explanatory-report-at-2nd-session-of-13th-na.html> (last visited on Mar. 30, 2012).

⁸⁶ Su Hao, *China’s Positions and Interests in the South China Sea: A Rational Choices in its Cooperative Policies* (CSIS, 2006), available at <http://csis.org/publication/chinas-positions-and-interests-south-china-sea-rational-choices-its-cooperative-policies> (last visited on Mar. 30, 2012).

Annex 302

U.N. Food and Agriculture Organization, Fisheries and Aquaculture Department, *The State of World Fisheries and Aquaculture 2012* (2012)



**THE STATE OF
WORLD FISHERIES
AND AQUACULTURE
2012**





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to overexploited. In general, the Mediterranean and Black Sea had 33 percent of assessed stocks fully exploited, 50 percent overexploited, and the remaining 17 percent non-fully exploited in 2009.

Total production in the Western Central Pacific grew continuously to a maximum of 11.7 million tonnes in 2010. This area contributes about 14 percent of the global marine production. Despite this catch trend, there are reasons for concern as regards the state of the resources, with most stocks being either fully exploited or overexploited, particularly in the western part of the South China Sea. The high catches have probably been maintained through expansion of the fisheries to new areas and possible double counting in the transshipment of catches between fishing areas, which leads to bias in estimates of production, potentially masking negative trends in stock status.

The Eastern Indian Ocean (Fishing Area 57) is still experiencing a high growth rate in catches, with a 17 percent increase from 2007 to 2010, and now totalling 7 million tonnes. The Bay of Bengal and Andaman Sea regions have seen total catches increase steadily and there are no signs of the catch levelling off. However, a very high percentage (about 42 percent) of the catches in this area are attributed to the category "marine fishes not identified", which is a cause of concern as regards the need for monitoring stock status and trends. Increased catches may in fact be due to the expansion of fishing to new areas or species. Declining catches in the fisheries within Australia's EEZ can be partly explained by a reduction in effort and in catches following a structural adjustment and a ministerial direction in 2005 aimed at ceasing overfishing and allowing overfished stocks to rebuild. The economics of fishing in this area are expected to improve in the medium and long term, but higher profits can also be expected for individual fishers in the short term because fewer vessels are operating.

In the Western Indian Ocean, total landings reached a peak of 4.5 million tonnes in 2006, but have declined slightly since, and 4.3 million tonnes were reported in 2010. A recent assessment has shown that narrow-barred Spanish mackerel (*Scomberomus commerson*), a migratory species found in the Red Sea, Arabian Sea, Gulf of Oman, Persian Gulf, and off the coast along Pakistan and India, is overexploited. Catch data in this area are often not detailed enough for stock assessment purposes. However, the Southwest Indian Ocean Fisheries Commission conducted stock assessments for 140 species in its mandatory area in 2010 based on best-available data and information. Overall, 65 percent of fish stocks were estimated to be fully exploited, 29 percent overexploited, and 6 percent non-fully exploited in 2009.

The declining global catch over the last few years together with the increased percentage of overexploited fish stocks and the decreased proportion of non-fully exploited species around the world convey a strong message – the state of world marine fisheries is worsening and has had a negative impact on fishery production. Overexploitation not only causes negative ecological consequences, but it also reduces fish production, which further leads to negative social and economic consequences. To increase the contribution of marine fisheries to the food security, economies and well-being of the coastal communities, effective management plans must be put in place to rebuild overexploited stocks. The situation seems more critical for some highly migratory, straddling and other fishery resources that are exploited solely or partially in the high seas. The United Nations Fish Stocks Agreement that entered into force in 2001 should be used as a legal basis for management measures of the high seas fisheries.

In spite of the worrisome global situation of marine capture fisheries, good progress is being made in reducing exploitation rates and restoring overexploited fish stocks and marine ecosystems through effective management actions in some areas. In the United States of America, the Magnuson–Stevens Act and subsequent amendments have created a mandate to put overfished stocks into restoration; 67 percent of all stocks are now being sustainably harvested, while only 17 percent are still being overexploited. In New Zealand, 69 percent of stocks are above management targets, reflecting mandatory rebuilding plans for all fisheries that are still below target thresholds. Similarly, Australia reports overfishing for only 12 percent of stocks in 2009.⁹ Since the 1990s, the Newfoundland–Labrador Shelf, the Northeast United



oil prices continued to be at high levels in 2011 and early 2012 (Figure 31). Demand from the aquaculture and health supplement sectors will continue to take most of the volumes offered. The share going to aquaculture is used as an ingredient in fish and shrimp feeds. In 2011, a large increase in salmonoid production in Chile boosted oil demand from Chile and Peru while producers in Europe were able to increase supply, despite high prices of mackerel and herring for direct human consumption.

FISH CONSUMPTION¹⁹

Fish and fishery products represent a valuable source of nutrients of fundamental importance for diversified and healthy diets. With a few exceptions for selected species, fish is usually low in saturated fats, carbohydrates and cholesterol. Fish provides not only high-value protein, but also a wide range of essential micronutrients, including various vitamins (D, A and B), minerals (including calcium, iodine, zinc, iron and selenium) and polyunsaturated omega-3 fatty acids (docosahexaenoic acid and eicosapentaenoic acid). While average per capita fish consumption may be low, even small quantities of fish can have a significant positive nutritional impact by providing essential amino acids, fats and micronutrients that are scarce in vegetable-based diets. There is evidence of beneficial effects of fish consumption²⁰ in relation to coronary heart disease,²¹ stroke, age-related macular degeneration and mental health.²² There is also convincing evidence of benefits in terms of growth and development, in particular for women and children during gestation and infancy for optimal brain development of children.²³

On average, fish provides only about 33 calories per capita per day. However, it can exceed 150 calories per capita per day in countries where there is a lack of alternative protein food and where a preference for fish has been developed and maintained (e.g. Iceland, Japan and several small island States). The dietary contribution of fish is more significant in terms of animal proteins, as a portion of 150 g of fish provides about 50–60 percent of the daily protein requirements for an adult. Fish proteins can represent a crucial component in some densely populated countries where total protein intake levels may be low. In fact, many populations, more those in developing countries than developed ones, depend on fish as part of their daily diet. For them, fish and fishery products often represent an affordable source of animal protein that may not only be cheaper than other animal protein sources, but preferred and part of local and traditional recipes. For example, fish contributes to, or exceeds, 50 percent of total animal protein intake in some small island developing States, as well as in Bangladesh,

Figure 32

Total protein supply by continent and major food group (average 2007–2009)

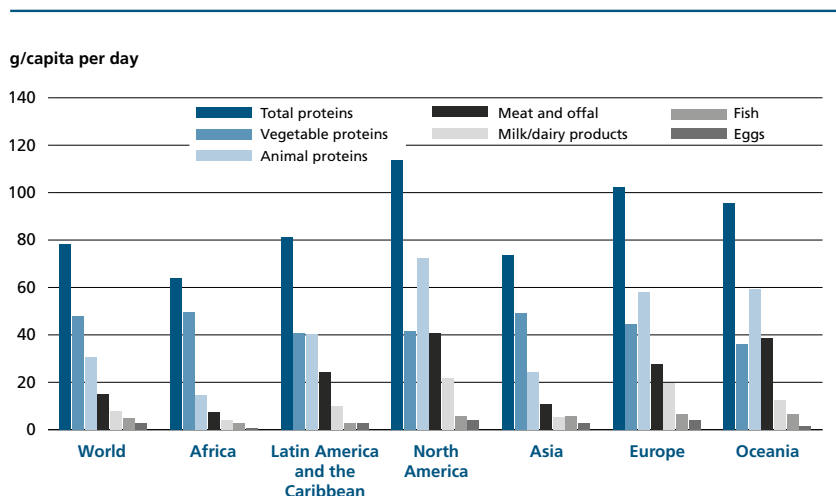


Figure 33

Contribution of fish to animal protein supply (average 2007–2009)



Fish proteins
(per capita per day)

- < 2 g
- 2–4 g
- 4–6 g
- 6–10 g
- > 10 g

Contribution of fish
to animal protein supply

- > 20%

Note: The map indicates the borders of the Republic of the Sudan for the period specified. The final boundary between the Republic of the Sudan and the Republic of South Sudan has not yet been determined.



Figure 34

Fish as food: per capita supply (average 2007–2009)



Average per capita fish supply
(in live weight equivalent)

- 0–2 kg/year
- 2–5 kg/year
- 5–10 kg/year
- 10–20 kg/year
- 20–30 kg/year
- 30–60 kg/year
- > 60 kg/year

Note: The map indicates the borders of the Republic of the Sudan for the period specified. The final boundary between the Republic of the Sudan and the Republic of South Sudan has not yet been determined.

Cambodia, Ghana, the Gambia, Indonesia, Sierra Leone and Sri Lanka. In 2009, fish²⁴ accounted for 16.6 percent of the global population's intake of animal protein and 6.5 percent of all protein consumed (Figure 32). Globally, fish provides about 3.0 billion people with almost 20 percent of their average per capita intake of animal protein, and 4.3 billion people with about 15 percent of such protein (Figure 33).

Linked to the strong expansion of fish production and of modern distribution channels, world fish food supply grew at an average rate of 3.2 percent per year in the period 1961–2009, outpacing the increase of 1.7 percent per year in the world's population; hence, average per capita availability has risen. World per capita fish consumption increased from an average of 9.9 kg in the 1960s to 11.5 kg in the 1970s, 12.6 kg in the 1980s, 14.4 kg in the 1990s, 17.0 kg in the 2000s and reached 18.4 kg in 2009. Preliminary estimates for 2010 point towards a further increase in per capita fish consumption to 18.6 kg. It should be noted that figures for 2000 are higher than those reported in previous editions of *The State of World Fisheries and Aquaculture*, as FAO has revised downwards the non-food estimates for China's apparent consumption, starting from 2000 data, to reflect improved national information on the sector. As a consequence, per capita fish consumption figures for China as well as for the world have increased in comparison with previous assessments.

Notwithstanding the strong increase in the availability of fish to most consumers, the growth in fish consumption differs considerably among countries and within countries and regions in terms of quantity and variety consumed per head. For example, per capita fish consumption has remained static or decreased in some countries in sub-Saharan Africa (e.g. the Congo, South Africa, Gabon, Malawi and Liberia) and in Japan in the last two decades, while the most substantial increases in annual per capita fish consumption have occurred in East Asia (from 10.6 kg in 1961 to 34.5 kg in 2009), Southeast Asia (from 12.8 kg in 1961 to 32.0 kg in 2009) and North Africa (from 2.8 kg in 1961 to 10.6 kg in 2009). China has been responsible for most of the increase in world per capita fish consumption, owing to the substantial increase in its fish production, in particular from aquaculture. China's share in world fish production grew from 7 percent in 1961 to 34 percent in 2009. Per capita fish consumption in China has also increased dramatically, reaching about 31.9 kg in 2009, with an average annual growth rate of 4.3 percent in the period 1961–2009 and of 6.0 percent in the period 1990–2009. In the last few years, fuelled by growing domestic income and wealth, consumers in China have experienced a diversification of the types

Table 13
Total and per capita food fish supply by continent and economic grouping in 2009¹

	Total food supply	Per capita food supply
	(million tonnes live weight equivalent)	(kg/year)
World	125.6	18.4
World (excluding China)	83.0	15.1
Africa	9.1	9.1
North America	8.2	24.1
Latin America and the Caribbean	5.7	9.9
Asia	85.4	20.7
Europe	16.2	22.0
Oceania	0.9	24.6
Industrialized countries	27.6	28.7
Other developed countries	5.5	13.5
Least-developed countries	9.0	11.1
Other developing countries	83.5	18.0
LIFDCs ²	28.3	10.1

¹ Preliminary data.

² Low-income food-deficit countries.

of fish available owing to a diversion of some fishery exports towards the domestic market as well as an increase in fishery imports. If China is excluded, annual per capita fish supply to the rest of the world was about 15.4 kg in 2009, higher than the average values of the 1960s (11.5 kg), 1970s (13.5 kg), 1980s (14.1 kg) and 1990s (13.5 kg). It should be noted that during the 1990s, world per capita fish supply, excluding China, was relatively stable at 13.1–13.5 kg and lower than in the 1980s as population grew more rapidly than food fish supply (at annual rates of 1.6 and 0.9 percent, respectively). Since the early 2000s, there has been an inversion of this trend, with food fish supply growth outpacing population growth (at annual rates of 2.6 percent and 1.6 percent, respectively).

Table 13 summarizes per capita fish consumption by continent and major economic group. The total amount of fish consumed and the species composition of the food fish supply vary according to regions and countries, reflecting the different levels of availability of fish and other foods, including the accessibility of fishery resources in adjacent waters as well as the interaction of several socio-economic and cultural factors. These factors include food traditions, tastes, demand, income levels, seasons, prices, health infrastructure and communication facilities. Annual per capita apparent fish consumption can vary from less than 1 kg in one country to more than 100 kg in another (Figure 34). Differences may also be significant within countries, with consumption usually higher in coastal, riverine and inland water areas. Of the 126 million tonnes available for human consumption in 2009, fish consumption was lowest in Africa (9.1 million tonnes, with 9.1 kg per capita), while Asia accounted for two-thirds of total consumption, with 85.4 million tonnes (20.7 kg per capita), of which 42.8 million tonnes was consumed outside China (15.4 kg per capita). The corresponding per capita fish consumption figures for Oceania, North America, Europe, and Latin America and the Caribbean were 24.6 kg, 24.1 kg, 22.0 kg and 9.9 kg, respectively.

Differences in fish consumption exist between the more-developed and the less-developed countries. Although annual per capita consumption of fishery products has grown steadily in developing regions (from 5.2 kg in 1961 to 17.0 kg in 2009) and in LIFDCs (from 4.9 kg in 1961 to 10.1 kg in 2009), it is still considerably lower than that of more developed regions, even though the gap is narrowing. The actual values may be higher than indicated by official statistics in view of the under-recorded contribution of subsistence fisheries and some small-scale fisheries. In 2009, apparent per capita fish consumption in industrialized countries was 28.7 kg, while for all developed countries it was estimated at 24.2 kg. A sizeable share of fish consumed in developed countries consists of imports, and owing to steady demand and declining domestic fishery production (down 10 percent in the period 2000–2010), their dependence on imports, in particular from developing countries, is projected to grow. In developing countries, fish consumption tends to be based on locally and seasonally available products, and the fish chain is driven by supply rather than demand. However, in emerging economies, imports of fishery products not available locally have recently been growing.

Disparities among developed and developing countries exist also with reference to the contribution of fish to animal protein intake. Despite their relatively low levels of fish consumption, this share was significant at about 19.2 percent for developing countries and 24.0 percent for LIFDCs. However, this share has declined slightly in recent years owing to the growing consumption of other animal proteins. In developed countries, the share of fish in animal protein intake, after consistent growth up to 1989, declined from 13.9 percent in 1984 to 12.4 percent in 2009, while consumption of other animal proteins continued to increase.

The seafood sector remains very fragmented, in particular for markets of fresh seafood, but it is in a phase of consolidation and globalization. Fish is very heterogeneous and differences may be based on species, production area, method of fishing or farming, handling practice and hygiene. Raw fish can be processed into



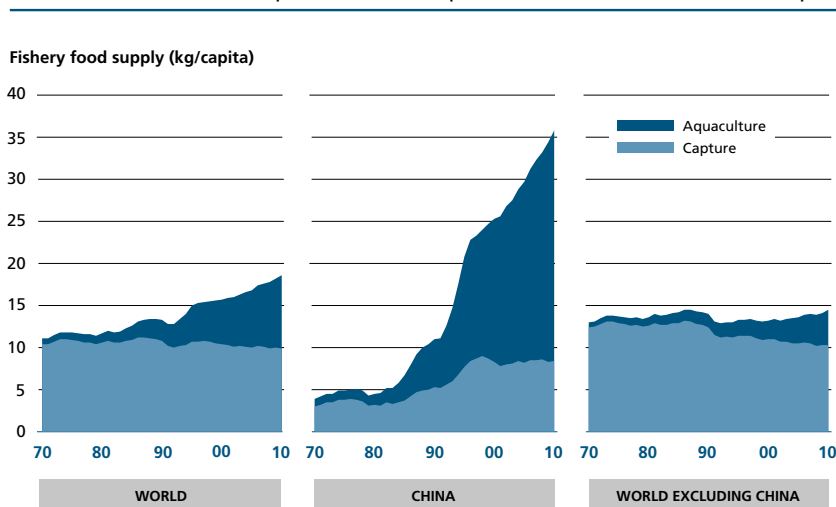
an even wider range of products to meet consumer demands that differ according to markets, flexibility in supply volumes, physical proximity, suppliers' trustworthiness, ability to adapt to different portion-size specifications, etc. In the last two decades, the consumption of fish and fishery products has also been influenced considerably by globalization in food systems and by innovations and improvements in processing, transportation, distribution, marketing and food science and technology. These factors have led to significant enhancements in efficiency, lower costs, wider choice and safer and improved products. Owing to the perishability of fish, developments in long-distance refrigerated transport and large-scale and faster shipments have facilitated the trade and consumption of an expanded variety of species and product forms, including live and fresh fish. Consumers can benefit from increased choice, with imports boosting the availability of fish and fishery products in the domestic markets.

Growing interest from local consumers has also underpinned aquaculture development in many regions in Asia and, increasingly, in Africa and in Latin America. Since the mid-1980s, and in particular in the last decade, the contribution of aquaculture to fish consumption has shown dramatic growth, as capture fisheries production has stagnated or even declined in some countries. In 2010, aquaculture contributed about 47 percent of the fishery output for human consumption – impressive growth compared with its 5 percent in 1960, 9 percent in 1980 and 34 percent in 2000 (Figure 35), with an average annual growth rate of 4.7 percent in the period 1990–2010. However, if China is excluded, the average contribution of aquaculture is significantly lower at 17 percent in 2000 and 29 percent in 2010, corresponding to an average annual growth rate of 5.4 percent. Aquaculture has pushed the demand for, and consumption of, species that have shifted from being primarily wild-caught to being primarily aquaculture-produced, with a decrease in their prices and a strong increase in their commercialization, such as for shrimps, salmon, bivalves, tilapia, catfish and *Pangasius*. Aquaculture also plays a role in food security through the significant production of some low-value freshwater species, which are mainly destined for domestic production, also through integrated farming.

The surging contribution of aquaculture can also be noted by observing fish consumption by major groups. Owing to the increasing production of shrimps, prawns and molluscs from aquaculture and the relative decline in their price, annual per capita availability of crustaceans grew substantially from 0.4 kg in 1961 to 1.7 kg in 2009, and that of molluscs (including cephalopods) rose from 0.8 kg to 2.8 kg in the

Figure 35

Relative contribution of aquaculture and capture fisheries to food fish consumption



Annex 303

Zheng Yangwen, *China on the Sea: How the Maritime World Shaped Modern China* (2012)

China on the Sea

How the Maritime World Shaped
Modern China

By

Zheng Yangwen

鄭揚文



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Cover caption: The several known complete sets of “Copper engravings of the European palaces in Yuan Ming Yuan” [圓明園西洋樓銅板畫] each include 20 images. However, the set belonging to the John Rylands Library, University of Manchester, was recently found to include a unique additional colour image. Jottings at the top and bottom read: “Planche 2^e qui a été commencée à être mise en couleurs” and “Planche 2^e esquissée pour la couleur”. Reproduced by courtesy of the University Librarian and Director, the John Rylands University Library, University of Manchester.

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Library of Congress Cataloging-in-Publication Data

Zheng, Yangwen.

China on the sea / by Zheng Yangwen.

p. cm. — (China studies ; v. 21)

Includes bibliographical references and index.

ISBN 978-90-04-19477-9 (hbk. : alk. paper) 1. China—Commerce—Foreign countries.

2. China—Foreign economic relations—History. 3. China—History—Qing dynasty, 1644–1912. 4. China—Merchant marine—History. I. Title.

HF3834.Z476 2011

387.50951'0903—dc23

2011034522

ISSN 1570-1344

ISBN 978 90 04 19477 9

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and introduction of such goods; the increase in their trade; and the growing popularity and—crucially—increasing availability of these goods that stimulated their consumption. In doing so, this chapter highlights ordinary consumers' esteem for, and increasing awareness of and reliance on, what the maritime world could supply. This allows us to closely examine the major socio-economic changes inside China that created the demand and the absorbing power of Chinese consumer culture. Why was Europe referred to as West Ocean? What can its emergence and nomenclature shift, from Europe to the West, teach us about China's engagement with the maritime world? Tracing the evolution of this engagement is imperative, as it will help us time the crucial moments when foreign goods, especially European products, appeared. It will also allow us to locate the moments when the Chinese people reached out to the seas, as well as identify the watershed of fundamental change.

“Works on Travels to the West Ocean Start from Zheng He”
[西洋之迹著自郑和]³

“Of the word *yang* [洋], in Shandong they call a multitude of things *yang*...but today it refers to the middle of a sea where there is most water”.⁴ This short excerpt by a Song dynasty scholar illustrates China's increasing awareness of and engagement with the maritime world, beginning with the Song dynasty if not earlier. Tracing the origins of *Xi Yang* [西洋] or West Ocean and of the category *yang huo* [洋货] or foreign stuff can help us pinpoint the beginning of increased contact with the maritime world and—more importantly—explore the circumstances behind this contact and its significance. The growth of Chinese knowledge of the seas is noteworthy, as it demonstrates that China was interested in the maritime world and attempted to relate to it. This briefly takes us back to “China's March toward the Tropics”, or the “Southward Expansion of the Chinese People”.⁵ It was the massive migration from the north beginning with the Yongjia Disturbance

³ Huang Shengzeng, *Xi Yang Cao Gong Dianlu Xiaozhu* (Beijing: Zhonghua shuju, 2000), p. 7.

⁴ Zhao Lingsi, *Hou Qing Lu* (8 vols. Beijing: Zhonghua shuju, 2002), vol. 3, p. 83.

⁵ Wiens, *China's March toward the Tropics*; and FitzGerald, *The Southern Expansion of the Chinese People*.

in 311 that opened up and peopled southern China, and exposed the court and its scholar-officials to maritime Southeast Asia, a region they had previously deemed less civilised. Some would visit these countries as ambassadors while others would write about them. The literature produced by the Chinese, and later by Europeans too, concerning these countries consistently demonstrates an interest in the region's geography and an over-riding preoccupation with the goods it could offer.

Major works on Southeast Asia began to appear in the Song-Yuan era, when frequent seafaring led to a better understanding of the seas.⁶ They include, as I mentioned in Chapter One, *Impressions From South of the Five Ridges* by Song dynasty official Zhou Qufei (b. 1134), *History of the Various Foreign Countries* by Song imperial clansman Zhao Rushi (1208–1224), *The Customs of Cambodia* by Yuan dynasty diplomat Zhou Dagan (1266–1346), and *A Brief History of Island Foreigners* by Yuan traveller Wang Dayuan (b. 1311).⁷ Zhou Qufei (1163 *jinshi*) served for six years with various local governments in what is now Guangdong-Guangxi province. He travelled widely during his tenure there and kept a diary that recorded his encounters with the peoples and cultures of that region and beyond. As a source of information the book, finished in 1178, can be considered relatively reliable. Of the ten volumes on local people, culture, geography and other topics, six were devoted to southwest China and Southeast Asia. Zhou used the prefix *fan* [番] or foreign to denote the goods found in these countries, which continued to be used as a common term well into the nineteenth century.

Song China came to have a better understanding of the maritime world; the Mongols further strengthened China's tie with that world, as Persian and Arab merchants sojourned to China and spread the gospel of its riches. The early Ming came to have a much clearer understanding of the ocean world. The seven epic voyages marked the beginning of a long-term trend towards greater Chinese interaction with Southeast Asia, which would materialize fully after the Europeans journeyed east and established themselves in the theatre of Asia. Three key participants in the seven epic Zheng He voyages (1405–1433) left individual works. They are *Ying Ya Sheng Lan* [瀛涯胜览] or *A General Survey of*

⁶ Gu Jianqing, *Guangdong Haishang Sichou zhi Lu Yanjiu*, pp. 13–14.

⁷ Zhao Rushi, *Zhu Fan Zhi*; Zhou Qufei, *Ling Wai Dai Da* (Beijing: Zhonghua shuju, 1999); Zhou Dagan, *Zhenla Fengtu Ji*; Wang Dayuan, *Dao Yi Zhilue*. See also Khair, et al., *Other Routes: 1500 Years of African and Asian Travel Writings*, pp. 112–18.

the Oceans by Ma Huan, printed in 1451; *Xing Chai Sheng Lan* [星差胜览] or *A General Survey of Overseas Assignments* by Fei Xin; and *Xi Yang Fan Guo Zhi* [西洋番国志] or *History of the West Ocean Foreign Countries* by Gong Zhen.⁸ The authors described the places they visited and their people, and illustrated in great detail the types of goods they had to offer—local produce and exotic items which China lacked. This led mid-Ming scholar Huang Shengzeng (1490–1540) to conclude that “works on travels to the West Ocean start from Zheng He”.⁹

Eminent maritime scholar Feng Chengjun (1885–1946) carefully studied the above-mentioned works, especially Ma Huan’s, and compared them with court-generated sources such as *Ming Shi* [明史] or *History of the Ming*. All these sources seem to indicate that Brunei was the end of East Ocean [东洋]: “the end of East Ocean is hence the beginning of West Ocean”.¹⁰ According to this definition, East Ocean would have included what lay above Brunei, namely the Philippines, Taiwan, Okinawa, Korea and Japan. West Ocean [西洋], according to Ma’s definition, would have started from the South China Sea, including today’s Indonesia and Malaysia, and extended as far as the Indian Ocean, as the common phrase “Zheng He goes down to the West Ocean” denotes. West Ocean clearly meant what lay beyond the South China Sea—Southeast Asia and the Indian Ocean before, during and even after Zheng He voyages. The European connotation came much later, during the early Qing, through the naming of goods made in Europe or traded by Europeans, as we have seen in Chapters Four and Five. This is important, as many scholars tend to assume that West Ocean meant what we now call the West, when in fact this change in meaning did not materialise until after the Opium Wars in the late nineteenth century. The late Ming and the early Qing is therefore a most important period, during which the term West Ocean acquired a new, European, connotation.

Where was South Ocean [南洋], then, if Brunei in the South China Sea was the dividing line between East and West Oceans? We know from Kangxi’s 1717 maritime ban that the term was in use during, if not before, his time, as the decree stipulated clearly that merchant

⁸ Ma Huan, *Ying Ya Sheng Lan*; Feng Chengjun, *Ying Ya Sheng Lan Xiaozhu* (Taipei: Shangwu yinshuguan, 2005), p. 5; Fei Xin, *Xing Chai Sheng Lan* (Shanghai: Guji chubanshe, 1997); and Gong Zhen, *Xi Yang Fan Guo Zhi* (Shanghai: Guji chubanshe, 1997).

⁹ Huang Shengzeng, *Xi Yang Cao Gong Dianlu Xiaozhu*, p. 7.

¹⁰ Feng Chengjun, *Ying Ya Sheng Lan Xiaozhu*, p. 5.

ships “cannot go to South Ocean, places like Luzon and Java”.¹¹ Feng Chengjun, Wang Ermin as well, believed that it emerged during the early Qing.¹² The value of the Ming-produced historical works compared with those produced during the Song-Yuan era lay in the growth of Chinese knowledge about the oceans and countries beyond its shores and what they had to offer. It is important to understand this progress, which will explain not only how they perceived the maritime world, but also help us pinpoint the emergence of the prefix *yang* or foreign and the category of *yang huo* or foreign stuff.

Another testimony to China’s increasing understanding of the seas came from the names for various kinds of sea phenomena. Yuan Yunquan has studied the origin of the terms used to describe maritime disasters, such as *hai xiao* [海啸], which can be literally translated as sea howl or sea roar, in essence a tsunami.¹³ His research shows that most of these emerged during the Song-Yuan era, as they can be found in contemporary local gazetteers, and became more consistent during the Ming. Timothy Brook’s recent work echoes this, as his research informs us that the Yuan-Ming era coincided with the “Little Ice Age”.¹⁴ With the ascent of environmental history, this should inspire more studies which will undoubtedly shed light on China’s increasing engagement with the oceanic world.

A century after Zheng He embarked on his first voyage in 1405, the Portuguese finally discovered a direct route to Asia via the Cape of Good Hope, and to China via the Straits of Malacca, where they dropped anchor in 1511; they were at the Guangdong estuary by 1514.¹⁵ They were followed by the Society of Jesus and the Dutch East India Company in the course of the sixteenth century. Feng Chengjun believed that the usage of the term West Ocean to denote Europe did not emerge until after the Jesuits journeyed to the East.¹⁶ There may well be some validity in this, as the Europeans were at first referred

¹¹ Zhonghua Shuju, *Qing Shengzhu Shilu*, vol. 271, p. 658. See also Dou Ruyi and Sun Rong, *Huangchao Wenxian Tongkao*, vol. 33, pp. 26A–B; Zhongguo Renmin Daxue, *Qing Shi Bian Nian*, vol. 2, pp. 471–72.

¹² Wang Ermin, “Jindai Shishang de Dong Xi Nan Bei Yang”, *Zhongyang Yanjiuyuan Jindaishi Yanjiusuo Jikan* [Bulletin of the Institute of Modern History Academia Sinica], 15 (1986): 101–13; Qiu Xuanli, “Zhongguo Haiyang Shishang ‘Dongnan Ya’ Mingci Suoyuan de Yanjiu”, in *Zhongguo Haiyang Fazhan Shi Lunwen Ji Di Si Ji*, pp. 309–29; Gu Jianqing, *Guangdong Haishang Sichou zhi Lu Yanjiu*, pp. 13–14.

¹³ Yu Yunquan, *Haiyang Tianzai*, pp. 2–15.

¹⁴ Brook, *The Troubled Empire*, pp. 213–37 & Introduction.

¹⁵ Morse, *The Trade and Administration of China*, p. 278.

¹⁶ Feng Chengjun, *Ying Ya Sheng Lan Xiaozhu*, p. 5.

to as *yang ren* [洋人], ocean people when translated literally, a term that is still in use today. The definition of West Ocean, according to Ma Huan and in the understanding of generations of historians, had during and even after the time of the Zheng He voyages been the region and the ocean that lay west of Brunei or the South China Sea.¹⁷ However, it gradually came to denote Europe after the Portuguese and Jesuits established themselves in East-Southeast Asia beginning in the mid-sixteenth century; it was increasingly, and soon exclusively, used to refer to Europe during the Qing.

The definition of what constitutes foreign stuff is not as straightforward, because it took time for the Portuguese and other Europeans to establish themselves after their initial arrival, and even longer for them to determine what they could sell to the Asians and Chinese. This is obvious with the so-called foreign cloth [洋布]. *Dong Xi Yang Kao* [东西洋考] or *An Examination of the East and West Oceans* (first printed in 1617) listed foreign cloth, as did *Guangdong Xin Yu* [广东新语] or *The New Language of Guangdong*, written a few decades later. These books stated that the foreign cloth was tribute from Siam, Malacca, Sri Lanka and Pattani.¹⁸ This was correctly categorised as foreign stuff, because Ma Huan's definition clearly stated that Brunei was the end of East Ocean and the beginning of West Ocean. Such categorization, however, is potentially confusing for historians, as foreign cloth would come to mean cloth made in Europe, most often in England, by the eighteenth century, and even those made in Japan by the early twentieth century.

It is therefore important for historians to understand what *yang* or foreign meant at a given time, and when *yang huo* or foreign stuff, describing both individual items and a category of commodities, emerged and came to stand for European goods. After their arrival in the sixteenth century it took more time—through the seventeenth and eighteenth centuries—for the category to spread and establish itself. This was a most important period, as new products from Europe tried to find a market in China while the old, those from Southeast Asia,

¹⁷ Liu Yingsheng and Chen Jiarong “‘Dong Yang’ yu ‘Xi Yang’ de Youlai” and “Zheng He Hangxing Shiqi de Dong Xi Yang”, in *Zhouxiang Haiyang de Zhongguo Ren: Zheng He Xia Xi Yang 590 Zhounian Guoji Xueshu Yantao Hui Lunwen Ji*, ed. Nanjing Zheng He Yanjiuhui (Beijing: Haicao chubanshe, 1996), pp. 120–35 & 137–47.

¹⁸ Zhang Xie, *Dong Xi Yang Kao*, vol. 7, p. 146; and Qu Dajun, *Guangdong Xin Yu*, vol. 15, 460 tiao.

Annex 304

E. Franckx and M. Benatar, "Dots and Lines in the South China Sea: Insights from the Law of Map Evidence",
Asian Journal of International Law, Vol. 2, No. 1 (Jan. 2012)

Asian Journal of International Law, 2 (2012), pp. 89–118
 doi:10.1017/S2044251311000117
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Dots and Lines in the South China Sea: Insights from the Law of Map Evidence

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Abstract

On 7 May 2009, the People's Republic of China (PRC) protested Vietnamese and joint Malaysian-Vietnamese submissions to the Commission on the Limits of the Continental Shelf (CLCS). In support of Chinese claims, a map was annexed to the letter of protest portraying a dotted U-shaped line engulfing the greater part of the South China Sea. Following a brief primer on the genesis of the U-line, this article aims to decipher the text of the protest letter accompanying the U-line, suggesting several possible interpretations. This contribution argues that the map is of doubtful probative value in the light of various factors fleshed out in international jurisprudence regarding map evidence. Attention will be paid to the reactions of third-party states to the U-line. This article maintains that effective protest on the part of regional states has prevented the map from becoming opposable to them.

Almost invariably, attempts of states to consolidate control and jurisdiction over insular features signify the onset of a barrage of cartographic materials. On the one hand, carefully crafted maps can be key in resolving international disputes, indicating the intention of the parties and providing precise geographical data. On the other hand, too eager a resort to maps is dangerous, for “like statistics, they can ‘lie’”.¹ The dispute over the maritime features in the South China Sea² is no exception.

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1. Keith HIGHET, “Evidence, the Court, and the Nicaragua Case” (1987) 81 *American Journal of International Law* 1 at 19.

2. Use of the term “South China Sea” rather than, for instance, “East Sea” (Biển Đông) when viewed from a Vietnamese point of view (see *infra* note 47) or “West Philippines Sea” (see Philippines, “DFA Releases”, online: Department of Foreign Affairs <<http://dfa.gov.ph/main/index.php/newsroom/dfa-releases>> (several statements since June 2011)) has no legal implications whatsoever as to entitlements to the

Claimant states in South-East Asia have gathered a wealth of cartographic materials to back up their contentions, varying in substance and technical quality. One map that has recently resurfaced on the international level and made quite a splash is a Chinese official map of the South China Sea portraying the enigmatic “9-dotted-line” or “U-line”.³ The forceful reassertion of this document on a state-to-state level elicits a host of questions as to its origins, what it means, and, ultimately, what its value is in the ongoing maritime rows.

The aim of this study is to offer an international legal analysis of the aforementioned map. The paper starts off with a brief discussion of the history of the cartographic piece and some recent developments in this regard. Thereafter, the legal merit of various (and at times fickle) interpretations of the U-line will be assessed. We will derive arguments predominantly from the law of the sea to demonstrate that the Chinese claims connected to the 9-dotted-line are debatable as a matter of international law. The focus will then turn to case law pertaining to cartographic evidence. Factors derived from this body of jurisprudence lead us to conclude that the map would in all likelihood be accorded fairly weak probative force before a court of law. Finally, we will show that even if the map were to be legally significant, it could not be used against other interested parties in the dispute as a result of the latter’s effective protests.

I. CHINESE MAP

A. Background

The origins of today’s U-line date back to the activities of the Republic of China’s (ROC) Land and Water Maps Inspection Committee, formed in 1933. Its responsibilities included the surveying and naming of islands in the South China Sea and the production of maps showing these islands as falling under Chinese sovereignty.⁴

The first officially endorsed dotted-line originated from the aftermath of the Second World War. The cartographic piece in question was produced by the ROC’s Department of the Territories and Boundaries of the Ministry of the Interior on

waters or insular features. See Erik FRANCKX, Marco BENATAR, Nkeiru JOE, and Koen VAN DEN BOSSCHE, “The Naming of Maritime Features Viewed from an International Law Perspective” (2011) 11 *China Oceans Law Review* 1 at 39–40 (in English) and 69 (in Chinese). The same applies to the naming of insular features located in these water areas, which usually receive different names in the different languages of the countries surrounding the area. Because of the absence of any legal implications, the present article uses the specific nomenclature normally encountered in the English language. Only when the source itself uses a different nomenclature will the latter be used with the English translation in brackets.

3. Although sometimes referred to as the “historic claim line”, this characterization should be avoided. Most Chinese terms used to describe the line do not include the Chinese ideogram for “historic”. Daniel J. DZUREK, “The Spratly Islands Dispute: Who’s on First?” (1996) 2(1) *Maritime Briefing* (International Boundaries Research Unit, Durham University) at 11.
4. LI Jinming and LI Dexia, “The Dotted Line on the Chinese Map of the South China Sea: A Note” (2003) 34 *Ocean Development and International Law* 287 at 289. In a letter to the UN Secretary-General, the PRC stated that “since [sic] 1930s, the Chinese government has given publicity several times [sic] the geographical scope of China’s Nansha Islands and the names of its components”, but it does not mention cartographic activities. Thus, while this could mean that the PRC officially endorses the naming activities of the Committee, the same cannot be inferred for maps. See People’s Republic of China, “Letter to the Secretary-General of the United Nations—CML/8/2011” (14 April 2011), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2011_re_phl_e.pdf>.

December 1946.⁵ On this map, the U-line consisted of eleven intermittent dashes enclosing the greater part of the South China Sea and its mid-ocean features.⁶ Starting at the Sino-Vietnamese boundary, the first two segments passed through the Gulf of Tonkin. The third and fourth parts of the line separated the Vietnamese coastline from the Parcel Islands and Spratly Islands, respectively. The fifth and sixth segments on the interrupted line went past the James Shoal (4° N), the southernmost maritime feature claimed by the PRC and the ROC. Moving in the northeast direction, the subsequent two dashes were located between the Spratly Islands, on the one hand, and Borneo (Indonesia, Malaysia, and Brunei) and the Philippines (Palawan Province), on the other hand. The ninth, tenth, and eleventh segments separated the Philippines from the ROC.⁷

Following the removal of the Nationalists from the mainland, cartography illustrating the same dashes can be found emanating from the PRC.⁸ Thus, from then onwards, occurrences of the U-line could be observed on either side of the Taiwan Strait. One particular change needs to be noted: since 1953, PRC maps of the South China Sea depict nine instead of eleven segments (the dashes in the Gulf of Tonkin were erased).⁹

B. PRC's Letter to the UN Secretary-General (7 May 2009)

On the international level, the controversy surrounding the 9-dotted-line came to the fore before the United Nations (UN) in 2009 in connection with the Malaysian-Vietnamese joint submission¹⁰ and Vietnamese individual submission¹¹ to the CLCS.

5. Zou Keyuan mentions the existence of an even earlier line in the South China Sea drawn by a Chinese cartographer, Hu Jinjie, in 1914 and subsequently in the 1920s and 1930s. Such lines can also be found in some atlases from this period. Nonetheless, it must be stressed that:
 1. These earlier apparitions are prior to the first official map depicting the "U-line".
 2. The aforementioned atlases were compiled by individuals, thus acting in their personal capacity.
 See ZOU Keyuan, "The Chinese Traditional Maritime Boundary Line in the South China Sea and its Legal Consequences for the Resolution of the Dispute over the Spratly Islands" (1999) 14 *International Journal of Marine and Coastal Law* 27 at 32–33.
6. Reproduced in HU Nien-Tsu Alfred, "South China Sea: Troubled Waters or a Sea of Opportunity?" (2010) 41 *Ocean Development and International Law* 203 at 208.
7. WANG Kuan-Hsiung, "The ROC's Maritime Claims and Practices with Special Reference to the South China Sea" (2010) 41 *Ocean Development and International Law* 237 at 248.
8. SHEN Jianming, "China's Sovereignty over the South China Sea Islands: A Historical Perspective" (2002) 1 *Chinese Journal of International Law* 94 at 129, note 122.
9. Li and Li, *supra* note 4 at 290. This view is contradicted by Zou Keyuan, who states that the two segments were removed in the 1960s. See Zou, *supra* note 5 at 34–35.
10. Malaysia-Socialist Republic of Viet Nam, "Joint Submission to the Commission on the Limits of the Continental Shelf Pursuant to Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982 in Respect of the Southern Part of the South China Sea, Executive Summary" (May 2009), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/mys_vnm_2009executivesummary.pdf>. As indicated by the letter of the Secretary-General of the UN, acknowledging receipt, this joint submission was made on 6 May 2009, online: UN <http://www.un.org/depts/los/clcs_new/submissions_files/mysvnm33_09/mysvnm_clcs33_2009e.pdf>.
11. Socialist Republic of Vietnam, "Submission to the Commission on the Limits of the Continental Shelf Pursuant to Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982, Partial Submission in Respect of Vietnam's Extended Continental Shelf: North Area (VNM-N), Executive Summary" (April 2009), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/vnm2009n_executivesummary.pdf>. As indicated by the letter of the Secretary-General of the UN, acknowledging receipt, this submission was made on 7 May 2009, online: UN <http://www.un.org/depts/los/clcs_new/submissions_files/vnm37_09/vnm_clcs37_2009e.pdf>.

The CLCS issues recommendations to coastal states wishing to establish the outer limit of their continental shelves beyond 200 nautical miles (nm).¹² The timing of the submissions by the Vietnamese and Malaysian governments can be explained by their respective deadlines in May 2009.¹³ In response to these initiatives, the PRC officially submitted to the Secretary-General of the United Nations in two separate letters of the same date the following identical reaction, hereby for the first time endorsing the U-line, of which a map was attached,¹⁴ at the international level in a state-to-state dispute:¹⁵

China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see attached map). The above position is consistently held [sic] by the Chinese Government, and is widely known by the international community.¹⁶

A reading of the note verbale allowed one scholar from Chinese Taipei to discern several Chinese assertions:

1. *Sovereignty* over the South China Sea islands and their adjacent waters (the attached map indicates the following maritime features within the interrupted line by name: Xisha Qundao,¹⁷ Nansha Qundao,¹⁸ Zhongsha Qundao,¹⁹ and Dongsha Qundao²⁰).

12. *United Nations Convention on the Law of the Sea*, 10 December 1982, 1833 U.N.T.S. 397 (entered into force 16 November 1994), online: UN <http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf> [UNCLOS], art. 76(8).

13. Because Malaysia and Vietnam ratified the UNCLOS on 14 October 1996 and 25 July 1994, respectively, the normal deadline for their submissions, according to its Annex II, art. 4, should have been in 2006 and 2004, respectively. But since many states encountered difficulties in meeting this Annex II deadline, the State Parties to UNCLOS decided in 2001 to use another starting point to determine this deadline: instead of the entry into force of UNCLOS, the date of adoption by the CLCS of its Scientific and Technical Guidelines became the starting point of the 10-year period. See *Decision Regarding the Date of Commencement of the Ten-Year Period for Making Submissions to the Commission on the Limits of the Continental Shelf Set Out in Article 4 of Annex II to the United Nations Convention on the Law of the Sea*, Meeting of State Parties, UN Doc. SPLOS/72 (2001). With respect to all states for which UNCLOS had entered into force before 13 May 1999, including thus both Malaysia and Vietnam, 12 May 2009 became the new deadline.

14. This map is reproduced in Appendix I at the end of this article.

15. See also NGUYEN Hong Thao, "Vietnam and Maritime Delimitation" in Ramses AMER and ZOU Keyuan, eds., *Conflict Management and Dispute Settlement in East Asia* (Farnham, Burlington: Ashgate, 2011), 171 at 184, who notes that this is the first occasion on which the PRC has expressed its official position concerning the 9-dotted-line.

16. People's Republic of China, "Letter to the Secretary-General of the United Nations—CML/17/2009" (7 May 2009), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf>; People's Republic of China, "Letter to the Secretary-General of the United Nations—CML/18/2009" (7 May 2009), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf>. The map was attached to these letters. It was also reproduced in the following Chinese sources: (2009) 9 *China Oceans Law Review* at 200 and 202 and ZHU Lijiang, "Chinese Practice in Public International Law: 2009" (2009) 9 *Chinese Journal of International Law* at 622.

17. Paracel Islands.

18. Spratly Islands.

19. Macclesfield Bank.

20. Pratas Islands.

2. *Sovereign rights and jurisdiction* over the relevant waters including their seabed and subsoil.
3. *Consistency* of the PRC's official position on maritime and territorial claims in the South China Sea.
4. *Knowledge* of third-party states as regards the PRC's maritime and territorial claims in the South China Sea.
5. The U-line *delineates* the Chinese claims of sovereignty, sovereign rights, and jurisdiction.²¹

It nevertheless seems fair to state that the above-quoted official Chinese explanation, as far as the precise meaning of the attached map is concerned, remains ambiguous at best. Specifically, the exact legal nature of the maritime areas encompassed by the 9-dotted-line remains hazy, and this despite the Chinese “clarification”, as clearly indicated by the quite divergent reactions it has triggered at specialized conferences organized since then.²²

To our knowledge, only one state, the Philippines, has so far made an attempt at interpretation.²³ China swiftly replied with a new note verbale, which once more does little by way of providing clarity. In this new letter, dated 14 April 2011, China states that its “sovereignty and related rights and jurisdiction in the South China Sea” are supported by “abundant historical and legal evidence”.²⁴ What is apparent in the new diplomatic document is the lack of any reference to the map. Can we infer from this omission an abandonment of the 9-dotted-line? Certainly, such a *volte-face* cannot be presumed lightly. Moreover, PRC's recent instances of interference with, inter alia, Vietnamese and Philippine vessels, despite its current policy of assuaging concerns regarding the freedom of navigation in the South China Sea,²⁵ seemingly imply that its extensive claims as visualized on the map remain intact.

21. Hu, *supra* note 6 at 204–6.

22. See Erik FRANCKX, “American and Chinese Views on Navigational Rights of Warships” (2011) 10 Chinese Journal of International Law 187 at 196, with further reference found in note 48, indicating that some Western scholars tended to consider it an endorsement of the historic title claim, while others thought otherwise based on what the clarification did not contain, i.e. any specific reference to historic waters.

23. Republic of the Philippines, “Letter to the Secretary-General of the United Nations—No. 000228” (5 April 2011), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/phl_re_chn_2011.pdf>. Vietnam issued a response to both the Philippines and the PRC, yet refrained from giving any interpretation to these terms. Vietnam, “Letter to the Secretary-General of the United Nations—77/HC-2011” (3 May 2011), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/vnm_2011_re_phlchn.pdf>.

24. People's Republic of China, *supra* note 4.

25. People's Republic of China, “Foreign Ministry Spokesperson Hong Lei's Regular Press Conference” (7 July 2011), online: Ministry of Foreign Affairs <<http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t838221.htm>>; People's Republic of China, “Foreign Ministry Spokesperson Hong Lei's Regular Press Conference” (28 June 2011), online: Ministry of Foreign Affairs <<http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t835066.htm>>; People's Republic of China, “Foreign Ministry Spokesperson Hong Lei's Regular Press Conference” (21 June 2011), online: Ministry of Foreign Affairs <<http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t833157.htm>>; ZHU Lijiang, “Chinese Practice in Public International Law: 2010” (2011) 10 Chinese Journal of International Law 427 at 438.

II. CLAIMS

The PRC's letter of 7 May 2009, while possibly novel in its maritime aspects, repeats similar assertions put forward in the past as regards insular features.²⁶ Furthermore, several mainly Chinese and Taiwanese scholars have proffered their own interpretations of the 9-dotted-line. Amidst the confusion, one can only be certain of the fact that the Chinese assertions regarding the South China Sea do not exceed this demarcation.²⁷ These views and their legal merit will now be discussed.

A. Historic Claims

1. State practice

Although assertions of this ilk do not seem to feature in official PRC policy, Chinese Taipei has traditionally advocated this position on the U-line quite strongly, as evidenced in a host of declarations. For instance, in 1991 at one of the South China Sea Workshops, a representative of the Taipei Economic and Trade Office in Jakarta (Indonesia) declared:

The South China Sea is a body of water under the jurisdiction of the Republic of China. The Republic of China has rights and privileges in the South China Sea. Any activities in the South China Sea must acquire the approval of the Government of the Republic of China.²⁸

The 1993 Policy Guidelines for the South China Sea (endorsed by the Executive Yuan) note that:

On the basis of history, geography, international law, and the facts, the Spratly Islands, the Paracel Islands, Macclesfield Bank, and the Pratas Islands have always been a part of the inherent territory of the Republic of China. The sovereignty of the Republic of China

26. On numerous occasions prior to the 2009 note verbale, the PRC reasserted its "indisputable" or "undeniable" sovereignty over the Spratly and Paracel Islands. See ZHU Lijiang, "Chinese Practice in Public International Law: 2009" (2010) 9 Chinese Journal of International Law 607 at 612; ZHU Lijiang, "Chinese Practice in Public International Law: 2008" (2009) 8 Chinese Journal of International Law 493 at 504-5; ZHU Lijiang, "Chinese Practice in Public International Law: 2007 (I)" (2008) 7 Chinese Journal of International Law 485 at 498-9; ZHU Lijiang, "Chinese Practice in Public International Law: 2006 (II)" (2007) 6 Chinese Journal of International Law 711 at 760; CHEN Qiang, "Chinese Practice in Public International Law: 2004 (II)" (2005) 4 Chinese Journal of International Law 607 at 630-1; CHEN Qiang, "Chinese Practice in Public International Law: 2003 (II)" (2004) 3 Chinese Journal of International Law 591 at 598-9; PRC Ministry of Foreign Affairs, "China's Indisputable Sovereignty over the Xisha and Nansha Islands", (1980) 7 Beijing Review 15, discussed in Otani Yoshio, "À qui appartient l'archipel des Spratley? Un point de vue sur les revendications chinoises" (1996) 1 Annuaire du droit de la mer 179.

27. Charles C. Hyde, "Maps as Evidence in International Boundary Disputes" (1933) 27 American Journal of International Law 311 at 315; Hasjim DJALAL, "South China Sea Island Disputes" in Myron H. NORDQUIST and John Norton MOORE, eds., *Security Flashpoints: Oil, Islands, Sea Access and Military Confrontation* (The Hague: Nijhoff, 1998), 109 at 113; F. MÜNCH, "Maps" in R. BERNHARDT, ed., *Max Planck Encyclopedia of Public International Law* vol. III (Amsterdam: Elsevier Science, 1995), 287 at 288; T.S. MURTI, "Boundaries and Maps" (1964) 4 Indian Journal of International Law 367 at 388; Daniel SCHAEFFER, "L'interprétation du droit de la mer par la Chine : ses effets majeurs en Extrême-Orient" (2008) 13 Annuaire du droit de la mer 23 at 43; Georg RESS, "The Delimitation and Demarcation of Frontiers in International Treaties and Maps" (1985) 14 Thesaurus Acroasium 435 at 443.

28. Dzurek, *supra* note 3 at 13.

over them is beyond doubt. The South China Sea area within the *historic water limit* is the maritime area under the jurisdiction of the Republic of China, in which the Republic of China possesses all rights and interests.²⁹

In 1994, a Minister of the Executive Yuan, Chang King-yu, stated that “the waters enclosed by the ‘U’-shaped line in the South China Sea are our *historic waters* and the ROC is entitled to all the rights therein” (emphasis added).³⁰

The Chinese Taipei policy is further deduced from protests lodged against the conduct of littoral states in the region. In response to the Malaysian occupation of two maritime features in the Spratly Islands and the Philippines’ decision to incorporate Scarborough Shoal on its map, Chinese Taipei stated:

*The South China Sea is a body of water of the Republic of China. The Republic of China has all rights and privileges in the South China Sea. Any activities (including the discussion on joint cooperation or on Code of Conduct, etc.) in the South China Sea region must acquire the approval of the Government of the Republic of China. (emphasis added)*³¹

Certain pundits have cobbled together legal arguments for this tenuous claim.³² For instance, Zhao Guocai observes:

China owns the historic right of islands, reefs, shoals, banks, and waters within the 9-dotted line. The South China Sea is regarded as the historic waters of China, which was universally acknowledged at that time. So far it has lasted for half a century.³³

2. Legal analysis

An examination of scholarly writings regarding historic claims relative to maritime areas gives rise to a great deal of terminological confusion. Germane concepts such as historic rights/historic title, historic waters, and historic bays are not easily distinguished and elucidated.³⁴ In order to avoid a lengthy and somewhat superfluous inquiry on the distinction between historic rights and historic title, suffice it to say that “historic rights” are the genus under which one can place the species “historic waters”. In turn,

29. Policy Guidelines for the South China Sea, Point 1, 10 March 1993, in SUN Kuan-Ming, “Policy of the Republic of China Towards the South China Sea: Recent Developments” (1995) 19 *Marine Policy* 401 at 408 (Annex I).

30. Dzurek, *supra* note 3 at 13.

31. Republic of China (Taiwan), Statement (1 July 1999), online: Ministry of Foreign Affairs <<http://www.mofa.gov.tw/webapp/ct.asp?xItem=2353&ctNode=1902&mp=6>>.

32. PAN Shiyong, “South China Sea and the International Practice of the Historic Title”, Conference on the South China Sea, American Enterprise Institute, Washington, 7–9 September 1994, referenced in ZOU Keyuan, “Historic Rights in International Law and in China’s Practice” (2001) 32 *Ocean Development and International Law* 149 at 161, note 97; SONG Yann-huei and Peter Kien-hong YU, “China’s ‘Historic Waters’ in the South China Sea: An Analysis from Taiwan, R.O.C.” (1994) 12 *American Asian Review* 83.

33. ZHAO Guocai, “Analysis of the Sovereign Dispute over the Spratlys under the Present Law of Sea” (1999) 9 *Asian Review* at 22 (in Chinese), translated in Li and Li, *supra* note 4 at 293. It should, however, be stated that despite their government’s official position, not all Taiwanese legal experts have supported the historic claims approach. See ZOU Keyuan, “China and Maritime Boundary Delimitation: Past, Present and Future” in Amer and Zou, eds., *supra* note 15, at 160.

34. See Andrea GIOIA, “Historic Titles” in Rüdiger WOLFRUM, ed., *The Max Planck Encyclopedia of Public International Law* (Oxford: Oxford University Press, 2008), online: MPEPIL <<http://www.mpepil.com>>.

“historic bays” are a species of “historic waters”.³⁵ In the context of the 9-dotted-line, Chinese Taipei’s behaviour seems to imply the recognition of historic waters as regards a substantial part of the South China Sea.

No universally accepted definition of historic waters exists, but in broad terms it denotes rights that accrue to a coastal state with respect to a maritime area or areas that the state would not normally enjoy. The extent of the rights concomitant to the historic waters can vary considerably. The legal conditions for acquiring historic waters were considered in a 1962 study carried out by the UN Secretariat’s Office of Legal Affairs (OLA) at the request of the International Law Commission.³⁶ In the view of the OLA:

There seems to be fairly general agreement that at least three factors have to be taken into consideration in determining whether a State has acquired a historic title to a maritime area. These factors are: (1) the exercise of authority over the area by the State claiming the historic right; (2) the continuity of this exercise of authority; (3) the attitude of foreign States.³⁷

Chinese Taipei does not meet these criteria, and neither does the PRC for that matter. Conditions (1) and (2) require the claimant state to exercise authority via acts displaying sovereignty with a sufficient level of frequency and effectiveness. In relation to the area claimed, displays of authority can be described as infrequent at best. The freedom of fishing and navigation of other states remains unencumbered.³⁸ Consequently, no historic claim can be made. The theoretical requirements needed to fulfil condition (3) are uncertain. Essentially, the discussion pivots on whether other states need to acquiesce to the exercise of Chinese sovereignty over the South China Sea or whether the absence of any reaction from them is enough.³⁹ But no matter which view one subscribes to, both seem to agree that protest from foreign states can prevent the peaceful and continuous exercise of sovereignty, and this is precisely what has occurred with respect to the South China Sea (see section IV-B).

Some have retorted that claims must be considered in the light of the rules of international law that existed when the U-line map was drawn, i.e. 1946 (the so-called doctrine of intertemporal law).⁴⁰ This is quite peculiar, as this approach only weakens an

35. Zou, *supra* note 33 at 152.

36. *Juridical Regime of Historic Waters, Including Historic Bays*, Study Prepared by the Secretariat, UN Doc. A/CN.4/143 (1962), (1962) 2 Yearbook of the International Law Commission 1 [*Historic Waters Study*].

37. *Ibid.*, at 13. The study mentions a potential fourth requirement (justification “on the basis of economic necessity, national security, vital interest or a similar ground”) for which there is less agreement. One should, however, complete this list with the more general requirement that proof of historic title must be clear. See Ahmed ABOU-EL-WAFA, “Les différends internationaux concernant les frontières terrestres dans la jurisprudence de la Cour internationale de justice” (2010) 343 *Collected Courses of the Hague Academy of International Law* 9 at 397.

38. Zou, *supra* note 33 at 161 and references, *supra* note 25.

39. For a treatment of both positions, see *Historic Waters Study*, *supra* note 36 at 16–19.

40. See, for instance, in the English language, Markus KOTZUR, “Intertemporal Law” in WOLFRUM, ed., *supra* note 24. For a more detailed analysis in the French language, see Paul TAVERNIER, *Recherches sur l’application dans le temps des actes et des règles en droit international public (problèmes de droit intertemporel ou de droit transitoire)* (Paris: Librairie générale de droit et de jurisprudence, 1970).

already unconvincing contention. At that time, the legally recognized breadth of the territorial sea totalled a mere three nautical miles, making historic claims all the more exorbitant.⁴¹ Given the fact that historic waters normally relate to either bays or a range of territorial waters,⁴² it is therefore not surprising to note that a recent treatise on historic waters does not find it necessary to make any reference to the historic claim of the 9-dotted-line.⁴³ Moreover, even if for the sake of argumentation one were to envisage the hypothesis that China were able to make such an unprecedented extensive historic claim (*quod non*), it should be remembered that historic claims do not create an *erga omnes* regime, but rather depend, as stressed by one author recently, on express or implied recognition on a state-to-state basis.⁴⁴

On a final note, the prolific usage of the nomenclature “South China Sea” does not confer historic Chinese sovereignty.⁴⁵ Under international law, the mere naming of an area does not establish sovereignty over it.⁴⁶ The name has been vigorously protested by interested states, including Vietnam.⁴⁷ Foreign cartography uses the name South China Sea simply in accordance with the maritime nomenclature published in the International Hydrographic Organization’s *Limits of Oceans and Seas* (1953), which has “no political significance whatsoever”.⁴⁸ Thus, this choice of terminology does not imply recognition of Chinese sovereignty on the part of Western states. Also, the

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41. See Hasjim DJALAL, “South China Sea Island Disputes” (2000) *The Raffles Bulletin of Zoology* (Supplement No. 8) 9.
42. Clive Ralph SYMMONS, *Historic Waters in the Law of the Sea: A Modern Re-appraisal* (Leiden: Nijhoff, 2008) at 17–37. Making a similar reasoning on the basis of the work of the International Law Commission with respect to the 1958 conventional framework as well as on the basis of UNCLOS, see Franckx, *supra* note 22 at 197, and especially note 50.
43. The only time China is mentioned relates to the historic claim of the former USSR to Peter the Great Bay (Symmons, *supra* note 42 at 144).
44. Tullio SCOVAZZI, “Book Review of ‘Historic Waters in the Law of the Sea: A Modern Re-appraisal by Clive Ralph Symmons, Leiden, Martinus Nijhoff, 322 pp., 2008’” (2010) 25 *International Journal of Marine and Coastal Law* 637 at 642. See also *ibid.*, at 639–40 and in the same sense Symmons, *supra* note 42, at 242–5, 299–300. *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, [1982] I.C.J. Rep. 18 at 73–4:

[T]here is neither a definition of the concept nor an elaboration of the juridical régime of “historic waters” or “historic bays”. There are, however, references to “historic bays” or “historic titles” or historic reasons in a way amounting to a reservation to the rules set forth therein. It seems clear that the matter continues to be governed by general international law which does not provide for a single “régime” for “historic waters” or “historic bays”, but only for a particular régime for each of the concrete, recognized cases of “historic waters” or “historic bays”.

45. This argument has been made in WU Fengbing, “Historical Evidence of China’s Ownership of the Sovereignty over the Spratly Islands” in China Institute for Marine Development Strategy, ed., *Selected Papers of the Conference on the South China Sea Islands* (Beijing: Ocean Press, 1992) at 111 (in Chinese), referenced in Zou, *supra* note 33 at 161, note 98.
46. In general, see Franckx, Benatar, Joe, and Van den Bossche, *supra* note 2. With respect more specifically to the South China Sea, see NGUYEN Hong Thao, *Le Vietnam et ses différends maritimes dans la Mer de Bien Dong (Mer de Chine méridionale)* (Paris: Pedone, 2004) at 258.
47. As already mentioned *supra* note 2, Vietnam refers to this maritime area as “Biển Đông” (“East Sea”). See National Border Committee under the Ministry of Foreign Affairs of Vietnam, online: National Border Committee <biengioilanhtho.gov.vn/bbg-vie/home.aspx>.
48. International Hydrographic Organization, *Limits of Oceans and Seas*, 3rd ed. (Monte-Carlo: Imp. Monégasque, 1953) at preface and 30, online: IHO <http://www.iho-ohi.net/iho_pubs/standard/S-23/S23_1953.pdf>. Old maps also use this denomination merely due to the fact that historically European navigators encountered predominantly Chinese ships. See Y. LACOSTE, “Mer de Chine ou mer de l’Asie du Sud-Est” (1981) 24 *Hérodote* at 13, referenced in Nguyen, *supra* note 46 at 257.

Chinese have historically employed different names for this maritime area such as “Giao Chi Sea” (Song and Ming dynasties) and “South Sea” (Qing dynasty (1905), Republic of China (1913), and People’s Republic of China (1952 and 1975)).⁴⁹

3. *New developments*

Recent developments might render this discussion moot. Indeed, it could very well be that Chinese Taipei is steadily abandoning its long-standing thesis. Statements in recent years hint at a change in stance, aligning Chinese Taipei’s policy on this matter with that of the PRC. References to historic rights/waters are absent whilst the focus seems to be on territorial sovereignty over the islands and their territorial waters.⁵⁰ The most recent example is a May 2009 statement protesting the Vietnamese and Malaysian-Vietnamese submissions to the CLCS:

The Government of the Republic of China reiterates that the Diaoyutai Islands, Nansha Islands (Spratly Islands), Shisha Islands (Paracel Islands), Chungsha Islands

49. Nguyen, *supra* note 46 at 257.

50. Republic of China (Taiwan), “Statement of the Ministry of Foreign Affairs concerning the Declaration on the Conduct of Parties in the South China Sea signed by the Association of Southeast Asian Nations (ASEAN) and the People’s Republic of China (PRC) in Cambodia on November 4, 2002” (5 November 2002), online: Ministry of Foreign Affairs <<http://www.mofa.gov.tw/webapp/ct.asp?xItem=2357&ctNode=1902&mp=6>>:

The government of the Republic of China reiterates its territorial sovereignty over Dongsha (the Pratas Islands), Xisha (the Paracel Islands), Zhongsha (the Macclesfield Bank) and Nansha (the Spratly Islands) in the South China Sea, over which it has all lawful rights according to international law;

Republic of China (Taiwan), “The Position of the Ministry of Foreign Affairs on Taiwan’s Sovereignty over Islands in the South China Sea” (20 November 2007), online: Ministry of Foreign Affairs <<http://www.mofa.gov.tw/webapp/ct.asp?xItem=27782&ctNode=1903&mp=6>>:

The Spratly Islands, the Paracel Islands, Macclesfield Bank and the Pratas Islands have always been an intrinsic part of Taiwan’s territories, whether looked at from the perspective of history, geography, international law or plain fact. According to the principles of international law, the government of Taiwan’s sovereignty over these islands is unquestionable and it enjoys all rights accordingly;

Republic of China (Taiwan), “The Government of the Republic of China (Taiwan) Reiterates its Sovereignty over the Spratly Islands and has Proposed a Spratly Initiative that Focuses on Environmental Protection Instead of Sovereignty Disputes” (15 August 2008), online: Ministry of Foreign Affairs <<http://www.mofa.gov.tw/webapp/ct.asp?xItem=32920&ctNode=1903&mp=6>>:

The Spratly Islands, including the Swallow Reef (Layang-Layang atoll), are located in Taiwan’s territorial waters. From either a historical, geographical or international legal perspective, the Spratly Islands, Paracel Islands, Macclesfield Islands, Pratas Islands and nearby waters are part of Taiwan’s territory and territorial waters;

Republic of China (Taiwan), “Solemn Declaration of the Ministry of Foreign Affairs of the Republic of China concerning the Philippine Senate Bill 2699 and House Bill 3216” (6 February 2009), online: Ministry of Foreign Affairs <<http://www.mofa.gov.tw/webapp/ct.asp?xItem=36914&ctNode=1902&mp=6>>:

In terms of either history, geography, reality or international law, the Spratly Islands, Paracel Islands, Macclesfield Islands, Pratas Islands, as well as the surrounding waters, are the existent territories of the Republic of China. The fact that sovereignty of these areas belongs to our government is undeniable, Taiwan enjoys and deserves all rights accordingly. Any sovereignty claims over, or occupation of, these islands and their surrounding waters will not be recognized by the government of the Republic of China.

(Macclesfield Islands), and Tungsha Islands (Pratas Islands) as well as their surrounding waters are the inherent territories and waters of the Republic of China based on the indisputable sovereignty titles justified by historic, geographic and international legal grounds. Under international law, the Republic of China enjoys all the rights and interests over the foregoing islands, as well as the surrounding waters and sea-bed and subsoil thereof.⁵¹

B. *Insular Claims*

1. *Interpretation 1: All insular features within the U-line are PRC/Chinese Taipei territory*

An early proponent of this *territorial* interpretation, the Indonesian diplomat Hasjim Djalal, whilst acknowledging the “enigmatic” nature of the Chinese line, based his findings on a careful analysis of the PRC’s statements, particularly those formulated during a 1979 meeting of the International Civil Aviation Organization (ICAO).⁵²

Smith notes that the mid-ocean features falling within these “lines of allocation” are those for which the Chinese claim sovereignty. He emphasizes that the dashes do not suggest any maritime boundary claims and would have no impact on the resolution of maritime boundary disputes.⁵³

Dzurek too believes that the U-line does not demarcate the borders of Chinese maritime jurisdiction, with this belief posited on a cartographic argument, namely, the fact that the dashes separating Malaysia and the Natuna Islands deviate from the agreed Indonesian-Malaysian continental-shelf delimitation line.⁵⁴

As indicated above, contemporary Chinese Taipei state practice seems to evidence a shift toward this position.

The delicate question of to whom the islands in the South China Sea belong, which entails rigorous analysis of a complex factual matrix and the application of manifold legal concepts (such as discovery, critical date, and *effectivités*), would take us too far from our present theme.⁵⁵ Bearing that in mind, it is appropriate to stress here that the Chinese map *per se* cannot constitute a valid territorial title to the islands.

51. Republic of China (Taiwan), “Declaration of the Republic of China on the Outer Limits of Its Continental Shelf, n° 003” (12 May 2009), online: Ministry of Foreign Affairs <<http://www.mofa.gov.tw/webapp/content.asp?cultem=38077&ctNode=1036&mp=6>>.

52. Hasjim DJALAL, “Conflicting Territorial and Jurisdictional Claims in South China Sea” (1979) 7(1) *The Indonesian Quarterly* 36 at 41–2.

53. Robert W. SMITH, “Maritime Delimitation in the South China Sea: Potentiality and Challenges” (2010) 41 *Ocean Development and International Law* 214 at 224. See also GAO Zhiguo, “The South China Sea: From Conflict to Cooperation?” (1994) 25 *Ocean Development and International Law* 345 at 346: “careful study of Chinese documents reveals that China never has claimed the entire water column of the South China Sea, but only the islands and their surrounding waters within the lines.” See also the statement of Wang Xiguang, who assisted the Geography Department of the Ministry of Internal Affairs in compiling maps in the 1940s and used the same technique, but arrived at a different outcome: “the dotted national boundary line was drawn as the median line between China and the adjacent states”, in XU Sen’an, “The Connotation of the 9-Dotted Line on the Chinese Map of the South China Sea” in ZHONG Tianxiang, ed., *Paper Selections of the Seminar on “The South China Sea in the 21st Century: Problems and Perspective”* (Hainan Research Center of the South China Sea, 2000) at 80 (in Chinese), translated in Li and Li, *supra* note 4 at 290.

54. Dzurek, *supra* note 3 at 11.

55. For a book-length treatment of these issues, see Monique CHEMILLIER-GENDREAU, *Sovereignty over the Paracel and Spratly Islands* (The Hague: Kluwer Law International, 2000).

In *Burkina Faso/Mali*, the International Court of Justice (ICJ) provided its “definitive”⁵⁶ explanation of the evidentiary value of cartographic evidence:

[M]aps merely constitute information which varies in accuracy from case to case; of themselves, and by virtue solely of their existence, they cannot constitute a territorial title, that is, a document endowed by international law with intrinsic legal force for the purpose of establishing territorial rights. Of course, in some cases maps may acquire such legal force, but where this is so the legal force does not arise solely from their intrinsic merits: it is because such maps fall into the category of physical expressions of the will of the State or States concerned. This is the case, for example, when maps are annexed to an official text of which they form an integral part. Except in this clearly defined case, maps are only extrinsic evidence of varying reliability or unreliability which may be used, along with other evidence of a circumstantial kind, to establish or reconstitute the real facts.⁵⁷

This *obiter dictum* has been approvingly cited in a host of contentious cases.⁵⁸ Some have read this passage as a “categorical” refutation of the concept of cartographic title.⁵⁹ In any event, the small window⁶⁰ the Court seems to leave open (“maps ... annexed to an official text of which they form an integral part”) refers to instruments such as treaties⁶¹ and is thus not applicable *in casu*.

2. *Interpretation 2: The U-line is the boundary line of the exclusive economic zone (EEZ) generated from South China Sea islands*

A number of Chinese scholars seem to support this theory, although their reasoning is somewhat dissimilar and often linked to the historic rights/waters thesis. Zhao Lihai notes:

[T]he nine-dotted line indicates clearly Chinese territory and sovereignty of the four islands in the South China Sea and confirm China’s maritime boundary of the South China Sea Islands that have been included in Chinese domain at least since the 15th century. All the islands and their adjacent waters within the boundary line should be under the jurisdiction and control of China.⁶²

56. Anna RIDDELL and Brendan PLANT, *Evidence Before the International Court of Justice* (London: British Institute of International and Comparative Law, 2009) at 31.

57. *Frontier Dispute (Burkina Faso/Republic of Mali)*, [1986] I.C.J. Rep. 554 at 582, para. 54.

58. *Kasikili/Sedudu Island (Botswana/Namibia)*, [1999] I.C.J. Rep. 1045 at 1098, para. 84, stating: “[t]he Court will begin by recalling what the Chamber dealing with the *Frontier Dispute (Burkina Faso/Republic of Mali)* case had to say on the evidentiary value of maps”; *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, [2007] I.C.J. Rep. 659 at 723, para. 215, stating: “[t]he Court reaffirms the position it has previously taken regarding the extremely limited scope of maps as a source of sovereign title”; *Frontier Dispute (Benin/Niger)*, [2005] I.C.J. Rep. 90 at 119–20, para. 44, stating: “[t]his principle [as described in *Frontier Dispute (Burkina Faso/Republic of Mali)*] will also guide the Chamber in its assessment of the maps relied on by the Parties in the present case”; *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, [2002] I.C.J. Rep. 625 at 667, para. 88; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, Separate Opinion of Judge Kooijmans, [2001] I.C.J. Rep. 225 at 242, para. 68.

59. Patrick DAILLIER, Mathias FORTEAU, and Alain PELLET, *Droit international public*, 8th ed. (Paris: L.G.D.J., 2009) at 524, para. 301.

60. For a treatment of this limited possibility, see Maurice KAMTO, “Le matériau cartographique dans les contentieux frontaliers et territoriaux internationaux” in Emile YAKPO and Tahar BOUMEDRA, eds., *Liber Amicorum Judge Mohammed Bedjaoui* (The Hague: Kluwer, 1999) at 371–98.

61. Riddell and Plant, *supra* note 56 at 266.

62. ZHAO Lihai, *Studies on the Law of Sea* (Beijing: Beijing University Press, 1996) at 37 (in Chinese), translated in Li and Li, *supra* note 4 at 291.

Jiao Yongke alleges:

The water areas within China's Southern Sea boundary line constitute water areas over which China has a historic proprietary title, they constitute China's specific exclusive economic zone, or historic exclusive economic zone, hence it ought to have the same status as the EEZ under UNCLOS [United Nations Convention on the Law of the Sea] provisions.⁶³

Finally, Zou Keyuan believes that the PRC has asserted a historic claim but that this claim is "equivalent to the legal status of EEZ or continental shelf".⁶⁴

This second explanation of the intermittent dashes is entirely contingent upon the first. It follows from the principle "the land dominates the sea" that this approach is necessarily premised on Chinese sovereignty over the maritime features in the South China Sea.⁶⁵ Proponents of this thesis see the U-line as a *maritime* boundary connecting the limits of the EEZ or continental shelf that originate from the islands. A variety of questions arise. A first thorny problem relates to the delimitation of such sea areas. After all, a coastal state cannot simply impose its delimitation upon others states in a unilateral fashion. The validity of such an action will depend upon compliance with international legal norms.⁶⁶

Furthermore, are the maritime features even able to generate maritime zones (irrespective of who the rightful owner is)? All will depend on whether the insular features qualify as islands in the juridical sense. The 1982 Convention⁶⁷ contains a provision to this end, Article 121, which states the following:

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.
3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.⁶⁸

63. JIAO Yongke, "There Exists No Question of Redelimiting Boundaries in the Southern Sea" (2000) 17 *Ocean Development and Management* at 52 (in Chinese), translated in Michael STRUPP, "Maritime and Insular Claims of the PRC in the South China Sea under International Law" (2004) 11 *Zeitschrift für chinesisches Recht* 1 at 16.

64. Zou, *supra* note 33 at 160.

65. *Grisbadarna Case (Norway v. Sweden)*, Decision of 23 October 1909, [1910] 4 *American Journal of International Law* 226 at 231, stating that: "the maritime territory is an essential appurtenance of land territory" (translation from the original French, [2006] XI Reports of International Arbitral Awards 159); *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*, [1969] I.C.J. Rep. 3 at 51, para. 96: "In both instances [contiguous zone and continental shelf] the principle is applied that the land dominates the sea". For further elaboration and instances of this principle, see Abou-el-Wafa, *supra* note 37 at 88–90.

66. *Fisheries Case (United Kingdom v. Norway)*, [1951] I.C.J. Rep. 116 at 132.

67. UNCLOS, *supra* note 12, has been ratified by all interested parties in the South China Sea dispute with the exception of Taiwan (Vietnam: 25 July 1994, PRC: 7 June 1996, Philippines: 8 May 1984, Malaysia: 14 October 1996, Brunei: 5 November 1996, Myanmar: 21 May 1996, and Thailand: 15 May 2011), online: UN <http://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm>.

68. *Ibid.*

Land surfaces in the South China Sea will therefore generate the additional EEZ (and continental shelf) only if they meet the stringent requirements set out above.⁶⁹ It so happens that the insular quality of a range of maritime features in the South China Sea have been called into question. Oude Elferink cautiously finds that “at least some of the islands in the South China Sea have an EEZ and continental shelf. Other insular formations can almost certainly be considered to fall under the sway of Article 121(3) [rocks].”⁷⁰ If it turns out that these land surfaces are not islands, (at least part of) the EEZ or continental-shelf interpretation of the U-line is without legal merit.

In this respect, it is worthwhile briefly mentioning the steps recently undertaken by the PRC on the international level in favour of the Common Heritage of Mankind by trying to protect the Area against the unjustified encroachment of certain states.⁷¹ In essence, these interventions were aimed against Japan’s submission to the CLCS based on Okinotorishima in the Pacific Ocean.⁷² But this action immediately backfired with respect to the South China Sea, where Indonesia questioned the Chinese 9-dotted-line exactly on the basis of the representations made by this country before the 2009 meeting of State Parties as well as the International Seabed Authority, namely, that rocks which cannot sustain human habitation or economic life of their own do not generate an EEZ or a continental shelf.⁷³

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69. For a novel approach considerably limiting the applicability of the Article 121(3) exception to maritime delimitation, see Bernard H. OXMAN, “On Rocks and Maritime Delimitation” in Mahnoush H. ARSANJANI, Jacob Katz COGAN, Robert D. SLOANE, and Siegfried WIESSNER, eds., *Looking to the Future: Essays on International Law in Honor of W. Michael Reisman* (Leiden/Boston: Martinus Nijhoff, 2011), 893. Following the author’s reasoning, contentions relating to the precise meaning of human habitation and economic life would be less important, because in the delimitation phase smaller islands often play a minor role.
70. Alex G. Oude ELFERINK, “The Islands in the South China Sea: How Does Their Presence Limit the Extent of the High Seas and the Area and the Maritime Zones of the Mainland Coasts?” (2001) 32 *Ocean Development and International Law* 169 at 182. See also Marius GJETNES, “The Spratlys: Are They Rocks or Islands?” (2001) 32 *Ocean Development and International Law* 191 at 199–201; Barry Hart DUBNER, “The Spratly ‘Rocks’ Dispute: A ‘Rockapelo’ Defies Norms of International Law” (1995) 9 *Temple International and Comparative Law Journal* 291 at 299–306.
71. It concerns actions undertaken by China for the inclusion of additional agenda items at the 2009 Meeting of the States Parties to UNCLOS and the 15th Session of the International Seabed Authority (ISA) later that year. See Erik FRANCKX, “The International Seabed Authority and the Common Heritage of Mankind: The Need for States to Establish the Outer Limits of Their Continental Shelf” (2010) 25 *International Journal of Marine and Coastal Law* 543 at 563–4. Such attempts were repeated at the time of the 2011 Meeting of States Parties to UNCLOS but not at the 17th meeting of ISA held about one month later.
72. As clearly indicated by the title of the presentation of Professor Jia Yu, made during an ISA briefing session in 2009. Even though this contribution was entitled “Safeguarding the Common Heritage of Mankind” in the ISA Press Release (ISA, “Press Release SB/15/10” (June 2009) at 3, online: ISA <<http://www.isa.org.jm/files/documents/EN/Press/Press09/SB-15-10.pdf>>), the slides distributed at the time of that briefing session had a much more concrete title, namely “The Rock of Oki-no-Tori Shall Have No EEZ and Continental Shelf”. See also Ted McDORMAN, “The South China Sea after 2009: Clarity of Claims and Enhanced Prospects for Regional Cooperation?” (2010) 24 *Ocean Yearbook* 507 at 514–15. For more details and later actions by the parties in this respect, see Yann-Huei SONG, “The Application of Article 121 of the Law of the Sea Convention to the Selected Geographical Features Situated in the Pacific Ocean” (2010) 9 *Chinese Journal of International Law* 663 at 671–4.
73. Indonesia, “Letter to the Secretary-General of the United Nations—480/POL-703/VII/10” (8 July 2010), online: UN <http://www.un.org/depts/los/clcs_new/submissions_files/mysvnm33_09/idx_2010re_mys_vnm_e.pdf>. The link between these Chinese interventions and the South China Sea are expressed in this note verbale as follows:

In this connection, the statements of these distinguished representatives of the People’s Republic of China are also relevant to the situation in the South China Sea and thus it is only correct to state that those remote or very small features in the South China Sea do not deserve exclusive

No matter how interesting these developments may be, this imperative, but rather fact-laden and technical, inquiry into the exact legal status according to Article 121(3) of the 1982 Convention of the different South China Sea features exceeds by far the scope of our study.

III. FACTORS WEAKENING THE MAP'S PROBATIVE FORCE

According to a well-documented rule,⁷⁴ the international adjudicator enjoys particularly wide discretion in determining the weight of evidentiary material.⁷⁵ Bearing in mind this principled freedom, we have examined judicial precedents⁷⁶ concerning maps in order to infer factors⁷⁷ that are typically used by a judge or arbitrator to assess the probative force of cartographic evidence. It should be stressed that in doing so, we rely on both maritime and territorial precedents without distinction. While it is true that the principles governing acquisition of maritime spaces and maritime delimitation differ considerably from those underpinning territorial acquisition and delimitation,⁷⁸ this

economic zone or continental shelf of their own. Allowing the use of uninhabited rocks, reefs and atolls isolated from the mainland and in the middle of the high sea as a basepoint to generate maritime space concerns the fundamental principles of the [1982] Convention and encroaches the legitimate interest of the global community. Therefore, as attested by those statements, the so called 'nine-dotted-lines map' ... clearly lacks international legal basis and is tantamount to upset the ... 1982 [Convention].

74. See the ample body of case-law and scholarly opinion cited in Gérard NIYUNGEKO, *La preuve devant les juridictions internationales* (Brussels: Bruylant, 2005) at 322–35, and more recently *Case concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, [2010] I.C.J. Rep. 1 at 52, para. 168.
75. Raphaële RIVIER, “La preuve devant les juridictions interetatiques à vocation universelles (CIJ et TIDM)” in Hélène Ruiz FABRI and Jean-Marc SOREL, eds., *La preuve devant les juridictions internationales* (Paris: Pedone, 2007), 9 at 38–48. More generally, judicial bodies select the facts they deem pertinent in a discretionary manner. See Jean SALMON, “Le fait dans l’application du droit international” (1982) 175 *Collected Courses of the Hague Academy of International Law* 261 at 300. For a critical approach to the freedom of judges with respect to weighing evidence, see Rüdiger WOLFRUM, “Taking and Assessing Evidence in International Adjudication” in Tafsir Malick NDIAYE and Rüdiger WOLFRUM, eds., *Law of the Sea, Environmental Law and Settlement of Disputes: Liber Amicorum Judge Thomas A. Mensah* (Leiden: Martinus Nijhoff, 2007), 341 at 342; Patrick KINSCH, “On the Uncertainties Surrounding the Standard of Proof in Proceedings before International Courts and Tribunals” in Gabriella VENTURINE and Stafania BARIATTI, eds., *Liber Fausto Pocar—Diritti individuali e giustizia internazionale*, vol. 1 (Milan: Giuffrè, 2009), 427 at 438–9; Chittharanjan F. AMERASINGHE, *Evidence in International Litigation* (Leiden: Martinus Nijhoff, 2005) at 232–61.
76. Although there is no doctrine of *stare decisis* in international law, international courts and tribunals will often cite case-law. This is particularly true for the ICJ, which is highly self-referential and will only deviate from its past jurisprudence when substantial reasons are present. See Alan BOYLE and Christine CHINKIN, *The Making of International Law* (Oxford: Oxford University Press, 2007) at 293–9; Gilbert GUILLAUME, “The Use of Precedent by International Judges and Arbitrators” (2011) 2 *Journal of International Dispute Settlement* 5 at 12.
77. *Frontier Dispute*, *supra* note 57 at 582, para. 55, stating: “actual weight to be attributed to maps as evidence depends on a large number of considerations”; *Qatar v. Bahrain*, *supra* note 58, Dissenting Opinion of Judge Torres Bernárdez at 274, para. 37, stating: “[t]he weight of maps as evidence depends on a range of considerations.”
78. See *Case concerning the Delimitation of Maritime Boundary between Guinea-Bissau and Senegal (Guinea-Bissau/Senegal)*, Decision of 31 July 1989, Dissenting Opinion of Mr. Mohammed Bedjaoui, [2006] XX *Reports of International Arbitral Awards* 119 at 166–9, paras. 32–7 (arguing against an automatic transposition of territorial principles to maritime delimitation given “patent” and “irreducible” differences in terms of geography, their relation to populations and States’ rights vis-à-vis these spaces); Lea BRILMAYER and Natalie KLEIN, “Land and Sea: Two Common Sovereignty Regimes in Search of a Common Denominator” (2001) 33 *New York University Journal of International Law and Politics* 703 at 703–4 (noting

substantive question (the applicable legal regime) is separate from the question of evidence (maps). Moreover, doctrine does not seem to make any meaningful distinction between territorial and maritime maps in categorizing evidentiary rules, and the ICJ has cited jurisprudential rules fleshed out in territorial cases when assessing maps submitted by parties engaged in disputes containing a maritime element.⁷⁹

The following factors demonstrate the inherent evidentiary shortcomings of the Chinese 9-dotted-line.

A. Cautious Approach to Cartographic Evidence

As a preliminary observation, it should be pointed out that the general tendency is such that international courts and tribunals refrain from rendering rulings based merely on cartographic findings.⁸⁰ Although accurate maps reflecting the intentions of the parties can indeed constitute “a solid and constant basis for discussion” the absence of which “is an inconvenience much to be regretted”,⁸¹ they will often play a secondary role of corroborating other evidence that points in the same direction.⁸² Returning to the *Burkina Faso/Republic of Mali* decision:

[M]aps can still have no greater legal value than that of corroborative evidence endorsing a conclusion at which a court has arrived by other means unconnected with the maps ...

that key significance is accorded to de facto possession in deciding on the allocation of land territory, whereas maritime disputes are settled pursuant to “equitable” rules); Marcelo G. KOHEN, “*L’uti possidetis iuris* et les espaces maritimes” in Jean-Pierre COT, ed., *Liber amicorum Jean-Pierre Cot: le procès international* (Bruxelles: Bruylant, 2009), 155 at 157–9 (arguing in favour of the applicability of *uti possidetis iuris* to maritime zones yet still stressing that territorial and maritime spaces are subject to distinct legal regimes).

79. See examples of cases involving in part a maritime dispute *supra* note 58 citing a passage from *Frontier Dispute (Burkina Faso/Republic of Mali)* (which is a territorial case).
80. *Island of Palmas Case (Netherlands v. U.S.A.)*, Award of 4 April 1928, [2006] II Reports of International Arbitral Awards 829 at 852–3 stating: “only with the greatest caution can account be taken of maps in deciding a question of sovereignty”, reaffirmed in *Nicaragua v. Honduras*, *supra* note 58 at 58, para. 214; *Territorial Sovereignty and Scope of the Dispute (Eritrea/Yemen)*, Decision of 9 October 1998, [2006] XXII Reports of International Arbitral Awards 209 at 296, para. 388, stating: “[t]he evidence is, as in all cases of maps, to be handled with great delicacy”. For an opposing view calling into question the reluctant approach of international adjudicators vis-à-vis cartographic evidence, see Romulo R. UBAY JR, “Evidence in International Adjudication: Map Evidence in Territorial Sovereignty Dispute Cases” (2011) 1 *Aegean Review of the Law of the Sea and Maritime Law* 287.
81. *Arbitration Between Great Britain and Portugal as Regards Questions Relative to the Delimitation of their Spheres of Influence in East Africa (Manica plateau) (United Kingdom/Portugal)*, Decision of 30 January 1897, [2007] XXVIII Reports of International Arbitral Awards 283 at 298.
82. *Indo-Pakistan Western Boundary (Rann of Kutch) between India and Pakistan (India v. Pakistan)*, Award of 19 February 1968, Proposal of Mr. Nasrollah Entezam, [2006] XVII Reports of International Arbitral Awards 1 at 505, stating: “[m]aps are only secondary evidence. Only such maps are primary evidence as are prepared by the surveyor on the spot by observation. Even they are primary evidence only of what a surveyor can himself observe”; *Qatar v. Bahrain*, *supra* note 58, Dissenting Opinion of Judge Torres Bernárdez at 274, para. 37, stating: “[i]n general, the value as evidence attached to them by international courts and tribunals is corroborative or confirmatory of conclusions arrived at by other means unconnected with the maps, because the maps as such are not a legal title”; *Island of Palmas*, *supra* note 80 at 853–4, stating: “[a]nyhow, a map affords only an indication—and that a very indirect one—and, except when annexed to a legal instrument, has not the value of such an instrument, involving recognition or abandonment of rights”; *ibid.*, at 853:

If the Arbitrator is satisfied as to the existence of legally relevant facts which contradict the statements of cartographers whose sources of information are not known, he can attach no weight to the maps, however numerous and generally appreciated they may be.

except when the maps are in the category of a physical expression of the will of the State, they cannot in themselves alone be treated as evidence of a frontier, since in that event they would form an irrebuttable presumption, tantamount in fact to legal title. The only value they possess is as evidence of an auxiliary or confirmatory kind, and this also means that they cannot be given the character of a rebuttable or *juris tantum* presumption such as to effect a reversal of the onus of proof.⁸³

This wary stance has been detected and documented in authoritative scholarly opinion,⁸⁴ and in certain instances has been met with considerable approval.⁸⁵

B. *Incompatible Maps*

Setting the facts straight is strenuous when presented with mutually contradictory assertions.⁸⁶ Quite similarly, when cartographic materials contradict one another, they lose credibility.⁸⁷ As stated by the ICJ in the *Kasikili/Sedudu* case: “in the light of the uncertainty and inconsistency of the cartographic material submitted to it, the Court considers itself unable to draw conclusions from the map evidence produced in this case.”⁸⁸

83. *Frontier Dispute*, *supra* note 57 at 583, para. 56. See also *The Government of Sudan/The Sudan People's Liberation Movement/Army (Abyei Arbitration)*, Final Award of 22 July 2009, online: PCA <<http://www.pca-cpa.org>> at 256, para. 741:

The Tribunal is similarly very reluctant to equate the eastern and western limits of the area occupied by the Ngok Dinka transferred in 1905 with the 1933 pencil depiction of Ngok Dinka's dry season grazing area on a sketch map, especially when more comprehensive and specific evidence is available.

84. Sakeus AKWEENDA, “The Legal Significance of Maps in Boundary Questions: A Reappraisal with Particular Emphasis on Namibia” (1990) 60 *British Yearbook of International Law* 205 at 212; A.O. CUKWURAH, *The Settlement of Boundary Disputes in International Law* (Manchester: Manchester University Press, 1967) at 224–5; Hyde, *supra* note 27 at 313–15; Victor PRESCOTT and Gillian D. TRIGGS, *International Frontiers and Boundaries: Law, Politics and Geography* (Leiden: Nijhoff, 2008) at 194–5; Durward V. SANDIFER, *Evidence before International Tribunals*, 2nd ed. (Charlottesville: University Press of Virginia, 1975) at 235; Guenter WEISSBERG, “Maps as Evidence in International Boundary Disputes: A Reappraisal”, (1963) 57 *American Journal of International Law* 781 at 781.
85. E.g., Ian BROWNLIE, *The Rule of Law in International Affairs: International Law at the Fiftieth Anniversary of the United Nations* (The Hague: Martinus Nijhoff, 1998) at 156.
86. Manfred LACHS, “La preuve et la Cour internationale de Justice” in Chaïm PERELMAN and Paul FORIERS, eds., *La preuve en droit* (Brussels: Bruylant, 1981), 109 at 109.
87. The level of concordance among maps need not always be absolute, but it does have to be general. Abou-el-Wafa, *supra* note 37 at 432–4.
88. *Kasikili/Sedudu Island*, *supra* note 58 at 1100, para. 87; see also *Dubai/Sharjah Border Arbitration (Dubai v. Sharjah)*, Award of 19 October 1981, [1993] 91 *International Law Reports* 543 at 630, para. 168:

In the view of the Court it is necessary to set aside both of the maps prepared by Mr Walker, in so far as the location of Hadlib Azana is concerned, since, although prepared by the same person, they are mutually contradictory on the general line of boundary in this area. It is futile to speculate further on the possible reasons for such a contradiction.

Eritrea/Yemen Arbitration, *supra* note 80 at 296, para. 388:

The evidence for this period is beset with contradictions and uncertainties. Each Party has demonstrated inconsistency in its official maps. The general trend is, however, that Yemeni map evidence is superior in scope and volume to that of Eritrea. However, such weight as can be attached to map evidence in favour of one Party is balanced by the fact that each Party has published maps that appear to run counter to its assertions in these proceedings.

Maps showing the 9-dotted-line paint a picture of the South China Sea different from cartographic evidence and other materials of the regional littoral states. It would be hard to gain an accurate understanding of maritime and political boundaries based solely on a juxtaposition of these maps. Additionally, portrayals of the U-line are not consistent. As mentioned above, the U-line in PRC cartography prior to 1953 normally consists of eleven dashes,⁸⁹ whereas later versions of the dotted line consist only of nine segments. A recent electronic map placed online by the Chinese State Bureau of Surveying and Mapping on 21 October 2010 again adds one more segment to the North between Taiwan and the Ryukyu group, of which Yonaguni Island is the most western island, all belonging to Japan.⁹⁰ No reasons have been given for the mysterious removal of two dashes in the past or the new tenth segment added recently.⁹¹

C. Incoherent/Ambiguous Cartographic Symbols

Ambiguous cartography has surfaced in arbitral proceedings in the past. In the *Eritrea/Yemen Arbitration*, Eritrea had submitted maps depicting a dotted line in support of their claims. The Tribunal made short shrift of the party's evidentiary approach:

In some instances the Tribunal cannot agree with the characterization of the maps sought by the Party introducing it. Moreover, the Tribunal is unwilling, without specific direction from the map itself, to attribute meaning to dotted lines rather than to colouration or to labelling. The conclusions on this basis urged by Eritrea in relation to a number of its maps are not accepted.⁹²

Naturally, the analogy of this case to the U-line, the lack of a map legend, and cryptic wording contained in the PRC's letter to the UN Secretary-General is readily made. The perplexity is all the greater because the depiction of the 9-dotted-line deviates from international cartographic standards developed by the International

Delimitation of the Border Between the State of Eritrea and the Federal Democratic Republic of Ethiopia (Eritrea-Ethiopia Boundary Commission), Decision of 1 January 2002, [2002] 41 International Legal Materials 1057 at 1089, para. 4.67:

The map evidence is not uniform and consistent. Much of it supports the existence of a Belesa projection and attributes the territory within it to Eritrea. There are, however, significant maps which do not do so, or do so only in part.

89. But see *Separate World's Geography* (Chinese Ya Guang Geographic Publisher, 1951) at 18 (Map of Republic of Indonesia), where only about half of the lines are represented [1951 *Chinese Map*].
90. See Chinese State Bureau of Surveying and Mapping, Map World, online: Map World <<http://www.chinaonmap.cn>>. This map is partially reproduced in Appendix II at the end of this article.
91. It would therefore seem technically more correct to speak of a dotted line with a varied number of segments, as for instance the 11/9/10-dotted-line. However, since the 9-dotted-line is the only one so far relied upon by China on the international level to clarify its position in a state-to-state dispute, the present contribution will normally use the notion "9-dotted-line", unless the varying number of dotted lines seems to have legal implications.
92. *Eritrea/Yemen Arbitration*, *supra* note 80 at 295, para. 382.

Hydrographic Organization precisely for the purpose of clarity.⁹³ China, it should be remembered, is a member of this international organization.⁹⁴

D. Unclear Intent

As rightly pointed out by Judge Oda in his separate opinion in *Kasikili/Sedudu*, “a claim to territory can only be made with the *clear indication of a government’s intention*, which may be reflected in maps. A map on its own, with no other supporting evidence, cannot justify a political claim” (emphasis added).⁹⁵ *In casu*, the criterion of discernible intent on the part of the PRC government is not adequately fulfilled. The variety of interpretations of the U-line offered by legal scholars as well as the PRC’s ambiguous note verbale *de dato* 7 May 2009 bear witness to this conclusion. Besides confusing sentence structures, terms employed in the note verbale, namely “relevant waters” and “adjacent waters”, are particularly puzzling as they do not appear anywhere in UNCLOS. The ostensibly deliberate vagueness is exacerbated, for the PRC has yet to pass legislation giving the U-line any effect in its domestic legal order.⁹⁶

Even if one could unearth the PRC’s intention behind the map, the legal implications thereof should not be overestimated. Turning back to Judge Oda’s aforementioned writings:

A map produced by a relevant government body may sometimes indicate the government’s position concerning the territoriality or sovereignty of a particular area or island. However, that fact alone is not determinative of the legal status of the area or island in question. The boundary line on such maps may be interpreted as representing the maximum claim of the country concerned, but does not necessarily justify that claim.⁹⁷

E. Lack of Neutrality

When a map is drawn up by an impartial expert, its probative value tends to increase.⁹⁸ *A contrario*, cartographic materials produced at the behest of one of the parties in a

93. The dashes used to draw the Chinese U-line do not match chart specifications developed by the International Hydrographic Organization for indicating international maritime boundaries, the territorial sea, the contiguous zone, the EEZ, the continental shelf, fishery zones, etc. See International Hydrographic Organization, *Regulations of the IHO for International (INT) Charts and Chart Specifications of the IHO*, 4th ed. (Monaco: International Hydrographic Bureau, 2010) at B-440, C-407 (International Boundaries and National Limits), online: IHO <http://www.iho-ohi.net/iho_pubs/standard/S-4/S4_v4.000_Sep10.pdf>. This type of argument was advanced by Ukraine against Romania in the *Black Sea* case. See *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Counter-memorial of Ukraine, 19 May 2006 at 123–5.

94. International Hydrographic Organization Membership, online: IHO <<http://www.iho-ohi.net/english/home/about-the-iho/about-iho-member-states/ms-information.html>>.

95. *Kasikili/Sedudu Island*, *supra* note 58, Separate Opinion of Judge Oda at 1133–4, para. 40. See also *Frontier Dispute*, *supra* note 57 at 583, para. 57, stating: “[t]he Chamber now turns to the maps produced in this case. Not a single map available to the Chamber can reliably be said to reflect the intentions of the colonial administration expressed in the relevant texts concerning the disputed frontier.” See also Abou-el-Wafa, *supra* note 37 at 425–6.

96. Smith, *supra* note 53 at 224.

97. *Kasikili/Sedudu Island*, *supra* note 58, Separate Opinion of Judge Oda at 1133–4, para. 40.

98. It must be made clear though that even in such a scenario, the confection of maps is not a “value-neutral” scientific undertaking. Unintentional distortions can seep into the process as a result of the

dispute will be viewed with more suspicion, and thus reliance on such a document should be the exception not the rule.⁹⁹ The arbitrators in the *Beagle Channel Arbitration* commented along these lines:

While maps coming from sources other than those of the Parties are not on that account to be regarded as necessarily more correct or more objective, they have, *prima facie*, an independent status which can give them great value unless they are mere reproductions of—or based on originals derived from—maps produced by one of the Parties, or else are being published in the country concerned by, or on behalf, or at the request of a Party, or are obviously politically motivated. But where their independent status is not open to doubt on one or other of these grounds, they are significant relative to a given territorial settlement where they reveal the existence of a general understanding in a certain sense, as to what that settlement is, or, where they conflict, the lack of any such general understanding.¹⁰⁰

The lack of neutrality is patently evident with respect to the 9-dotted-line. As discussed in section II-A, the history of the U-line can be traced back to an internal commission established by the ROC government to update the Chinese map and reassert its position. Such a unilaterally appointed and staffed governmental body can hardly be deemed impartial vis-à-vis other interested states in the South China Sea region. It should not be forgotten that conscientious map-makers can be used for deceitful purposes:

[A] map-maker ... may be employed to reveal what a particular State such as his own asserts to be the full measure of its territorial domain, regardless of the propriety of the assertion and without intimation that the portrayal depicts the scope of a claim rather than the position of an accepted boundary. Through subsequent copying and reproduction by unsuspecting cartographers not only are these erroneous accounts perpetuated but the very fact of repetition tends to endow them with legal sanction by producing a large number of maps unanimous in their testimony.¹⁰¹

F. *Technical Imprecision*

In his treatment of the evidentiary value of maps, De Visscher included the following criteria: “les garanties d’exactitude géographique intrinsèques de la carte ... sa

cartographer’s biases and social context. Jordan BRANCH, “Mapping the Sovereign State: Technology, Authority, and Systemic Change” (2011) 65 *International Organization* 1 at 7.

99. Unless such a map actually runs counter to its position. See e.g., *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, [2008] I.C.J. Rep. 12 at 95, para. 272. Abou-el-Wafa, *supra* note 37 at 460–2.

100. *Beagle Channel Arbitration (Argentina v. Chile)*, Decision of 18 February 1977, [2006] XXI Reports of International Arbitral Awards 53 at 167, para. 142. See also *Frontier Dispute*, *supra* note 57 at 583, para. 56, stating that: “[o]ther considerations which determine the weight of maps as evidence relate to the neutrality of their sources towards the dispute in question and the parties to that dispute.”

101. Cukwurah, *supra* note 84 at 224. See also Hyde, *supra* note 27 at 315:

[T]he aggressive territorial aspirations of a state may, in the course of a span of years, be reflected in a progressive series of maps that grimly depict the actual and gradual advance; and the later portrayals may thus differ sharply from the earlier ones, even though no treaty has in fact extended limits or modified a frontier.

précision au regard des points contestés”.¹⁰² According to Brownlie, “a map has probative value proportionate to its technical qualities”.¹⁰³

Case-law also points to the requirement of technical precision in maps.¹⁰⁴ In the *Island of Palmas* case, sole arbitrator Max Huber wrote that: “[t]he first condition required of maps that are to serve as evidence on points of law is their geographical accuracy.”¹⁰⁵

The ICJ opined that:

The actual weight to be attributed to maps as evidence depends on a range of considerations. Some of these relate to the technical reliability of the maps. This has considerably increased, owing particularly to the progress achieved by aerial and satellite photography since the 1950s. But the only result is a more faithful rendering of nature by the map, and an increasingly accurate match between the two. Information derived from human intervention, such as the names of places and of geographical features (the toponymy) and the depiction of frontiers and other political boundaries, does not thereby become more reliable. Of course, the reliability of the toponymic information has also increased, although to a lesser degree, owing to verification on the ground; but in the opinion of cartographers, errors are still common in the representation of frontiers, especially when these are shown in border areas to which access is difficult.¹⁰⁶

In the light of these views, the advent of modern technology could increase judges’ recourse to map evidence. An excellent case in point is the ICJ’s 2004 advisory opinion on the *Israeli Wall* in which it relied (in part) on an electronic map posted on the Israeli Ministry of Defence website to pinpoint the current and future route of the wall in Palestinian territories.¹⁰⁷ Conversely, it does not seem that the Chinese map can meet stringent technical standards. Although the Chinese interrupted line generally follows the 200-metre isobath, it has so far never been precisely demarcated,

102. Charles DE VISSCHER, *Problèmes de confins en droit international public* (Paris: Pedone, 1969) at 46. See also Joseph Charles WITENBERG, “La théorie des preuves devant les juridictions internationales” (1936) 56 *Collected Courses of the Hague Academy of International Law* 1 at 66: “la valeur scientifique de la méthode ayant présidé à leur établissement”; Abou-el-Wafa, *supra* note 37 at 431.

103. Ian BROWNLIE, *African Boundaries: A Legal and Diplomatic Encyclopaedia* (London: Royal Institute of International Affairs, 1979) at 5.

104. Cukwurah, *supra* note 84 at 217–20.

105. *Island of Palmas*, *supra* note 80 at 853. Cited in *Dubai/Sharjah Border Arbitration*, *supra* note 88 at 630, para. 168. See also *Delimitation Between Eritrea and Ethiopia*, *supra* note 88 at 1075, para. 3.19, stating: “[t]he Commission is also aware that maps, however informative they may appear to be, are not necessarily accurate or objective representations of the realities on the ground.”

106. *Frontier Dispute*, *supra* note 57 at 582–3, para. 55. See also *Beagle Channel*, *supra* note 100 at 174, para. 154, stating: “[t]he Court is obliged to conclude therefore that the Pelliza map is of too uncertain a character to have the requisite probative value”; *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)*, Order of 18 July 2011, Dissenting Opinion of Judge *ad hoc* Cot, [2011] I.C.J. Rep. 1 at 4, para. 21–2 (declaring the Court’s decision to define a provisional demilitarized zone “imprudent” in light of cartographic material he deems limited and insufficiently reliable from a technical standpoint).

107. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, [2004] I.C.J. Rep. 136 at 168, para. 80. On the ICJ’s acceptance of satellite imagery in contentious cases, see Jana K. HETTLING, “The Use of Remote Sensing Satellites for Verification in International Law” (2003) 19 *Space Policy* 33 at 38, further elaborated by the same author in *Satellite Imagery for Verification and Enforcement of Public International Law* (Cologne: Heymann, 2008) at 157–65.

thus lacking accurate geographical co-ordinates.¹⁰⁸ In addition, there seems to be some slight inconsistency among PRC maritime cartographic materials: the endpoints of the different segments that make up the line vary (variations have been found ranging from 1 to 5 nm).¹⁰⁹ But even the location of the segments themselves is sometimes clearly at variance with those found on the Annex I map.¹¹⁰ Moreover, because it concerns lines at sea, satellite imagery will not be very helpful either.

An additional element contributing to the inaccuracy of the Chinese map is its excessively small scale. The ICJ has lamented maps drawn to an insufficient scale. A prime illustration can be found in *Land, Island and Maritime Frontier Dispute*:

Honduras has produced a second map, of 1804, showing the location of the ecclesiastical parishes of the province of San Miguel in the Archdiocese of Guatemala. The scale of this map is however insufficient to make it possible to determine whether the course of the last section of the river Goascoran is that asserted by El Salvador, or that asserted by Honduras.¹¹¹

Similar problems have been presented before arbitral tribunals. For instance, the *Eritrea-Ethiopia Boundary Commission* held: “[m]oreover, much of the map evidence is on so small a scale, or so devoid of detail, that it can only be treated as ambiguous in this respect.”¹¹²

108. Dzurek, *supra* note 3 at 12; Zou, *supra* note 5 at 51.

109. Dzurek, *supra* note 3 at 11.

110. See for instance 1951 *Chinese Map*, *supra* note 89. Not only are a good number of segments simply missing (*ibid.*) but the location of those represented on that map of scale 1:23,500,000 are clearly at variance with those to be found in Annex I: the first three segments are clearly discernable, but the first is located more in a north-western, the second in a south-western, and the third in a northern direction when compared to the Annex I map.

111. *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua Intervening)*, [1992] I.C.J. Rep. 350 at 550, para. 315. See also *Kasikili/Sedudu Island*, *supra* note 58, Dissenting Opinion of Vice-President Weeramantry at 1176, para. 73:

Maps can of course carry varying degrees of weight depending on their authorship and the circumstances in which they were made. Moreover, the scale of the maps is often so small as not to show clearly the particular area which is the subject of the dispute, while other maps which are sufficiently large can indicate the area of dispute in sufficient detail.

112. *Delimitation Between Eritrea and Ethiopia*, *supra* note 88 at 1089, para. 4.67. Earlier on in that case (at 1076, para. 3.21), the Commission also stated: “[a] map ... on so small a scale that its import becomes a matter for speculation rather than precise observation, is unlikely to have great legal or evidentiary value.” See also *Case Concerning the Location of Boundary Markers in Taba (Egypt/Israel)*, Decision of 29 September 1988, [2006] XX Reports of International Arbitral Awards 1 at 48, para. 184:

The Tribunal does not consider these map-based indications to be conclusive since the scale of the map (1:100,000) is too small to demonstrate a location on the ground as exactly as required in these instances where the distances between disputed pillar locations are sometimes only of a few metres.

Dispute Concerning the Course of the Frontier Between BP 62 and Mount Fitzroy (“Laguna del Desierto”) (Argentina/Chile), Resolution of 13 October 1995, [1999] 113 International Law Reports 1 at 224:

In the first place, some observations are called for as regard the maps of scale 1:10,000 submitted by Chile. These maps drawn to a scale considerably greater than that of the Map of the Mixed Boundary Commission or of those attached to the Chilean Submission of 31 January 1995 claim to provide a more accurate representation of the true topography of the ground.

Finally, it is to be noted that the Chinese map does not contain any indication of the datum (i.e. a reference employed in geodesy for measurement) used, which seems to be a crucial element in evaluating the technical precision of any maritime boundary.¹¹³

IV. NON-OPPOSABILITY OF THE MAP VIS-À-VIS OTHER REGIONAL STATES

A. *Applicable Standard*

Even if one accepts that the 9-dotted-line is an erroneous portrayal of reality, that does not mean that it can be cast aside forthwith. This point was elucidated in the *Beagle Channel* case:

the importance of a map might not lie in the map itself, which theoretically might even be inaccurate, but in the attitude towards it manifested—or action in respect of it taken—by the Party concerned or its official representatives.¹¹⁴

The judges in *Temple of Preah Vihear* had a more pronounced take, sending a clear warning signal as to the potential effects of inadvertence in the face of cartographic assertiveness:

[I]t is clear that circumstances were such as called for some reaction, within a reasonable period, on the part of the Siamese authorities, if they wished to disagree with the map or had any serious question to raise in regard to it. They did not do so, either then or for many years, and thereby must be held to have acquiesced. *Qui tacet consentire videtur si loqui debuisset ac potuisset.*¹¹⁵

Another instance of the linkage between maps and acquiescence was restated more recently by the *Eritrea-Ethiopia Boundary Commission*: “[a] map *per se* may have little legal weight: but if the map is cartographically satisfactory in relevant respects, it may, as the material basis for, e.g., acquiescent behaviour, be of great legal significance.”¹¹⁶

113. Maurice KAMTO, “Sur quelques questions techniques liées à la détermination du tracé d’une frontière maritime délimitée” in Rafael CASADO RAIGON and Giuseppe CATALDI, eds., *L’évolution et l’état actuel du droit international de la mer. Mélanges de droit de la mer offerts à Daniel Vignes* (Brussels: Bruylant, 2009), 481 at 493–6, who gives a detailed account of the serious difficulties later encountered by Cameroon and Nigeria because of the fact that the ICJ had relied in its judgment on a British Admiralty Chart which did not contain any indication of the datum used.

114. *Beagle Channel*, *supra* note 100 at 164, para. 137. See also John G. MERRILLS, “The International Court of Justice and the Adjudication of Territorial and Boundary Disputes” (2000) 13 *Leiden Journal of International Law* 873 at 875, stating: “[o]n boundary and territorial issues maps are capable of providing evidence of both the situation on the ground and the attitude of the States concerned towards it”; Henry DARWIN, “Judicial Settlement” in Evan LUARD, ed., *The International Regulation of Frontier Disputes* (London: Thames & Hudson, 1970), 198 at 207–8.

115. *Temple of Preah Vihear (Cambodia v. Thailand)*, [1962] I.C.J. Reports 6 at 23.

116. *Delimitation Between Eritrea and Ethiopia*, *supra* note 88 at 1075–6, para. 3.22. The Commission similarly observes (at 1076, para. 3.21):

But a map produced by an official government agency of a party, on a scale sufficient to enable its portrayal of the disputed boundary area to be identifiable, which is generally available for

Of course, the fact patterns underlying the above-mentioned cases are wholly different from that with which we are faced, making it debatable whether the precedents could even apply here. *In casu* we are dealing with a purported maritime boundary, the establishment of which is, in the words of the ICJ, “a matter of grave importance and agreement is not easily to be presumed”.¹¹⁷ Furthermore, as observed by Strupp:

[T]his strange U-shape claim was so abnormal and so exorbitantly outside reality during the decades 30 to 60 that it is not conceivable that by way of “acquiescence with regard to map claims” a (tacit) recognition by the foreign states community of those “extremely irregular” pretensions, by application of rule *qui tacet consentire videtur si loqui debuisset ac potuisset* or else, could seriously come under examination.¹¹⁸

Strupp also observes that:

In the utterly eccentric “moon claim”-like circumstances of the SCS [South China Sea] “U-shaped line” [there] evidently exists no rational basis at all for such enormously high degree of “hyper-sensitivity” on behalf of states confronted with adverse map claims in terms of “acquiescence”.¹¹⁹

It would, however, be prudent to adopt an intermediate approach. Having examined a large body of state practice, Blum, in his influential work on historic titles, comes to the following conclusion:

[R]ecent instances of protests lodged against “map claims” seem to indicate that States do, in fact, “keep a vigilant watch over the maps published by the civilized nations” ... On the whole, it seems to emerge that States will be imputed with knowledge of each other’s domestic legislative activities and other acts done under their authority, and that the plea of ignorance will be accepted only in the most exceptional circumstances. States desirous of reserving their rights will therefore be well advised to follow with a substantial amount of self-interested awareness the official acts of other States and to raise an objection to them—through the legitimate means recognized by international law—should they feel that their rights have been affected, or are likely to be affected, by such acts.¹²⁰

B. Protest/Lack of Acquiescence

Assuming that the prospect of implied acquiescence looms large, coastal states are required to express their disapproval of the Chinese U-line policy and its underlying contentions. Some Chinese scholars have alleged that the international community

purchase or examination, whether in the country of origin or elsewhere, and acted upon, or not reacted to, by the adversely affected party, can be expected to have significant legal consequences.

117. *Nicaragua v. Honduras*, *supra* note 58 at 735, para. 253.

118. Strupp, *supra* note 63 at 17.

119. *Ibid.*, at 17, note 98.

120. Yehuda Z. BLUM, *Historic Titles in International Law* (The Hague: Nijhoff, 1965) at 150.

has not voiced its dissent so as to prevent the solidification of Chinese pretensions in the South China Sea:

Upon the declaration of the nine-dotted line, the international community at no time expressed dissent. None of the adjacent states presented a diplomatic protest. This silence in the face of a public declaration may be said to amount to acquiescence, and it can be asserted that the dotted line has been recognized for half a century. In recent years, however, several Southeast Asian countries, which have been involved in sovereignty disputes of the South China Sea, have questioned the juridical status of the nine-dotted line.¹²¹

Zhao Guocai maintains: “[s]ince the declaration of the 9-discontinued-and-dotted line, the international society at that time had not put forward any dissents. Neither had the adjacent States raised any diplomatic protests on the 9-dotted line. These amounted to acquiescence.”¹²²

This international acquiescence has been very much doubted.¹²³ Taking Vietnam as a case in point, we can observe that these statements are unconvincing. Examples include:

1. An objection to China’s pretensions by stating that it would “not recognize any so-called ‘historical interests’ which are not consistent with international law and violate the sovereignty and sovereign rights of Vietnam and Vietnam’s legitimate interests in its maritime zones and continental shelf in the East Sea”.¹²⁴
2. A declaration in response to the PRC’s 2009 note verbale:

The Hoang Sa (Paracels) and Truong Sa (Spratlys) archipelagoes are part of Viet Nam’s territory. Viet Nam has indisputable sovereignty over these archipelagoes. China’s claim over the islands and adjacent waters in the Eastern Sea (South China Sea) as manifested in the map attached with the Notes Verbales CLM/17/2009 and CLM/18/2009 has no legal, historical or factual basis, therefore is null and void.¹²⁵
3. A request to remove data from China’s online map service depicting the U-line (mentioned above) on two occasions.¹²⁶

121. Li and Li, *supra* note 4 at 290. See also “Carps Among the Spratlys” *The Economist* (10 March 2011), online: *The Economist* <http://www.economist.com/node/18332702?story_id=18332702>, stating: “China points to a map in use since the Republic of China published it during the Chinese civil war in the 1940s and says that, until quite recently, nobody minded.”

122. Zhao, *supra* note 33 at 22, translated in Li and Li, *supra* note 4 at 292.

123. As argued in the paper present by Nyuyen Hong Thao at the Second International Workshop, entitled “The South China Sea: Cooperation for Regional Security and Development”, held on 10–12 November 2010 in Ho Chi Minh City, Vietnam: “South China Sea—Three Stages, Four Challenges, Two Regional Approaches and One Confidence” at 12–13. On file with the authors.

124. UN, “Vietnam: Dispute Regarding the Law on the Exclusive Economic Zone and the Continental Shelf of the People’s Republic of China which was Passed on 26 June 1998” (1998) 38 *Law of the Sea Bulletin* 54 at 55.

125. Vietnam, “Letter to the Secretary-General of the United Nations—86/HC-2009” (8 May 2009), online: UN <http://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/vnm_re_chn_2009re_vnm.pdf>.

126. Vietnam, “Viet Nam Request the Chinese Side to Remove from SBSM Map Service All Data and Information that Violate Viet Nam’s Sovereignty” (5 November 2010), online: Ministry of Foreign

4. Recent protests against Chinese interference with Vietnamese vessels, in which the legality of the 9-dotted line was explicitly refuted.¹²⁷
5. At the occasion of the last Meeting of State Parties to UNCLOS, Vietnam reiterated its objection to the 9-dotted line under item 14 of the Agenda.¹²⁸

Such conduct must comply with the international legal criteria necessary to imbue acts of protest with legal effect so that the U-line cannot be used against the protesting state. Nevertheless, it seems unfeasible to apply these criteria to the early manifestations of the U-shaped line in the light of China's ambiguous position vis-à-vis the map and what it truly signifies. After all, it is only possible to act by way of protest once the opposing state has made an official and intelligible claim. This idea is reflected in the notion of the "notoriety" of the act or fact in question.¹²⁹ We have dealt in detail with the enigmatic character of the 9-dotted-line and the repercussions of ambiguous intent on the Chinese side. Thus, it is only possible to object to visible and comprehensible Chinese U-line assertions in the rare instances that they occur (e.g., the 2009 PRC letter to the UN Secretary-General). The passage of time, the following criterion, is contingent upon the former. *Arguendo*, that the notoriety of the 9-dotted-line were established, the nature of acquiescence is such that it tends to be accepted only following a prolonged period of passivity.¹³⁰ Conspicuous examples are *Fisheries* and *Right of Passage over Indian Territory* cases in which the ICJ inferred acquiescence from over sixty and 125 years of

Affairs <<http://www.mofa.gov.vn>>; Vietnam, "Viet Nam Asks China to Remove Wrongful Data in Its SBSM Map Service" (26 January 2011), online: Ministry of Foreign Affairs <<http://www.mofa.gov.vn>>.

127. Vietnam, "Foreign Ministry Spokesperson Nguyen Phuong Nga Answers Question from the Media at the Press Conference on June 9th 2011 Concerning the Viking II Incident" (9 June 2011), online: Ministry of Foreign Affairs <<http://www.mofa.gov.vn>>, stating "[t]hese systematic acts by the Chinese side aim at disputing an undisputed area with a goal to materialize its 'the nine dotted line' [sic] claim, a goal unacceptable to Viet Nam"; Vietnam, "Press Conference on Chinese Maritime Surveillance Vessel's cutting exploration cable of PetroViet Nam Seismic Vessel" (1 June 2011), online: Ministry of Foreign Affairs <<http://www.mofa.gov.vn>>, stating "China's nine-dash line in the East Sea, aka 'Bull tongue-shaped line', is completely legally groundless and is contrary to the 1982 UN Convention on the Law of the Sea to which China is a party. The claim encroaches the exclusive economic zones and the continental shelves of many regional countries, including Viet Nam, and thus is rejected by many countries. China's attempt to realize this claim is in fact escalating tensions in the region."
128. Meeting of States Parties to the 1982 United Nations Convention on the Law of the Sea, "Twenty-First Meeting" (13–17 June 2011), online: UN Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea <http://www.un.org/Depts/los/meeting_states_parties/twentyfirstmeetingstatesparties.htm> (as further substantiated by participants in that meeting).
129. *Pensions of Officials of the Saar Territory (Germany, Governing Commission of the Saar Territory)*, Award of 4 September 1934, [2006] III Reports of International Arbitral Awards 1553 at 1567, stating: "[t]he right of that Government to protest was acquired only at the moment when it knew of the facts"; *Fisheries Case*, *supra* note 66 at 139; Nuno Sérgio MARQUES ANTUNES, "Acquiescence" in Wolfrum, ed., *supra* note 34, 4, para. 21; D.H.N. JOHNSON, "Acquisitive Prescription in International Law" (1950) 27 *British Yearbook of International Law* 332 at 347, stating: "without knowledge there can be no acquiescence at all"; Jean BARALE, "L'acquiescement dans la jurisprudence internationale" (1965) 11 *Annuaire français de droit international* 389 at 400: "l'acquiescement ne peut porter que sur une situation connue de l'Etat qui acquiesce", and 401–4; I.C. MACGIBBON, "The Scope of Acquiescence in International Law" (1954) 31 *British Yearbook of International Law* 143 at 173, stating: "[t]he proposition that the possession on which title by prescription rests must fulfil the requirement of notoriety is scarcely in doubt", and 174–6.
130. Barale, *supra* note 129 at 404–6.

silence, respectively.¹³¹ The requirement of clear intent has also been fulfilled in that the Vietnamese declarations are unequivocally aimed at preventing the coming into being of new Chinese legal entitlements. Also, the criterion that protest must be consistent and uninterrupted can be said to have been complied with, as illustrated by the content of the above-mentioned notes of protest.¹³²

V. CONCLUSION

In this contribution, we have attempted to uncover some of the legal uncertainties shrouding the dashes on the Chinese map of the South China Sea. Our analysis has brought us to the conclusion that the U-line, whether interpreted as a territorial or a maritime manifestation, clearly lacks precision, and thus poses problems if kept as part and parcel of PRC as well as Chinese Taipei's official policy. If the considerable body of case-law is anything to go by, cartography displaying the 9-dotted-line would not fare well as evidentiary material in a hypothetical court case. While it can be observed that some see a new trend emerging that militates in favour of leniency vis-à-vis maps,¹³³ we would submit that such contentions are rather precipitate. It remains unchanged that maps other than those annexed to treaties are to be received with understandable prudence and will be assessed in function of their merits.

But there is a more fundamental issue at stake here. Maintaining a unilateral claim over an extended period of time without due consideration for the rights of other interested parties is tantamount to imposing a *fait accompli*. This plainly flies in the face of international law, which prevents the strong states from claiming their "lion's share" to the detriment of their weaker neighbours.¹³⁴ Adherence to the 9-dotted-line is also out of step with the current government regime,¹³⁵ which includes workshops¹³⁶ and (proposals for) co-operation in the field of environmental and biodiversity protection.¹³⁷ One pragmatic solution that has gained currency over the years is

131. Martti KOSKENNIEMI, "L'affaire du passage par le Grand-Belt" (1992) 38 *Annuaire français de droit international* 905 at 931; *Fisheries Case*, *supra* note 66 at 138; *Right of Passage over Indian Territory (Portugal v. India)*, [1960] I.C.J. Rep. 6 at 40. See also *Land, Island and Maritime Frontier Dispute*, *supra* note 111 at 577, para. 364.

132. *Fisheries Case*, *supra* note 66 at 138; *Chamizal Case (Mexico v. United States)*, Award of 15 June 1911, [2006] XI Reports of International Arbitral Awards 309 at 329.

133. E.g. Hyung K. LEE, "Mapping the Law of Legalizing Maps: The Implications of the Emerging Rule on Map Evidence in International Law" (2005) 14 *Pacific Rim Law and Policy Journal* 159 at 159–75, 188; Abou-el-Wafa, *supra* note 37 at 438–9.

134. Abou-el-Wafa, *supra* note 37 at 128–9.

135. See generally Sam BATEMAN and Ralf EMMERS, eds., *Security and International Politics in the South China Sea: Towards a Cooperative Management Regime* (Abingdon: Routledge, 2009).

136. For a brief overview of the workshop method and its successes, see SONG Yann-Huei, "The South China Sea Workshop Process and Taiwan's Participation" (2010) 41 *Ocean Development and International Law* 253 at 256–60.

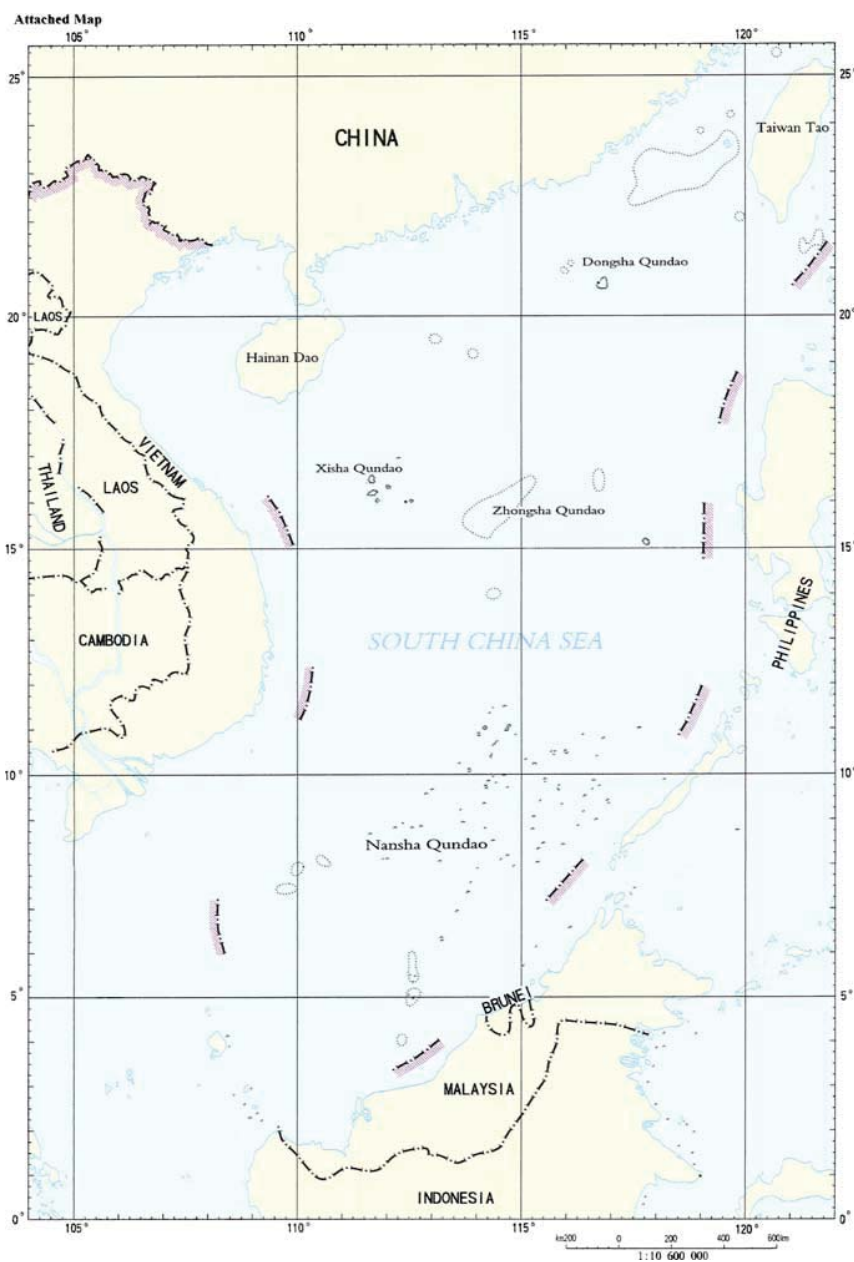
137. See e.g. Aldo CHIRCOP, "Regional Cooperation in Marine Environmental Protection in the South China Sea: A Reflection on New Directions for Marine Conservation" (2010) 41 *Ocean Development and International Law* 334; John W. MCMANUS, SHAO Kwang-Tsao, and LIN Szu-Yin, "Toward Establishing a Spratly Islands International Marine Peace Park: Ecological Importance and Supportive Collaborative Activities with an Emphasis on the Role of Taiwan" (2010) 41 *Ocean Development and International Law* 270; TUAN Vo Si and John PERNETTA, "The UNEP/GEF South China Sea Project: Lessons Learnt in Regional Cooperation" (2010) 53 *Ocean and Coastal Management* 589;

seeking ways of achieving the joint development of resources. This involves setting aside territorial and maritime disputes and concluding provisional arrangements “without prejudice” to the final delimitation outcome.¹³⁸ Fortunately, the PRC, Chinese Taipei, and other regional actors have made use of these multilateral mechanisms and continue to do so in a fruitful manner. Our hope is that claimant states abandon exceedingly assertive cartographic assertions and rather focus their energies on mutually beneficial outcomes as regards the South China Sea on the basis of UNCLOS.

SONG Yann-Huei, “A Marine Biodiversity Project in the South China Sea: Joint Efforts Made in the SCS Workshop Process” (2011) 26 *International Journal of Marine and Coastal Law* 119.

138. Robert C. BECKMAN, “Joint Development of Hydrocarbon Resources in the South China Sea: International Legal Framework” (16–17 June 2011), online: National University of Singapore—Centre for International Law <<http://cil.nus.edu.sg/wp/wp-content/uploads/2011/06/Session-2-Beckman-Session-2-CIL-JD-SCS-pdf.pdf>>. See e.g. *Memorandum of Understanding between Malaysia and the Socialist Republic of Vietnam for the Exploration and Exploitation of Petroleum in a Defined Area of the Continental Shelf Involving the Two Countries*, 5 June 1992 (entered into force 4 June 1993), online: NUS-CIL <<http://cil.nus.edu.sg/1992/1992-memorandum-of-understanding-between-malaysia-and-the-socialist-republic-of-vietnam-for-the-exploration-and-exploitation-of-petroleum-in-a-defined-area-of-the-continental-shelf-involving-the-two-cl/>>.

APPENDIX I



Map of the U-line (9 segments) attached to the following two sources: People's Republic of China, Letter to the Secretary-General of the United Nations, New York, 7 May 2009, CML/17/2009, available at: www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf; and People's Republic of China, Letter to the Secretary-General of the United Nations, New York, 7 May 2009, CML/18/2009, available at: www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf.

APPENDIX II



Snapshot of the U-line (10 segments) taken from: Chinese State Bureau of Surveying and Mapping, Map World, available at: <www.chinaonmap.cn>.

Annex 305

Ha Anh Tuan, "The Tragedy of Vietnamese Fishermen: The Forgotten Faces of Territorial Disputes in the South China Sea", *Asia Journal of Global Studies*, Vol. 5, No. 2 (2012-2013)

The Tragedy of Vietnamese Fishermen: The Forgotten Faces of Territorial Disputes in the South China Sea¹

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ABSTRACT

Territorial disputes in the South China Sea (SCS) have attracted significant attention in the international relations of the Asia-Pacific. Discourses often focus, however, on states as central actors, with sovereignty, national interests, and political and strategic calculations the key themes under discussion. Another tragic story is omitted in the process: the daily lives of millions of fishermen who face capture, death and property seizures in their traditional domains in the SCS. It is often not realized that states' rival claims in the SCS do not just affect diplomatic relations, but also have negative humanitarian impacts on their citizens. This paper tells the story of the SCS territorial dispute from the perspective of Vietnamese fishermen. It recommends that respective governments of littoral states cooperate with one another in order to protect their citizens from being trapped in politicized aggressive moves.

INTRODUCTION

For observers of international relations in the South China Sea (SCS), national security, threatened by overlapping territorial claims in this vast maritime area, is the central issue. It is therefore logical that most of the literature in the field of international relations dealing with the SCS dispute has taken a traditional approach, considering states as the main subject of their analysis. Another important aspect of the dispute, the human security of fishermen in the region, is often overlooked.

The SCS is a semi-enclosed sea, bounded by China in the North, Vietnam in the West, Indonesia, Malaysia, and Brunei in the South, and the Philippines in the East. The sea, about 3.5 million sq km, is partly claimed by five states (China, Vietnam, Malaysia, the Philippines, and Brunei) plus Taiwan, creating complicated overlapping areas. Some disputes are bilateral by nature, but there are also areas that are claimed by more than two states. Due to the complexity of claims and the difference in claimants' explanations of their claims under the most important legal treaty, the United Nations Convention on the Law of the Sea (UNCLOS), the territorial disputes in the SCS have never been resolved. In recent years, as littoral states in the SCS, especially China, have undergone major economic growth, their needs for both increasing natural resources in the SCS and safeguarding maritime security have become obvious. Additionally, technological developments make the SCS accessible to a greater number of ships. The likelihood of collision among claimants as well as with other stakeholders has thus increased.

In the last few years, territorial disputes in the SCS have escalated to a higher level compared with the early 2000s. China, the largest claimant in the SCS, has shown its

¹The material presented by the authors does not necessarily portray the viewpoint of the editors and the management of the Asia Association for Global Studies (AAGS).

These incidents are only a few among the many cases being reported by Vietnamese newspapers since early 2011. Due to the fact that the "strange vessels" neither take anything from the targeted fishing ships nor capture people, the possibility that they are pirates has been ruled out. Therefore, whenever news of a "strange vessel" appears in the press, Vietnamese people often ask who owns these vessels and what their reasons are for attacking Vietnamese fishermen. These questions so far remain unanswered, as proof of the origins of the "strange vessels" is difficult to find. It is unlikely that Southeast Asian littoral states have either the capabilities or interests to send ships close to Vietnamese coastal areas, especially those in the central part of Vietnam.

Therefore, many Vietnamese believe, even without clear evidence, that the ships are employed by China to dissuade Vietnamese fishermen from going farther into the SCS, thus strengthening China's claim to the SCS. A group of fishing ship captains in Thanh Khe District, Da Nang province reportedly requested local authorities to make it public that the "strange vessels" came from China (Chau, 2011). However, there is no official confirmation from Vietnam concerning their request. While the investigation on the owners of "strange vessels" is still underway, Vietnamese fishermen continue to work with the high economic and personal security risks of being attacked by them.

Reduction of Fishing Grounds

In recent years, with China's economic boom and technological development, the number of large Chinese fishing ships invading traditional Vietnamese fishing areas has increased significantly. They often sail in groups and use large vessels so that Vietnamese fishing ships cannot challenge them. Tran Van Ta, captain of fishing ship no. PY-92709TS, told reporters that on 9 March 2011 he saw around 150 Chinese fishing vessels in Vietnamese waters. From 30 April to 3 May 2011, approximately 200 Chinese fishing ships operated in the area 150 nautical miles from Vietnamese Tuy Hoa city, well within the EEZ of Vietnam (Huy, D., 2011).

Le Van Tuan, another captain of a Vietnamese fishing ship, told a reporter of *Thanh Nien* that when he found Chinese ships within the Vietnamese area, he and other fishermen requested these ships leave the region. "But their ships are much larger than ours, we cannot go close to them. So we have to leave our fishing grounds to them. That makes us really unhappy" (Huy, D., 2011, para. 3).

The Chinese fishing ships' intrusion into Vietnamese EEZ is also recognized by Vietnamese coastguard authorities. Colonel Nguyen Trong Huyen, Head of the Coastguard Post of Phu Yen province, confirmed that in late May 2011 (when the Chinese fishing ban was applied), each day, around 120 to 150 Chinese fishing ships operated in Vietnamese fishing grounds. As most of them have a large power capacity, Vietnamese fishing ships cannot force them to leave (Huy, D., 2011). Huyen's comments were substantiated by Senior Lieutenant Nguyen Ngoc Ry. According to Ry, Vietnamese fishing ships are smaller than those from China and, because they are the most valuable assets of fishermen, Vietnamese fishermen refrain from taking determined actions against the encroachment of their fishing grounds (Huy, D., 2011). According to *Thanh Nien*, in the period from 2006 to March 2011, Vietnamese coastguard authorities detected and captured Chinese fishing ships going deep inside the Vietnamese EEZ at least six times (Huy, D., 2011).

This encroachment of large Chinese fishing vessels leads to the reduction of Vietnamese fishing grounds in the SCS and increases the possibility of collisions among fishing ships. Moreover, being accompanied by armed ships of the Chinese authorities, these vessels sometimes steal fish and fuel from Vietnamese fishing ships. This will be analyzed in detail in the next section.

Attack, Capture, and Confiscation by Foreign Authorities

As early as 1949, the Geneva Convention stressed the necessity to protect civilians in times of armed conflict. Article 3 of Convention IV states that "outrages upon personal dignity, in particular humiliating and degrading treatment" and "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" against persons "taking no active part in the hostilities" are strictly prohibited (International Committee of the Red Cross [ICRC], 1949). More than 60 years since the advent of the convention, Vietnamese fishermen, apparently unarmed, are occasionally attacked, shot, captured and poorly treated by foreign authorities in the disputed areas where tensions among claimant states have not yet escalated into armed conflict. By 16 January 2012, statistics from Quang Ngai province alone revealed that 26 ships and 138 fishermen were still detained by foreign authorities ("Tin van," 2012).

On 22 February 2012, Vietnamese fishing ship no. QNG90281, on its way to the Paracels Archipelago to avoid strong winds, was captured by Chinese patrol vessel no. 789. The patrol vessel fired repeatedly at the fishing ship and used its water cannon to attack fishermen. Members of the Chinese crew then jumped the ship, went to the cabin and unplugged all global positioning systems. All 11 Vietnamese fishermen were beaten and their property confiscated. The Chinese then destroyed the Vietnamese vessel's equipment and poured most of its fuel into the sea, leaving only enough for the ship to return to a Vietnamese port. This incident was strongly protested by the Vietnamese government. Representatives of the Vietnamese Ministry of Foreign Affairs met with representatives of the Chinese Embassy in Hanoi, requesting no recurrence of such an incident and compensation for the loss (Nam, 2012).

This is only one among many stories of the unfortunate fate of Vietnamese ships in the SCS reported in Vietnamese newspapers over the last few years. According to Le Nam, the captain of a fishing vessel in Da Nang province, Chinese fishing ships have been moving farther southwards to catch fish in Vietnamese fishing areas at increasing frequencies. They are often accompanied by maritime surveillance ships, and these vessels sometimes attack Vietnamese ships for fish, fuel, fishing equipment and communication facilities. Chau (2011, para. 3) quotes Nam as saying that, "Before, we were sometimes bullied in the international waters in the SCS, but recently we are attacked and driven away by Chinese ships when we catch fish within Vietnamese EEZ. It is unacceptable." According to Nam, Chinese attacks against, and capture of, Vietnamese fishing ships are not only for the purpose of accessing fishing areas. He believes they have a broader goal, as anytime he and his crew were seized they were forced to sign documents stating that they had violated Chinese waters.

Severe Weather Conditions

For people going offshore to fish, the weather plays an important role in their activities and lives. The weather in the SCS is rough, especially in the stormy season. About 15 cyclones, typhoons, and storms occur annually in the SCS, and they claim hundreds of Vietnamese fishermen's lives. The Chanchu Storm in May 2006, for example, sank 18 boats and killed 246 people ("So nguoi chet," 2006). Unfortunately, among those people who have died due to the severe weather in the SCS, the majority are fishermen, the main income earners for their families. The consequences of severe weather to fishing villages and families, therefore, are devastating and long-term by nature.

The territorial disputes in the SCS, however, undermine regional cooperation for severe weather conditions and, therefore, put fishermen at risk. As tension in the SCS escalates, it is fishermen who are most affected. Le Van Chien, a captain of a Vietnamese fishing ship no. Na-90351 in Da Nang recalled an incident involving severe weather in late 2007. To avoid an approaching storm, he directed his ship to the Woodland Island of the Paracels archipelago. Initially, the ship was denied entry by Chinese soldiers; however, they were

Annex 306

Wu Shicun, *Solving Disputes for Regional Cooperation and Development in the South China Sea: A Chinese Perspective* (2013)

Solving Disputes for Regional Cooperation and Development in the South China Sea

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China's sovereignty claims over the Nansha Islands: historical evidence

Abstract: This chapter elaborates on China's arguments in its claim to sovereignty over the Xisha and Nansha Islands by providing historical facts from different periods. From the perspective of history, China was the first country to discover and name the island groups in the SCS. In addition, its administration over the SCS region was continuously maintained until foreign infringement and colonial occupation. However, through protest and struggle against foreign invaders, China's sovereignty over the Xisha and Nansha Islands was consolidated. It was further confirmed through the recovery of the four island groups from Japan after the Second World War in accordance with relevant international declarations and treaties.

Key words: China, South China Sea, historical evidence.

The UN Convention on the Law of the Sea contains no provisions dealing with the definition of historic rights and relevant regimes to determine the sovereignty of disputed territories. Nevertheless, history cannot be overlooked, and nation-states cannot be expected to abandon such rights upon ratifying UNCLOS. Precedence in cases such as *Libya-Tunisia* and *Eritrea-Yemen* indicates that even though the relevant regimes were immature, historic rights should be respected and taken into account (Zou, 2001: 152–6). From China's perspective, historical factors such as discovery, naming and continued usage and practice of state authority all constitute its sovereignty and sovereign rights over the four island groups within the U-shaped line in the SCS. This chapter aims to present historical evidence that substantiates China's claims, and also discusses differences between pre-modern China and the West in concepts of territory.

Discovery, naming and administration practices: from Spring and Autumn period to late Qing dynasty

Discovery

Based on textual records and archaeological findings, Chinese scholars have reached a consensus that China was the first to discover the island features in the SCS, despite being unable to agree on the exact time of discovery (Han et al., 1988: 2; Shen, 2002: 102–4).

According to Jianmin Shen (ibid.: 104; 1997: 15–17), the time of discovery should not be later than the Spring and Autumn period (770–476 BC) of the Eastern Zhou dynasty¹ (770–256 BC). Shen's research findings may be divided into three categories.

First, records in the *Scattered Books of the Zhou Dynasty* (逸周书, *Yi Zhou Shu*) suggest that tropical sea produce such as pearl-carrying shellfish, turtles and hawksbill turtles had been submitted to the imperial court since the Xia dynasty (twenty-first to sixteenth century BC). Since communication between China and other ancient civilisations was limited 3,000–4,000 years ago, the sea produce could only have come from the SCS. This indicates a possibility that China was at least aware of the existence of a tropical sea in the far south.

Second, classical literature written during the Spring and Autumn period, such as poems in the *Book of Songs*² (诗经, *Shi Jing*), the *Commentaries of Zuo*³ (左传, *Zuo Zhuan*) and the *Discourses of the States*⁴ (国语, *Guo Yu*), touched on the official activities of the rulers of the Chu state (楚国, *Chu Guo*).⁵ Rulers ordered and appeased the 'barbarians' of the 'Southern Sea' (南海, *Nan Hai*, or 'sea in the south', the current Chinese name for the SCS) region. Most importantly, the activities included expeditions to the sea (Shen, 2002: 104). Chinese historians disagree, however, over the actual location of *Nan Hai* during the Spring and Autumn period. In any case, since the Han dynasty *Nan Hai* has been used as a general reference to the SCS and its littoral states (Xiang, 1982: 281).

Third, stoneware and pottery relics made in China at various times, especially in the primitive era (pre-twenty-first century BC) and the Spring and Autumn period, were found on the Xisha Islands (Shen, 1997: 49). So far, archaeological findings have been the most convincing evidence.

Shen's brief account of the advanced boat-building techniques of China during the Eastern Zhou dynasty provides a more compelling argument. His findings from *The Account of Yue State*⁶ (越绝书, *Yue Jue Shu*) show that by the mid-fifth century BC coastal states in southeastern China already owned boats of various sizes for different uses. The largest boat used for warfare could be more than 19.9 metres long and 3.0 metres wide (Shen, 2002: 109–10). This shows the Chinese of the Spring and Autumn period were able to embark on long expeditions, increasing the likelihood that they conducted navigational activities in the SCS region and (re-)encountered its features.

Shen's article may not suffice if each piece of evidence is evaluated separately; however, each piece (perhaps not the second category) is part of a jigsaw puzzle, and if all the pieces are viewed as a whole they are more persuasive and illustrative. It should also be noted that as early as the eighth century BC, when other parts of East Asia were still very backward, Chinese civilisation was advanced in culture, techniques and political system, and the Yue people already had a long seafaring tradition; thus we can safely conclude that the southern Chinese would probably have a general idea of the SCS, even though they might not have defined its exact boundaries. Even if they did not land on the Nansha Islands, they should at least have landed on the island-atoll complex of the Xisha Islands.

Although Shen's research lacks archaeological evidence pointing to Chinese presence on the Nansha Islands, the oldest relics found there were pottery shards made in China during the Han dynasty (206 BC–220 AD), unearthed on Taiping Island (Itu Aba) in 1992 (Wang, 2010: 139). Thus even if the SCS and its islands were not discovered during the Spring and Autumn period but in the later Han dynasty, China would still be the earliest SCS discoverer.

Early naming and understanding of geographical features

Naming, use and accumulating knowledge of the SCS were interconnected activities and integral in China's maritime history. Without considering the ambiguous use of the words 'Nan Hai', surviving historical records suggest that more precise mentions of the SCS had entered Chinese literature by the third century AD. The records also indicate the existence of primitive knowledge about the SCS and the early naming of its features.

Before examining the records in detail, one should note the social context that facilitated accumulation of knowledge of the SCS. During the Qin dynasty (221–206 BC) Chinese territory officially extended to the southern coastal region of modern China⁷ and a small part of current northeastern Vietnam where people of the Yue tribes resided. Three new prefectures⁸ were established in the region to strengthen the central government's administration, with colonisation of the southern territory and mass immigration to the area (Xu and An, 2004: 80). To consolidate its empire, the Qin government initiated massive reform; one specific aspect especially relevant to our analysis was the unification of the written script (Brown, 2008: 12). These occurrences helped to promote cultural communication between the Han and Yue peoples.

After the demise of the Qin dynasty, the Han dynasty was also a period during which there was significant development in maritime navigation via the SCS. By 110 BC Han Emperor Wu (汉武帝, 141–87 BC) had reunified the southern coastal regions which broke free from Chinese rule during the late Qin years when the entire country was in a state of turmoil. Emperor Wu also moved the Chinese border further to include Hainan Island as well as the northern and east-central region of current Vietnam (Di Cosmo, 2009: 209). As soon as the southern water routes were secured, port cities along the SCS coast such as Fanyu (番禺, current Guangzhou of Guangdong province, China), Xuwen (徐闻, current Xuwen of Guangdong province, China, located at the tip of the Qiongzhou Strait), Hepu (合浦, current Hepu of Guangxi province, China) and Rinan (日南, current Ngee Ann of Vietnam) became key hubs for sea communication between China and the rest of the world (Liao and Zeng, 2005: 41–2). The cities also became important 'bases' for the famous marine Silk Road via the SCS, which reached the Indian peninsula by the first century BC and even further to the Arabic region by the eighth century AD (Chen, 1996: 30, 36). These were reasons why the SCS was used more frequently by Chinese merchants and seafarers. The Yue people's knowledge of the SCS also began to find its way into Chinese literature.

More precise reference to the SCS and its features first appeared in the *Records of Rarities of the Southern Territories*⁹ (南州异物志, *Nanzhou Yiwu Zhi*), written by Wan Zhen (万震) during the period of the Three Kingdoms (三国, San Guo) (220–280 AD).

Magnetic rocks

There are island atolls in the Zhanghai, and the water there is shallow and filled with many magnetic rocks. Since the big boats

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used by foreigners are all wrapped by iron sheet, they can't sail through because of the magnetic rocks. (Li and Hu, 1960: 4372)

磁石

涨海崎头，水浅而多磁石。外徼人乘大船，皆以铁鑠鑠之，至此关以磁石不得过。

Juzhi state

Travel about 800 *li*¹⁰ from Juzhi¹¹ and you will arrive at Dianyou [Dianxun¹²]. To the southeast is a river mouth, from which if you sail northeast, you will encounter a huge geographic feature [*qitou*] before you enter the region of Zhanghai, where water is shallow and full of magnetic rocks. (Ibid.: 3501).

句稚国

句稚国去典游 [逊] 八百里，有江口西南，向东北行极大崎头，出涨海，中浅而多磁石。

The SCS was referred (though not entirely equivalent) to as 'Zhanghai' (涨海), which literally means 'rising/expansive sea'. Features in Zhanghai were referred to as *qitou* (崎头), which was a generic term for reefs, atolls, banks and shoals. The records also described nautical hazards in the SCS, which was consistent with the reality. Records as such show that there was an accumulation of Chinese knowledge about the SCS.

The SCS island features were also called *shanhu zhou* (珊瑚洲, literally 'coral islands and reefs') in another historical work, the *Records of Funan*¹³ (扶南传, *Funan Zhuan*), also written during the period of the Three Kingdoms. According to history, Kang Tai (康泰), the author of the work, and Zhu Ying (朱应) were dispatched by the king of the Wu state on a diplomatic mission to Funan via the SCS. The *Records of Funan* was a faithful account of their experience as envoys. In his book, Kang gave a remarkably accurate description of the island features in the SCS:

In 'Zhanghai', stood 'shanhu zhou' (literally 'coral reefs and islands'), below which were rocks upon which corals grew. (Li and Hu, 1960: 327)

涨海中，倒珊瑚洲，洲底有盘石，珊瑚生其上也。

Indeed, all but a few of the island features in the SCS are formed by coral reefs. The name *shanhu zhou* reflected the geographic characteristics

better than did *qitou*. In addition, the earliest information about the naming and accurate description of the SCS features as such was found in these historical records (Liu, 1996: 1).

Zhanghai and *shanhu zhou* also appeared in historical works, encyclopaedia annotations and poems in later centuries. Typical examples include the *Book of the Later Han Dynasty*¹⁴ (后汉书, *Hou Han Shu*) authored by Xie Cheng¹⁵ (谢承), the *Records of Wu Kingdom*¹⁶ (吴录, *Wu Lu*) by Zhang Bo¹⁷ (张勃), the *Records of Guangzhou*¹⁸ (广州记, *Guangzhou Ji*) by Pei Yuan¹⁹ (裴渊), the annotation of *Erya*²⁰ (尔雅) by Guo Pu²¹ (郭璞), the *Records of Nan Yue*²² (南越志, *Nan Yue Zhi*) by Shen Huaiyuan²³ (沈怀远), *The Funeral Eulogy for Emperor Wu*²⁴ (武帝诔, *Wudi Lei*) by Xie Lingyun²⁵ (谢灵运) and the *Ode on the Barren City*²⁶ (芜城赋, *Wucheng Fu*) by Bao Zhao²⁷ (鲍照), to name just a few. The literature contains vivid records of how the Chinese used the SCS, and gained knowledge through such use. For instance, in the *Records of Wu Kingdom*, Zhang says that ‘in the Zhanghai off the Lubin county²⁸ of the Ling’nan region,²⁹ the hawkbill is as big as the turtle’ (岭南卢宾县涨海中, 玳瑁似龟大) (Le, 2007: 3587). In Zhang’s records on how corals were collected, he said, ‘In Zhanghai off Jiao Zhou³⁰ there are corals which are collected by an iron net’ (交州涨海中有珊瑚, 以铁网取之) (ibid.: 3252). In the *Records of Guangzhou*, Pei described fishermen’s activities in the SCS: ‘there was a “Shanhu Zhou” 500-li away from the [Dongguan] county;³¹ people used to collect the coral when they were fishing there in the old days’ (珊瑚洲, 在[东莞]县南五百里, 昔有人于海中捕鱼, 得珊瑚) (ibid.: 3019). In the annotations of *Erya*, Guo discussed special big spiral seashells in the Zhanghai off Rinan that could be used as wine cups (Song, 1987: 881). In the *Records of Nan Yue*, Shen detailed the habits of seagulls in Zhanghai, saying experienced seafarers would know a storm was coming when they saw the seagulls flying in flocks (Zhang et al., 1985: 356).

There were also text records about navy patrols around the SCS and its use for economic production, communication and other purposes. Since the Sui dynasty (581–618 AD), Chinese people have also coined more elaborate names for the SCS and the Nansha and Xisha Islands (described later). The brevity of each record for the third to fifth centuries suggests that Chinese understanding of the SCS at that time was far from systematic or complete. Nonetheless, the abundant information indicates that the Chinese frequently used the SCS and encountered its island features, and that such uses and encounters are deep imprints in the Chinese cognitive map.

Administration practice

Despite interruptions due to changing dynasties and serious challenges on the continental frontiers that diverted its focus from the sea, China continued to exert considerable maritime influence, even dominance, over the SCS region. As Marwyn S. Samuels (1982: 22) acknowledged, the heydays of China's marine power lasted from the eleventh to the late fifteenth century, when the SCS 'became a veritable Chinese lake... though hardly the exclusive preserve of Chinese shipping'. As later Chinese rulers adopted a more continentalist bias, their navy lost its previous superiority. Nonetheless, China's interest in the sea continued. For example, it became increasingly active in reconnoitring the SCS as a result of increased awareness of the need to do so, improved cartographical techniques and greater availability of resources. A navy force of reasonable size was maintained for defence purposes (*ibid.*: 33–4). In addition, the SCS remained a fishing ground for Chinese fishermen, as it was in the past. Despite control by the state, perhaps too rigorous at times, transnational trade in the SCS region and beyond never ceased. It was only in the nineteenth century that China was confronted with serious challenges from Western powers such as the Dutch, British, French and Americans, and a rising Japan.

Sea-lane opening and seaborne trade

Southern Chinese have a long tradition of seafaring and seaborne trade via the SCS, which can be traced all the way back to the eleventh to seventeenth centuries BC (Sun, 1989: 161). According to the *Records of the Grand Historian*³² (史记, *Shi Ji*), by the first century BC Guangzhou had become an important trade city for tropical and subtropical products such as pearls, rhino horn, hawksbill shells, longan fruit and hemp ramie cloth, which all came from either southern China or the Southeast Asian region (Xu and An, 2004: 1545).

The prosperity and stability of the Han dynasty motivated its emperor to communicate more with foreign states through the tributary system, of which trade was an essential component. As travelling on the land Silk Road was always filled with uncertainties presented by the states located along the route, the 'marine Silk Road' provided an important alternative. The earliest text record about the international sea-lane can be found in the *Book of Han* (汉书, *Han Shu*),³³ which describes the marine Silk Road as an impressive trade route extending as far as the Indian subcontinent (Sun, 1989: 162–6).

It took about 5 months by sea from the fortress of Rinan, or Xuwen or Hepu to reach the State of Duyuan, another 4 months to reach the State of Yilumo, and still another 20 days to arrive at the State of Shenli. From the State of Shenli, it takes more than 10 days to reach the State of Fugandulu on foot. From the State of Fugandulu, one can arrive at the State of Huangzhi, where local customs bear a little resemblance with those of Zhuya. Huangzhi covers a big land area and has a big population. Its rarities were paid as tribute to the royal court [Han dynasty] since the reign of Emperor Wu. There were eunuch translation officers who served the royal court and who were responsible for employing seafarers for marine voyage. They brought with them gold and different kinds of silk to trade for pearls, cat's eyes, and other unusual stones and rarities. The states they visited treated them well, and offered them food and even deployed people to travel with them. Some foreign commercial ships also escorted them to their destinations. Sometimes, people were killed when chasing profit. There were also risks of dying in a storm and being drowned at sea. Even a lucky one who could avoid the mishaps would take years to complete a round trip... During the Reign of Emperor Ping [Han dynasty], Wang Mang was head of political affairs. To show his authority and integrity, he sent valuable gifts to the King of Huangzhi, and ordered the King to send envoys back with live rhinos as tributes. It took eight months to travel from Huangzhi to Pizong, and another two months to reach the border of Xianglin County of Rinan Prefecture. The State of Yichengbu was to the south of Huangzhi. The translation envoys of the Han Dynasty ended their mission at Yichengbu and returned afterwards.³⁴ (Ban et al., 1962: 1671)

自日南障塞、徐闻、合浦船行可五月，有都元国，又船行可四月，有邑卢没国；又船行可二十余日，有谶离国；步行可十余日，有夫甘都卢国。自夫甘都卢国船行可二月余，有黄支国，民俗略与珠厓相类。其州广大，户口多，多异物，自武帝以来皆献见。有译长，属黄门，与应募者俱入海市明珠、璧流离、奇石异物，赍黄金，杂缯而往。所至国皆稟食为耦，蛮夷贾船，转送致之。亦利交易，剽杀人。又苦逢风波溺死，不者数年来还...平帝元始中，王莽辅政，欲耀威德，厚遗黄支王，令遣使献生犀牛。自黄支船行可八月，到皮宗；船行可二月，到日南、象林界云。黄支之南，有已程不国，汉之译使自此还矣。

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The sea route in the record visited several important places of trade, including ancient Vietnam, Myanmar, Malaysia, India and Sri Lanka. Sea voyages enabled Chinese seafarers to know maritime features, especially in the SCS, and for such features eventually to enter the textual records of scholars. In ancient China, reading and writing were the privilege of only a few.

This record in the *Book of Han* is also a vivid description of tributary trade via the maritime route. Chinese courts sent envoys with gifts, and to return the friendly gesture the states visited were expected to reciprocate by sending their envoys and offering local specialities as tributes. Products of China such as gold, silk and tea were thus traded for foreign 'rarities' to be brought back and enjoyed by the imperial court. This method of trade was not only important in the Han dynasty but also a common feature in the entire history of ancient China. John K. Fairbank (1942: 137–9) even commented insightfully that the benefit of tributary trade was an important motivation for both China and foreign states to perpetuate the tributary system.

In almost every dynasty, especially during stable and prosperous times, the imperial courts would organise diplomatic missions to foreign states: their main purpose was to exert greater influence and demonstrate the grace of the Central Kingdom and the virtues of the Son of Heaven. According to Confucian teachings, this would appeal to foreigners, who would become a willing party to the suzerain-vassal relationship (Chen, 1996: 33; Fairbank, 1942: 132–3). Upon mutual consent, Chinese rulers would confer noble titles on the heads of the foreign states, and bestow them with an imperial seal and patent of appointment (Fairbank, *ibid.*: 133). Tributary ties were thus established or (re)confirmed with these states within the Sinocentric tributary system.

China's tributary system served a myriad functions, such as boosting the economy, diplomacy, defence and Sinicisation. However, every aspect of the system is intrinsically influenced by a Confucian mentality. According to this teaching, rulers rule people, not space (Valero, 1994: 323); and people would only be willing subjects because of a ruler's virtues. This mentality determined the concept of sovereignty in pre-modern China: if the people of a certain place subordinate themselves to a Chinese ruler, then the place would be included as part of the ruler's property too (Ru and Gong, 2009: 51–2). China's claim to the four island groups in the SCS was weak partly because of this concept of sovereignty, which leads to the fact that the Chinese government did not officially incorporate any of the island groups into the SCS until the late Qing dynasty.

Regional Cooperation and Development in the South China Sea

Samuels (1982: 11) was correct in pointing out that for a long time sailing patterns in the ancient world favoured coastal routes in the SCS, not only to avoid the danger in the open seas but also to maximise the opportunities of establishing trading networks along the way. But based on this assumption, he was sceptical of the accuracy of textual records about Chinese seafarers' knowledge of the Nansha Islands (*ibid.*: 11–40). What Samuels neglected to consider was other aspects that might cause experienced travellers to divert from their coastal route, such as adequate understanding of the monsoon, currents, geographic features, astronomy and, most of all, the purpose of travel. Another factor was that boat-building techniques during the Han dynasty were sufficiently advanced to enable long-distance voyages (Zhang, 1986: 21–3). China had tributary ties with many states; thus sea voyagers could embark with a fixed destination in mind without taking a coastal route. In addition, upon completion of a specific mission, the merchant or envoy may have chosen to travel directly from the destination to home via the open sea without visiting every port city or state along the Asian coast. A record in the *Book of Han* illustrates this perspective: 'It took only two months from Pizong Island, which was located in the Straits of Malacca, to Rinan, the central region of Vietnam. Normally, the journey would have been much longer if the conventional coastal route were taken' (Han, 1996: 62).

Official and unofficial seaborne trade between China and Southeast Asia continued to flourish after the Han dynasty. Records about China's commercial, cultural and tributary ties with the littoral states of the SCS can be found in the historical works of almost all Chinese dynasties.³⁵ The SCS had become an essential channel of communication between China and the rest of the world.

Given this account of China's seafaring history, it is no surprise to see that Chinese knowledge about the SCS and its features had increased significantly. For example, in the Song dynasty (960–1279 AD) the names Shitang (石塘, literally 'the stone-edged pool') and Changsha (长沙, literally 'long sandy bank') entered the lexicon of the SCS to denote the Nansha Islands and Xisha Islands. Although these two words were sometimes used interchangeably in different records, or even put together to refer to all the feature complexes in the SCS, they were concise and accurate in describing the characteristics of the atolls, reefs, cays, banks and shoals of the two island groups (Shen, 2002: 106). They were also variously used with adjectives such as *qianli* (千里, literally '1,000 *li*'³⁶) and *wanli* (万里, literally '10,000 *li*') to indicate they were a long distance away from the mainland, and that the feature complex covered a large

area. In addition to the generic name Zhanghai, there were other more elaborate names, such as 'Jiaozhihai' (交趾海, literally 'Jiaozhi³⁷ Sea'), which roughly referred to the current Gulf of Tonkin, and 'Qizhouyang' (七洲洋, literally 'sea of seven islands'), which generally referred to the sea area of the Xisha Islands (Wu, 1939: 108; Xu et al., 2004: 3015). A famous refrain about the SCS first appeared in the literature of the Song dynasty: 'Fear of Qizhou on the way out; fear of Kunlun on the way back' (去怕七洲, 回怕昆仑) (Wu, 1939: 108). The song suggests that Chinese sea travellers already had a good understanding of the hazardous features in the SCS, and exercised extreme caution and vigilance when navigating through the area.³⁸ Although historians argue about the exact location of Kunlun, the general agreement is that it should be in the south of the SCS (Han et al., 1988: 48; Feng, 2005: 62). Similarly, the name 'Kunlunyang' (昆仑洋, literally 'Sea of Kunlun') frequently appeared in literature referring to the sea area around Kunlun.

Ancient Chinese knowledge about the hydrology of the SCS also showed remarkable depth. For example, the twelfth-century *Written Reply from the Region beyond the Five Ridges*³⁹ (岭外代答, *Ling Wai Dai Da*) contained an impressively accurate record about the three currents of the SCS: the southern current flows south-southeast from the region of modern Hong Kong to Singapore; the northern current flows past the present-day provinces of Guangdong, Fujian and Zhejiang through the Taiwan Strait; and a third current flows eastwards to the 'Great Eastern Ocean' to join the Kuroshio current. This coheres with modern hydrological knowledge (Samuels, 1982: 15).

The flourishing seaborne trade led to the opening of new sea routes. Historical works of the Song dynasty such as the *Written Reply from the Region beyond the Five Ridges* and the *Records of Foreign Nations*⁴⁰ (诸蕃志, *Zhu Fan Zhi*) contain records of routes between the port cities of southern China and places on the Java and Kalimantan islands via the open sea (Sun, 1982: 405–7; Yang, 1999: 88; Yang, 1996: 54). Hsu's (1978: 52) research suggests that the sea routes may be roughly grouped into two major sea-lanes: one that travels eastward, and another travelling westward. Each sea-lane may be further divided into major and minor routes: the major east route extended towards Java and south Borneo, and the minor east route led to north Borneo and the Philippines; the major west route travelled further to the Indian Ocean via the Straits of Malacca, and the minor route included ports on Sumatra island and the Malay peninsula. These routes were frequently used by Chinese mariners, merchants, envoys and official and unofficial fleets when travelling in the SCS, including the famous seven voyages

made by Zheng He between 1405 and 1433 (Swanson, 1982: 36–8; Fairbank, 1942: 140–1).

Zheng He's expeditions, ordered by the imperial court, were the highlight of China's ancient maritime history. The fleets reached as far as the southern coast of India, the Somali coast of Africa and places in the Arab world such as Aden, Djofar and Hormuz (Fairbank, *ibid.*: 140). The sea routes via the SCS were essential for each of the seven expeditions. Though Zheng He's voyages were grander in scale than those in the Han dynasty, they were taken with the same purpose (among others): to strengthen the Sinocentric tributary system. By the early fifteenth century the Ming dynasty's tributary links had extended to Southeast Asia,⁴¹ including the Philippines, Java, Cambodia, Pahang on the Malay peninsula and Achi and Smudra on Sumatra (*ibid.*: 141). Zheng He added Kelantan, Malacca, Aru, Palembang, etc. to the tributary list.

The expansion of China's maritime power came to an abrupt halt after Zheng He's adventures. The reasons are complex and beyond the scope of this chapter. However, one should note that Chinese rulers' interest in the sea remained unchanged, although in the history of ancient China the size of the national fleet in later eras never managed to surpass Zheng He's. Also, Chinese envoys and merchants (whether or not officially sanctioned) continued to use the sea routes of the SCS, even during the intermittent enforcement of the infamous ban on maritime activities (海禁, *haijin*).⁴² As Fairbank (*ibid.*) suggested, though tributary states in Southeast Asia declined after Zheng He, trade did not.

Sea patrols

Sea patrol was quite common in ancient China. Surviving historical discourses on 'patrol in the Zhanghai' (行部涨海, *xingbu Zhanghai*) indicate that officials posted to the coastal regions began sea patrolling no later than the Eastern Han dynasty. The *Book of the Later Han Dynasty* records a dangerous but not unsuccessful sea patrol trip in Zhanghai by Zhou Chang (周敞) and Chen Mao (陈茂), top officials of the Jiao region⁴³ (交州, Jiao Zhou) (Li and Hu, 1960: 287). However, the original book is lost and we can only find a few relevant sentences in reference books compiled later. The *Book of Jin*⁴⁴ (晋书, *Jin Shu*) also briefly mentioned sea patrol in Zhanghai by Bao Jing (鲍靓), head of Nanhai prefecture during the Eastern Jin dynasty (Xu, 2004: 2129). However, as discussed, before the sixth century knowledge about the SCS was still fragmented and limited, and the exact area of Zhanghai was not clearly

defined. According to early records, patrolling in Zhanghai appeared to be occasional activities carried out by local officials.

As China's maritime capacity continued to grow, the SCS became more like a battleground in later literature. Sea patrolling, originally the responsibility of civil officials, became the navy's duty. In *The Funeral Eulogy for Emperor Wu*, Xie wrote verses on how 'naval fleets fought and patrolled in the Zhanghai' (舟师涨海, *zhou shi Zhanghai*) to depict the war between the royal navy and domestic rebel forces in the fifth century (Gu, 1987: 268). More elaborate literature about Chinese navy sea patrols is found in the *Collection of Military Classics and Techniques*⁴⁵ (武经总要, *Wu Jing Zong Yao*), the most famous military treatise of the Northern Song dynasty (960–1127 AD).

Guangzhou of Guangnan Dong Lu used to be [part of] the Nanhai Prefecture [during the Han dynasty]. It was called Baiyue in ancient times where uncivilised and seafaring people resided, and has been a county/prefecture [of China] since the Han Dynasty.⁴⁶ After Liu Chang⁴⁷ surrendered to the Song Dynasty, Guangzhou was re-established as a local administrative unit, and became a capital of the south... The royal navy was deployed and stationed there. The sea patrol fleet is also established, and camps are set up on both the east and west flanks of the estuary... Commencing at the Tuen Mun Mountain,⁴⁸ and sailing in the east wind towards the southwest, it takes seven days [for the fleet] to reach the Jiuruluozhou,⁴⁹ and another three days to reach the Zhanbulao Mountain⁵⁰ (which is within the territory of Huanzhou⁵¹), and still another three days to reach the east of Lingshan⁵² (where there is sweet fresh water)... During the Taiping Xingguo Era,⁵³ three Generals were sent [by the imperial court] to attack Jiaozhou.⁵⁴ [Going to war,] the navy took the sea route [starting at Guangzhou]. Now, military officer 'Bingma Qianxia'⁵⁵ is designated for the Guangnan Dong Lu. [Usually] the office [of *bingma qianxia* for a *lu*] is located at the 'zhou' level. The office of the Bingma Qianxia for Guangnan Dong Lu is located at present-day Guangzhou. (Liu and Peng, 1995: 464)

广南东路广州南海郡，古百粤也，皆蛮蜒所居，自汉以后，入为郡县... 宋平刘鋹，复建方镇，为一都会... 命王师出戍，置巡海水师，营垒在海东西二口... 从屯门山，用东风西南行，七日至九乳螺州，又三日至不劳山（在环州国界），又南三日至陵山东（有甜水）... 太平兴国中，遣三将兵伐交州，由此州水路进师。今置广南东路兵马钤辖，以州为治所。今之广州府是也。

This passage indicates that the SCS, at least the northern half, was controlled by the Chinese navy during the Northern Song dynasty (960–1127 AD). Sea patrolling was a common practice of the navy fleet based in Guangzhou. As China was again unified during the Song dynasty by conquering other kingdoms, including the Southern Han kingdom located along the southernmost coastal area, maintaining a powerful navy in the region was essential for consolidating administration power.

Also, as Samuels (1982: 13) succinctly summarised, from the mid-twelfth century China entered another era of rapid expansion of maritime and naval power over the next 400 years. With the capital moved from Kaifeng (开封) in central China to Hangzhou (杭州) in the south, naval power continued to expand in the Southern Song dynasty (1127–1279 AD). Maritime trade with Southeast Asian states also rose to an unprecedented level during the same period. However, it was during the Yuan dynasty (1271–1368 AD) that the sea routes in the SCS were dominated by the Chinese navy and merchant fleets (ibid.: 19). Unlike previous dynasties, which had maintained relatively peaceful communications with Southeast Asia, Yuan practised a militant policy, waging wars against Vietnam and Java in the late thirteenth century and sweeping across the seas of the Xisha Islands, Java and Malaya. Though the Yuan empire did not win any of the wars (Zhang and Gao, 1993: 132–7), its navy fleets definitely had a strong presence in the SCS.

The subsequent Ming dynasty (1368–1644 AD) surpassed the short-lived Yuan in terms of naval supremacy, at least until the end of the fifteenth century, by controlling the sea routes. Unfortunately, as noted, China's prowess at sea was not sustained. Fleet size, ship-building techniques, nautical engineering and the like did not continue to flourish because of the Ming and Qing (1644–1911) governments' anti-maritime policy. Sea patrols were maintained to control coastal regions and clamp down on domestic upheavals, piracy and smuggling (to a great extent, piracy and smuggling became rampant because of the anti-maritime policy). Patrolling in the SCS extended from the southern coastlines to the sea area of the Xisha Islands. Textual records relating to sea patrols can be found in local chronicles and official documents such as the *Records of Qionshan County*⁵⁶ (琼山县志, *Qiongsan Xianzhi*), the *General Records of Guangdong*⁵⁷ (广东通志, *Guangdong Tongzhi*), the *Records of Qiongzhou Prefecture*⁵⁸ (琼州府志, *Qiongzhou Fuzhi*) and the *Chronicle of Emperor Gaozong*⁵⁹ of the Qing Dynasty (清高宗实录, *Qing Gaozong Shilu*) (Shen, 2002: 125; Han et al., 1988: 52; Fu, 2003: 492–8).

Surveying and mapping

Paradoxically, as China shifted focus from the sea to the land, mapping of the SCS increased. It should be noted that China had in fact begun mapping the SCS much earlier. Historians generally recognise that the first map touching on the SCS features was the *Map of Foreign Nations* (诸藩图, *Zhu Fan Tu*), mentioned in the preface of the *Records of Foreign Nations*:⁶⁰

After I was assigned here [Quanzhou],⁶¹ I read the *Map of Foreign Nations* in my spare time. The map showed Shichuang and Changsha,⁶² which people often referred to as hazards (in the sea), and Jiaoyang and Zhuyu,⁶³ regarded as (sea) boundaries. I was asking for records about the foreign nations; yet, I got close to nothing. (Yang, 1996: 1)

汝适被命来此[泉州], 暇日阅诸藩图, 有所谓石床、长沙之险, 交洋、竺屿之限, 问其志则无有焉。

The original map mentioned in the book, which was said to have been finished in 1225 AD, is lost; however, mapping of the SCS continued in subsequent dynasties. Apart from the famous *Zheng He's Nautical Charter* (郑和航海图, *Zheng He Hang Hai Tu*), said to be the record of the great voyages embarked upon by the seafarer until 1433 (Zhu et al., 1988: 6), various maps such as the *Consolidated Map of Territories and Geography and Capitals of Past Dynasties*⁶⁴ (混一疆理历代国都之图, *Hunyi Jiangli Lidai Guodu Zhi Tu*) (Ge, 2008; Han, 1996: 12–13) and the *Geographical Map Annexed to the Secret Manual on Defence Preparations* (武备秘书地利附图, *Wu Bei Mi Shu Di Li Fu Tu*) included all the SCS island groups (Han et al., 1988: 87). As cartographical techniques improved, Zhu Siben (朱思本)⁶⁵ provided an elaborate illustration of 'Shitang' and 'Changsha' in his far-reaching work *Map of the Territory [of Yuan]* (輿地图, *Yu Di Tu*). Though Zhu admitted in the preface of his work that he was unable to identify the exact location of foreign states to the southeast of Zhanghai due to limited information, and his mapping of those places could contain errors (which was true), the relative positions of 'Shitang', 'Boni' (渤泥), 'Pinggaolun' (平高仑), 'Puer' (蒲耳) and 'Zhimen' (知闷)⁶⁶ clearly indicated that Shitang referred to the Nansha Islands. Also in his preface, Zhu (1988: 19) noted that 'the tributary system [of China] has reached [foreign countries that lie to] the south and east of Zhanghai' (朝贡时至[诸蕃异域]...[在]涨海之

东南). The commentary and content of Zhu's map reflected the concept of territory in ancient China: countries that submitted to a tributary relationship with China were subjects of the Chinese ruler. Zhu's maps were further developed by Luo Hongxian (罗洪先, 1504–1564), a scholar official of the Ming dynasty during the mid-sixteenth century who produced an influential work called *Maps of the Extensive Territory [of Ming]* (广舆图, *Guang Yu Tu*). Although Luo's map was not too accurate for areas outside China's continental territory, consistency in its implicit definition of the sovereignty of Shitang, Changsha and Zhanghai indicated that the SCS and its features were considered as part of the Chinese empire.

Another important event that took place during the Yuan dynasty was a scientific survey in the SCS undertaken by Guo Shoujing (郭守敬, 1231–1316), one of the most important astronomers and mathematicians in Chinese history. The survey within Yuan territory was approved and sponsored by the imperial court so as to make a more accurate calendar. According to the *History of Yuan*, Guo travelled 'further south to Hainan Island' (南逾朱崖, *Nan Yu Zhuya*) (Xu et al., 2004: 3060). Guo also found the latitude of the place where he conducted his survey, which was the same as that of the Nansha Islands if converted to the modern measuring system (Han et al., 1988: 46–7).

Although the Qing rulers were somewhat opposed to developing maritime capabilities because of their nomadic background, their interest in the sea was revived after they consolidated control over the coastal region in the southeast. One direct result was increased reconnaissance and mapping of the seas. Unlike the limited reports and resources pertaining to Zheng He's voyages during the late Ming dynasty, as a result of the government's anti-maritime policy (Samuels, 1982: 21), many maps of the sea were published during the Qing dynasty. Some clearly included features in the SCS as part of Chinese territory, such as the *Qing-Charted General Maps of the Capital Cities, Prefectures, Counties and Tings*⁶⁷ (清绘府州县厅总图, *Qing Hui Fu Zhou Xian Ting Zong Tu*). Other works designated features in the SCS to territories of Qing vassal states, such as the individual *Maps of the Provinces Directly under the Administration of the Qing Empire* (清直省分图, *Qing Zhi Sheng Fen Tu*); and still others did not define the sovereignty of the features at all, such as a map in the *Essentials of Maritime Defence* (洋防辑要, *Yang Fang Ji Yao*) (Han et al., 1988: 84–99). Such off-hand and inconsistent definition of China's sovereignty over the SCS features further reflected the Chinese concept of sovereignty, based on a Sinocentric tributary system.

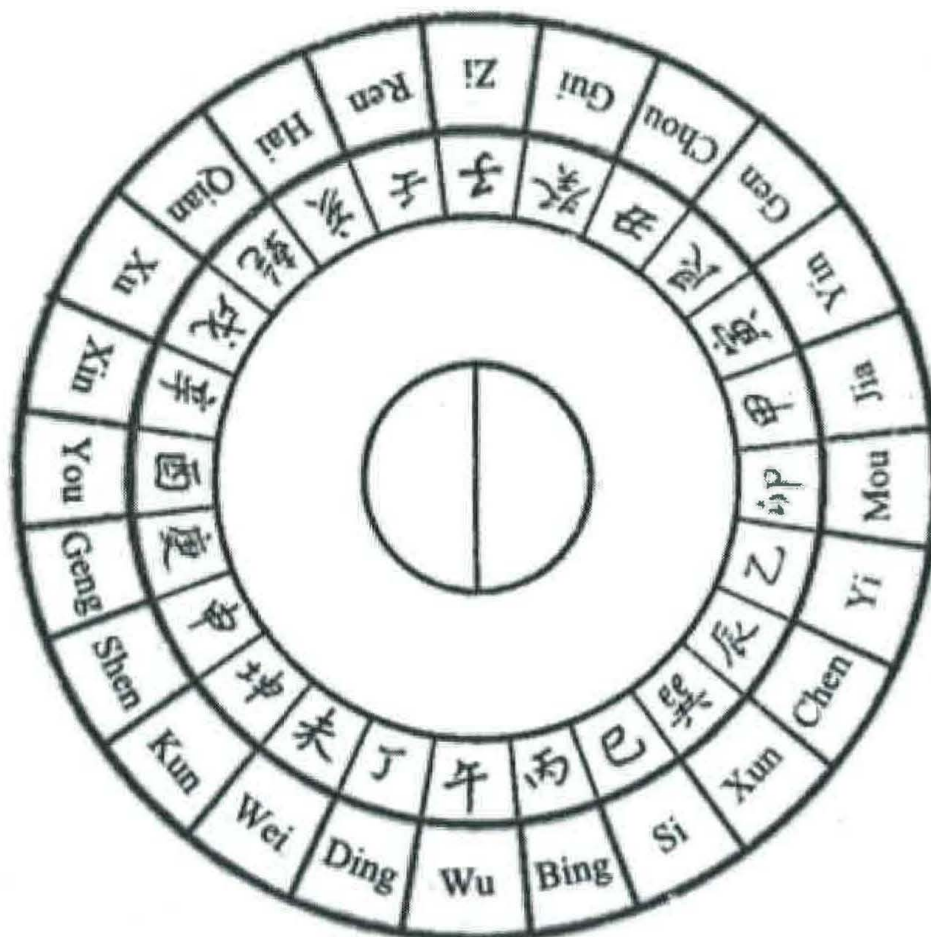
Traditional fishing grounds

Historically, the Chinese used the SCS for both public purposes, such as trade and defence, and private, such as economic production. The earliest archaeological evidence of private use discovered so far is the remains of a living site from the Tang and Song dynasties, found on Robert Island (甘泉岛, Ganquan Dao) of the Xisha group. Temples made from bricks and coral, ceramics, cooking utensils such as iron knives and woks made in the style of those used during the two dynasties, remains of spiral shells and bird bones were excavated at the site. Other residuals of Chinese fishermen of the Ming (1368–1644 AD) and Qing dynasties such as freshwater wells, tombs and temples could be widely seen on both the Xisha and the Nansha Islands (ibid.: 103–22).

The best textual indication of Chinese fishery activities could be the *Road Map* (更路簿, *Geng Lu Bu*), a navigation guide compiled by Hainan fishermen based on experience accumulated over many generations, completed no later than the early eighteenth century (ibid.: 367). The book designates specific names to most features in the Xisha and Nansha Islands, and provides detailed narratives on the direction (see Figure 2.1) and distance (expressed in length of travel time) of the navigational routes (ibid.: 366). For example:

From *Wuidoabe* [Itu Aba Island] to *Suivi* [Subi Reef], take the [compass] course between Ren-Bing and Si-Hai,⁶⁸ and about 3 *gengs*⁶⁹ to the northwest [to reach the destination]. From *Wuidoabe* to *Wgu'e* [Whitsum Reef], take the course Qian-Xun,⁷⁰ and about 3 *gengs* to the southeast [to reach the destination]. From *Wuidoabe* to *Laowgulao* [Discovery Great Reef], take the course of Yan-Shen,⁷¹ and about 3 *gengs* to the southwest [to reach the destination]. From *Wuidoabe* to *Namyit Du* [Namyit Island], take the course of Ren-Bing,⁷² and about 1 *geng* to the southeast [to reach the destination]. From *Namyit Du* to *Sinkao* [Sin Cowe Island], take the course of Zi-Wu,⁷³ and about 2 *gengs* to the south [to reach the destination].⁷⁴ (Ibid.: 373)

自黄山马去丑未，用壬丙巳亥，三更收。对西北。自黄山马去牛厄，用乾巽，三更。对东南。自黄山马去刘牛刘，用寅申，三更。对西南。自黄山马去南乙峙，用壬丙，一更。对东南。自南乙峙去秤钩，用子午，二更收。对南。

Figure 2.1 The compass used by Chinese fishermen

Note: The outermost grid with pronunciation of each character is an addition by the author.

The paragraph above describes the way in which Chinese fishermen acquired expert knowledge on the features of the Nansha Islands and the navigation routes within the island group. The book also reveals remarkable regularity in the naming of the Nansha and Xisha Islands by these fishermen. For example, the names of islands and cays usually contain the suffixes *du* (峙, *zhi*, literally 'island or islet' in Mandarin) or *dugia* (峙仔, *zhizai*, literally 'small island' or 'islet' in Mandarin); reefs tend to contain the suffixes *dua* (线, *xian*, literally 'slim sandy banks' in Mandarin) or *duua* (沙, *sha* in Mandarin, which literally means 'sandy banks'); and atolls generally are named with the prefix or suffix *huang* (匡, *kuang* in Mandarin). There are also variations, such as 筐 and 圪 which are pronounced the same way, and *huan* (圈, *quan* in Mandarin).

Each Chinese character is a metaphorical description of the ring-shaped feature of atolls. Names for shoals usually contain suffixes like *duuabai* (沙排, *shapai* in Mandarin) or *duabai* (线排, *xianpai* in Mandarin), which literally mean 'sandy fields' (ibid.: 369–99).⁷⁵

There are also apparent similarities between the feature names used by Chinese fishermen and the English names given by the British in the mid-nineteenth century. When British ships arrived at the Nansha Islands between 1844 and 1868 to survey the area, the crew consulted local Chinese fishermen for the names of island features and navigational directions. For example, the British HMS *Rifleman* arrived at Itu Aba in 1867 to obtain fresh water and survey. The crew, who did not know the name of the island, asked the Hainanese fishermen there for its name, and indicated on the sea-chart 'Itu Aba', based on the sounds 'Wuidoabe' (Situ, 1996: 131–2). *The China Sea Pilot*, first published in 1868 by the Hydrographic Office of the British Admiralty, also contains a record of fishermen providing directions for an island called Sin Cowe located about 30 miles to the south of Namyit (Liu, 1995: 38).⁷⁶ The record clearly indicated that the names of the two islands were designated according to local pronunciation as rendered by the fishermen of Hainan Island. Similar examples include the islands of Thitu and Subi, derived from Hitu and Sinbue, the lexicon of Hainanese fishermen.

Another volume of China Sea guidance published by the British Admiralty, the *China Sea Directory*, described the life of Hainanese fishermen on the Nansha Islands. For example, there was mention of fishermen who were found upon most islands of the Tizard Bank (郑和群礁, Zhenghe Qunjiao), subsisting by collecting trepang and tortoiseshell. Some had stayed on the reefs for many years. Every year small ships came from Hainan to exchange trepang and tortoiseshell for rice, food and other daily necessities; fishermen from Hainan would usually leave for the islands in December and January, and return as soon as the first southwest monsoon blew (Hydrographic Office, British Admiralty, 1899: 104). In a description of the North Danger Reefs (双子群礁, Shuangzi Qunjiao), the book recorded that Hainanese fishermen often came to the reef to collect sea cucumber and shells, and fetched water from a well in the centre of the northeastern part of the formation (Wu, 1999: 15). These records, among many French and Japanese publications such as the novel *Stormy Islands* by Ogura Unosuke (1940), a Japanese report called 'A survey of the new south islands' (cited in Shen, 2002: 131) and the article 'French new islands' (cited in Lu, 1992: 110), which describes the productive livelihood of Chinese fishermen on the Nansha Islands, indicate that the SCS has historically been a fishing ground for the Chinese.

Consolidation of Chinese sovereignty: from late Qing dynasty to post-Second World War

The decline of China's maritime presence in the SCS coincided with the eastward expansion of the European naval powers to Asia. Advanced foreign maritime techniques, ships and weapons had breached China's continental defence frontier – the sea; instead, it had become a gateway through which Western maritime powers could enter and encroach upon Chinese territory unimpeded. After the 1884–1885 Sino-French war, China officially relinquished Vietnam, which was fully incorporated in the second century and had been China's vassal state since 968 AD (Xu et al., 2009: 110–11). Ten years later, in the Sino-Japanese War, not only did the elite navy of China – the Beiyang Fleet (北洋舰队, Beiyang Jiandui) – suffer a humiliating defeat by the rapidly modernising Japanese navy, but also Taiwan had to be formally ceded to a once-subordinate neighbour (Zhang and Gao, 1993: 402). By the end of the nineteenth century Great Britain had obtained control of India, Malaya, Borneo and Hong Kong; France had occupied much of the Indochina peninsula; and the United States had acquired the Philippines from Spain (Wang et al., 1995: 134–5, 189–91). The SCS had become an object of contention among foreign states. Of particular relevance are France, which ruled Vietnam, and Japan, which wanted to use Taiwan as a base to expand southward.

China began to acquire a greater awareness of the legal notion of territorial sovereignty when it was subdued and forced to accept an international order dominated by Western concepts and rules. As Samuels (1982: 47) pointed out, 'the outcome of China's maritime decline was not further contraction, but rather a movement toward assertion of China's historical legitimate claims to power in and ownership over the waters and the islands of the SCS'.

Assertion of sovereign claim by the late Qing government

China began to adopt the Western practice of exercising sovereign claims starting from the mid-nineteenth century. In 1876 Guo Songtao (郭嵩焘), the first Chinese ambassador to Britain and France, made it explicit during his mission that the Xisha Islands belonged to China (Zhang,

1994: 6). The first official claim to the Nansha Islands, although implicit, could have been the protest raised by the Qing government against German-sponsored survey activities in the region in 1883 (Guo, 2007: 131). The 1887 Convention Respecting the Delimitation of the Frontier between China and Tonkin that was signed after the 1884–1885 Sino-French war provided the delimitation:

The islands which are east of the Paris meridian of 105°43' east longitude [i.e. 108°3' east of Greenwich], which is to say that north-south line that passes through the eastern part of Tch'a-Kou or Quan-chan [Tra-co] and which forms the boundary, are also allocated to China. The island of Go-tho [Kao Tao] and other islands that are west of this meridian belong to Annam. (Samuels, 1988: 66)

From China's perspective, this provision suggests that the Xisha and Nansha Islands are part of Chinese territory (Guo, 2007: 131). As Stein Tønnesson (2006: 3) noted, by the 1920s France had generally recognised that the Xisha Islands were under Chinese sovereignty. As for the French colonial government of South Vietnam, it had no interest in the Nansha Islands until the early twentieth century (ibid.: 4).

When the Chinese government became aware of the possibility that foreign naval powers might further encroach upon its territory in the SCS, it organised an expedition to the Xisha Islands in 1909 to demonstrate China's sovereign right. The expedition was led by Li Zhun (李准), admiral of the Guangdong navy (广东水师), and consisted of three warships. The fleet not only conducted surveys but also erected imperial flags on both Xisha and Nansha island groups (Han et al., 1988: 128–30). A stone tablet was erected on Drummond Island (晋卿岛, Jinqing Dao) (Li, 1975: 3; Shao, 2012). A similar expedition was sent to the Dongsha Islands in the same year (Granados, 2005: 447).

Upon returning from the expedition, Li Zhun submitted to the imperial court through his superior Zhang Renjun (张人骏) eight recommendations about the administration and economic development of the Xisha Islands. These were approved by the Qing court. However, except for official incorporation of the islands into the administrative system, most of Li's recommendations were never implemented for various reasons (Shen, 1975: 24). Instead of establishing a special board to develop the islands as Li had proposed, before the end of the Qing dynasty the Xisha Islands were designated for governance under Guangdong province and administered through Hainan prefecture (ibid.: 24–5; Granados, 2005: 447).

The fight against foreign encroachment during the ROC era

Before France took the nine Nansha Islands in 1930–1933 (Li, 1992: 164), the Republic of China (ROC) government exercised its sovereign rights over the SCS through different activities, mainly administering licences for phosphate exploration and survey of island features. However, beneath the activities flows an undercurrent against foreign encroachment. A typical example was the ‘He Ruinian (何瑞年) incident’. He owned a company registered in Guangdong province, and obtained a permit from the Guangdong Bureau of Mines that allowed him to monopolise all land reclamation, mining and fishing activities in the Xisha Islands. The permit was issued based on the approval of the Interior Ministry (Shen, 1975: 26–7). However, He turned out to be a puppet of Japan. Shen’s report later suggested that Japan’s focus was to use the Xisha Islands’ mineral resources and extend its influence from Taiwan to further south in the SCS (ibid.: 64–5).

He’s financial connection with Japan and the complicity behind the connection were always under suspicion. The magistrate of Ya county (崖县) in Hainan refused to grant the final development permits to He, and petitioned Guangdong for investigations into He’s background and cancellation of his permit. Upon his request, several investigations were conducted, although the Japanese-owned Southern Prosperity Industries quietly continued its operations on Xisha. As the controversy became increasingly prominent and anti-Japanese sentiments increased, Guangdong finally transferred He’s permit to another merchant. In the same year, the Japanese also withdrew their activities from the Xisha Islands (ibid.: 27–34).

The He Ruinian incident triggered another survey of the Xisha group in 1928 to investigate Japan’s activities on the islands and reaffirm China’s sovereignty. Unfortunately, China’s SCS cartography was pitifully outdated despite its history of many thousands of years of contact, mapping and use of the islands. The wealth of knowledge and experience of Chinese fishermen was also not grasped by academia. One scholar who participated in the 1928 Xisha expedition, Shen Pengfei (沈鹏飞), misunderstood the islands so much that he even indicated in his report that they were China’s ‘southernmost territory’ (ibid.: 5).

Outdated maritime cartography and the lack of even a map that accurately showed territory delimitation frustrated the ROC government’s efforts to protect China’s sovereignty in the SCS (Li, 1992: 168). This

was made worse by the increasing threat of foreign invasion. To cope with the problems, the government founded the Committee of Examining the Water and Land Maps (水陆地图审查委员会, Shuilu Ditu Shenchu Weiyuan Hui) to name and map China's SCS territory. In 1935 the committee published the names of 132 features in the four island groups, including an annexed map marking James Shoal (曾母暗沙, Zengmu Ansha) that lay at the southernmost end. The committee's territorial demarcation was finally confirmed by the ROC government in 1947 (Zou, 1999a: 33).

The 1930s was a period when new threats from foreign contenders for the Xisha and Nansha Islands emerged. In 1930 France took formal possession of Spratly Island (南威岛, Nanwei Dao) (Tønnesson, 2006: 4–5). It also took advantage of Japan's full-fledged invasion of China and occupied eight more islands and cays in the Nansha group – Itu Aba Island (太平岛, Taiping Dao), Thitu Island (中业岛, Zhongye Dao), Namyit Island (洪麻岛, Hongxiu Dao), Loaita Island (南钥岛, Nanyue Dao), West York Island (西月岛, Xiyue Dao), Amboyna Cay (安波沙洲, Anbo Shazhou), Northeast Cay (北子岛, Beizi Dao) and Southwest Cay (南子礁, Nanzi Jiao) – in April 1933 (Li, 1992: 165), but the information was not released until July that year. When France declared possession of these features, China issued a formal protest early the following day (Han et al., 1988: 261–2). Unfortunately, as available information was limited, China's relatively cautious response demanded that France provide the specific position of the nine islands while China conducted relevant investigations in the SCS. Compared to the Chinese government, civil society responded with greater vehemence. Non-governmental organisations such as the Association of Fellow Hainanese in Nanjing (琼崖旅京同乡会), the Chamber of Commerce of Shanghai (上海市商会), the Chamber of Commerce of Ningbo (宁波商会), the Union of the Filature Industry in the Fourth District of Shanghai (上海市第四区缫丝业产业工会), the Farmers' Association of Gaolan County of Gansu Province (甘肃省皋兰县农会), various local sections of the Kuomintang Party and patriotic individuals sent telegrams to the Ministry of Foreign Affairs urging the government to defend China's sovereign right over the SCS islands (Li, 1992: 166). The French occupation was strongly resisted by Chinese fishermen, who destroyed French emblems and flags on the islands. When the fishermen saw the French ship try to retaliate, they fired home-made cannons from their fishing boats to defend themselves (Han et al., 1988: 402, 408, 417–29).

The ROC government took no further action, however, except continuing its diplomatic protests. There are several reasons for its

passive reaction. First, China was busy fighting the Japanese war on the mainland. Second, the Nansha Islands were nearer to French-occupied Vietnam, the US-colonised Philippines and British-ruled Malaya, but far from China itself. The geographical position of the islands made them easier to lose than to defend. As the SCS was once the object of contention between France and Japan, and as China's naval power could match neither, the best strategy for China would be to wait for better timing. In 1938 the ROC government even acquiesced in the absorption of the Xisha Islands by France, when the French gave the assurance that absorption would prevent the Japanese from using the islands and France had no intention of obtaining sovereignty (Tønnesson, 2006: 11).

In 1939 Japan claimed the Xisha Islands and Nansha Islands (Li, 1992: 169), and French Indochina accepted with little resistance (Tønnesson, 2006: 12–16). By then, Japan controlled almost the entire SCS and China's coast, and China was in the midst of a tough war against the Japanese. After Japan surrendered in 1945, China recovered the four SCS island groups in 1946 in accordance with the Cairo Declaration and the Potsdam Declaration (Wu, 1999: 24). The San Francisco peace treaty and the Sino-Japanese Treaty further confirmed China's sovereignty (Li, 1992: 170–1).

Conclusion

China's sovereignty claim over the four island groups of the SCS is derived from its historical rights based on discovery, naming and a history of continued use and demonstration of authority over 2,000 years. No other SCS littoral country can provide more evidence to support its claim of sovereignty over the islands. Nevertheless, we should not expect to find the same quantity of textual records or archaeological findings for the SCS as for China's continental regions. The SCS has always been one of the most remote and uninhabited regions in the Chinese sovereign map.

China's ancient records were criticised for not being sufficiently persuasive in supporting its claims of 'routine occupation, effective administration or assertion of sovereign control' over the Nansha Islands (Cordner, 1994: 64). However, one should note that the most important cause of such weakness of evidence was China's ancient territorial concept. Sovereignty was based on the loyalty of the people being ruled rather than a clearly delineated national boundary as exemplified by the

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Westphalia system. The concept is intrinsically related to the political dimension of China's ancient tributary system, which was established with the consent, or even free will, of the tributary state. The system was expanded to the shores of the SCS when the imperial court of China bestowed a title on the rulers of tributary states and these states submitted to China's authority. Given that a Sinocentric tributary system was the dominant international order in ancient East Asia, China did not need to practise sovereignty based on the criteria of a modern international legal system.

In addition, a weakness of China's argument lies in the role of the sea under its ancient territorial concept. During stronger years, rulers believed they were the only owners of all the seas and territories. The SCS and the vassal states beyond were all under the rule of the Son of Heaven. When an empire became weak or unstable, tributary ties would be severed and the SCS would become the frontier of the state's territory. The dangers in the SCS, such as choppy waves and hazardous reefs and shoals, would safeguard the country from the external threat. Consequently, ancient China did not realise the need to assert dominant control over the SCS; this has been even more the case since the mid-nineteenth century, as China continued to decline and conflicts with the Western powers flared.

As of the late Qing dynasty, when China had to enter the international system and the modern legal system was adopted, it became increasingly aware of the modern sovereign concept. Since then, China has consistently protested against the encroachment of the SCS features by Britain, Germany, France and Japan. The post-Second World War treaty that China signed with Japan and other countries further consolidated China's sovereignty over the four island groups in the SCS.

Notes

- 1 The Eastern Zhou (770–256 BC) was the second half of the Zhou dynasty (eleventh century–256 BC). It may be further divided into two periods: the Spring and Autumn period (Chun Qiu, 770–476 BC) and the Warring States period (Zhan Guo, 476–221 BC). The first half of the Zhou dynasty is commonly referred to as the Western Zhou (eleventh century–770 BC).
- 2 Also translated as the *Classic of Poetry* or the *Book of Odes*.
- 3 Also translated as the *Chronicle of Zuo*. The book is among the earliest surviving works of narrative history, and a very important source for understanding the history of the Spring and Autumn period.

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- 4 The *Discourses of the States* is a collection of records of different states of the Zhou dynasty, covering a time ranging from the tenth century to mid-fifth century BC.
- 5 The administration of the Zhou dynasty was to a large extent a decentralised system. Territories were bestowed by the Zhou court on relatives of the royal family, trusted local chiefs and loyal subordinates to become local states. Rulers of these states governed not only the bestowed land, local population and produce, but also had hereditary power. They could also keep their own military forces and fight to gain the territory or loyalty of other states. However, every state was supposed to be, at least nominally, the subject of the court of Zhou. The Chu was a subject state located in the south.
- 6 *The Account of Yue State* is the first existing local chronicle in Chinese literature. It is a comprehensive account of the history of the Wu and Yue states, which covered mainly the region of Zhejiang and Jiangsu provinces of modern China. There were wars between the two states. Yue was swallowed by Wu. However, the Yue state was finally conquered by the neighbouring Chu state during the Warring States period.
- 7 Refers to Guangdong province, Guangxi Zhuang Autonomous Region and Fujian province of modern China.
- 8 The three prefectures are Nanhai (南海), Guilin (桂林) and Xiang (象). In administrative level, a prefecture during the Qin dynasty was approximately the same as a present-day province.
- 9 Also translated as *Records of Strange Things of the South* (Samuels, 1982: 10). The original book is lost; however, two paragraphs that are relevant to the SCS could still be found in the *Imperial Readings of the Taiping Era* (太平御覽, *Taiping Yulan*), a massive encyclopaedia compiled in the Song dynasty (960–1279 AD). The full name of Taiping was Taiping Xingguo (太平兴国), a reign title for Emperor Taizong (宋太宗) of the Northern Song dynasty. The Taiping Xingguo era was 976–983 AD. Other scholars attributed the earliest textual record to the *Records of Rarities* (异物志, *Yiwu Zhi*), authored by Yang Fu (杨孚) during the second century AD. Just like the *Records of Rarities of the Southern Territories*, the *Records of Rarities* is lost. A relevant quotation can be found in a local chronicle, the *General Records of Guangdong* (广东通志, *Guangdong Tong Zhi*). This author agrees with the views of scholars such as Wu Yongzhang (2010: 212) that the royal commissioned encyclopaedias tend to be more reliable than local chronicles. Thus the earliest textual reference to Zhanghai should be attributed to Wan Zhen.
- 10 *Li* is an ancient Chinese unit for distance. In the period of the Three Kingdoms, one *li* equals 415.8 metres (Liang, 2008: 540).
- 11 Both Juzhi and Dianxun were important ports of the kingdom of Funan during the third century AD. Juzhi was generally believed to be located in the northeast part of the Malay peninsula (Shi, 2007: 439–40). Funan was an influential kingdom in Southeast Asia from the first to the seventh centuries. In the third century it was located around the Mekong Delta, roughly covering the southern part of Vietnam, modern Cambodia, the northern part of the Malay peninsula and extending as far north as the northern part of modern Myanmar (ibid.: 46–7).

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- 12 The author's study indicates that Dianyou is a copy error. The correct name should be Dianxun, which should be Tenasserim (Xiong, 2000: 58), located to the northwest of the isthmus of Kra.
- 13 The original book of the *Records of Funan* is lost. Relevant quotations can be found in the *Imperial Readings of the Taiping Era*.
- 14 The *Book of the Later Han Dynasty* is a historical record of the Eastern Han dynasty. There are also other historical works under the same name written by different authors. The original book is lost, but relevant quotations can be found in the *Reference for Beginners* (初学记, *Chu Xue Ji*) a reference book compiled by Xu Jian (徐坚, 659–729 AD) in the Tang dynasty (618–907 AD).
- 15 Xie Cheng was a historian of the Wu kingdom during the period of the Three Kingdoms, although his exact dates are unknown.
- 16 The original book is lost, but relevant quotations can be found in *The Imperial Readings of the Taiping Era* and the *Universal Geography of the Taiping Era* (太平寰宇记, *Taiping Huanyu Ji*), written by Le Shi (乐史, 930–1007 AD), a geographer and scholar official during the Taiping era of the Song dynasty (976–983 AD).
- 17 Zhang Bo was a scholar of the Jin dynasty (265–420 AD). His exact dates are unknown.
- 18 The original book has been lost, but relevant quotations can be found in the *Universal Geography of the Taiping Era*.
- 19 Pei Yuan was a scholar who lived during the period of the Eastern Jin (317–420 AD) and Liu Song (420–479 AD) dynasties, although his exact dates are unknown.
- 20 The *Erya* is the earliest known Chinese dictionary or encyclopaedia of China, written no earlier than the Warring States period (476–221 BC). The original book of Guo's annotation is lost. Relevant quotations can be found in the *General Record* (通志, *Tong Zhi*), a historical work and encyclopaedia completed by Zheng Qiao (郑樵) in 1161 AD.
- 21 Guo Pu (279–324 AD) was a famous scholar who lived during the Western Jin (265–316 AD) and Eastern Jin (317–420 AD) dynasties.
- 22 The original book is lost, but relevant quotations can be found in *Categories for In-depth Reference* (渊鉴类函, *Yuan Jian Lei Han*), a reference book written by Zhang Ying (张英), Wang Shizhen (王士禛) and Wang Tan (王懋) in the nineteenth century. Nan Yue was approximately the same region as the modern Guangdong province.
- 23 Shen Huaiyuan was a famous scholar of the Liu Song dynasty, though his exact dates are unknown.
- 24 *The Funeral Eulogy for Emperor Wu* resembles a poem written in memory of Liu Yu (刘裕, 363–422 AD), the founding emperor of the Liu Song dynasty. Wu was the posthumous name of Liu Yu.
- 25 Xie Lingyun (385–433 AD) was the most famous scholar and poet of the Liu Song dynasty.
- 26 The *Ode on the Barren City* resembles a poem that describes the war-destroyed city of Guangling, which was located at the site of the current city of Yangzhou, Jiangsu province.
- 27 Bao Zhao (416–466 AD) was a famous scholar during the Liu Song dynasty.

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- 28 According to literature, Lubin county was located in the Lingnan region, exact location unknown.
- 29 Lingnan literally means the region in the south of the Five Ridges of the Yuecheng (越城岭), Dupang (都庞岭), Mengzhu (萌渚岭), Qitian (骑田岭) and Dayu (大庾岭). In the Jin dynasty it referred to regions that mainly covered Guangdong and Guangxi provinces, and the southern part of Fujian and Jiangxi provinces of modern China, as well as the northern part of current Vietnam.
- 30 During the period of the Three Kingdoms the administrative area of Jiao Zhou shifted many times over the decades because of war among these kingdoms. However, the southernmost area of modern China and the northeast and middle parts of modern Vietnam were always included.
- 31 Dongguan county was roughly the same place as the current Dongguan city of Guangzhou. It was established as a county in 331 AD during the Eastern Jin dynasty, and got its current name in 757 AD during the Tang dynasty. According to this piece of text, the Shanhu Zhou should be located in the area of the current Pratas.
- 32 The *Records of the Grand Historian* is one of the most important historical works of Chinese literature, written by Sima Qian (司马迁) between 109 and 91 BC. Sima is generally regarded as one of the greatest Chinese historians, the father of Chinese historiography.
- 33 The *Book of Han*, also called the *History of the Former Han Dynasty* (前汉书, *Qian Han Shu*), written and compiled by Ban Biao (班彪), Ban Gu (班固) and Ban Zhao (班昭), is another important historical work after the *Records of the Grand Historian*. It covers the history of the period 206 BC–23 AD, from the first emperor of the Western Han dynasty to the last year of the Wang Mang (王莽) interregnum.
- 34 The passage contains many ancient Chinese names for different places. Besides Rinan, Xuwen, Hepu and Xianglin, historians disagree over the places to which these names refer. Taking into account the directions of monsoons, days for voyage and the local history, recent research suggests that Duyuan was located at the southeast part of the Malay peninsula near the Singapore Strait (Sun, 1982: 164), or near the Pasei River in the northwest of Sumatra (Zhang, 1986: 18–19) or the Oc Eo in the south part of current Vietnam (Jiang, 2006). Yilumo should refer to Bago (Pegu) of Myanmar near the estuary of the Sittang River (Liao and Zeng, 2005: 42). Shenli should be modern Syriam of Myanmar located at the delta of the Ayeyarwady (Irrawaddy) River (Xiong, 2000: 58–9). Fuduganlu either refers to the old city of Pagan (Feng, 2005: 2) or somewhere near the current city of Prome in Myanmar (Liao and Zeng, 2005: 42). Huangzhi was approximately located at Kanchipuram in modern India. Pizong referred to the current Banana Island (Palau Pisang). Yichengbu was either Sri Lanka (Zhang, 1986: 19) or Chengalpattu (formerly Chingleput) in India (Xiong, 2000: 58–9).
- 35 The Jin dynasty (265–420 AD) was an exception, since there are barely any records of commercial ties between China and Southeast Asian states via the sea. The reason might be attributed to its domestic instability.
- 36 As in note 10, *li* was a unit of distance in ancient China, but the exact distance it referred to could vary in different dynasties. Moreover,

- the adjectives *qianli* and *wanli* could both be used for either specific quantification or symbolic description. However, the indication of the Nansha Islands and Xisha Islands could still be detected based on days of voyage in the literature.
- 37 Jiaozhi of the Song dynasty referred to the northern part of present-day Vietnam, with Hanoi in the centre. It was also called Jiaozhou in ancient history (Yang, 1996: 1–2). Jiaozhihai was also called Jiaoyang (交洋).
- 38 This version was translated by Marwyn S. Samuels. There are other versions of the refrain: 'In the north one dreads Qizhou, In the south one fears Kunlun (上怕七洲, 下怕昆仑)' (Feng, 1954: 8) and '[For hazards in the sea], in the north there is Qizhou; in the south there is Kunlun (上有七洲, 下有昆仑)' (Su, 1981: 218). The different versions basically express the same meaning.
- 39 The *Written Reply from the Region beyond the Five Ridges* was both a local record of the geography, culture, humanity etc. of the Lingnan region and a historical work about the international communication of China during the Song dynasty. It was written by Zhou Qufei (周去非, 1135–1189 AD) after he returned from his posting in Guangxi. The original book is lost; the existing version is a collected record from the *Yongle Encyclopaedias* (永乐大典, *Yongle Dadian*), a canon compiled during the early fifteenth century under the commission of the imperial court. The book's name was translated by the author.
- 40 The *Records of Foreign Nations* is an important document about marine transportation, foreign trade and international communication in China during the Song dynasty. It was written by Zhao Rushi (赵汝适, 1170–1231 AD), a scholar official of the Southern Song dynasty, during his posting in the port city of Quanzhou (泉州) as the inspector of foreign trade in Fujian (福建) province. The original book is lost; the existing version is a collection of relevant records from the *Yongle Encyclopaedias*. The book was partly translated and annotated by Friedrich Hirth and W.W. Rockhill, and renamed *Chao Ju-kua: His Work on the Chinese and Arab Trade in the Twelfth and Thirteenth Centuries, entitled Chu-fan-chi*. Chao Ju-kua and Chu-fan-chi are transliterations of Zhao Rushi and Zhu Fan Zhi respectively.
- 41 Vietnam was occupied by the Ming for 20 years from 1406 to 1427.
- 42 Also translated as 'maritime prohibition' or 'maritime interdiction', the policy was first enacted in the early 1370s by Ming Emperor Hongwu (洪武, reigning 1368–1398) and lifted in 1568. It was also adopted intermittently by rulers of the Qing dynasty. The policy was designed to prohibit private contact with foreigners (i.e. the Japanese) or anti-government forces (i.e. the Ming loyalist movement led by Zheng Chenggong in Taiwan in the early Qing) from the sea, as well as private maritime trade which was disfavoured due to the then anti-commercial attitude of the Confucius doctrine. Under the ban, tributary trade became the only legal form of maritime commerce. However, the Chinese, especially coastal people, circumvented the ban in every way possible, such as through smuggling and piracy, which became rampant during the ban.
- 43 During the Eastern Han dynasty the entire country was divided into 13 regions (州, *zhou*) plus the Protectorate of the Western Area (西域都护

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- 府, Xiyu Duhufu). The Jiao was the southernmost region, covering most of current Guangdong and Guangxi provinces of China, and the north and central parts of modern Vietnam. The Jiao region in the Eastern Han dynasty was bigger than the Jiao region during the period of the Three Kingdoms.
- 44 *The Book of Jin* is a historical work about the Jin dynasty written by scholars of the Tang dynasty.
- 45 *The Collection of Military Classics and Techniques* is an important military treatise on military techniques, theories and strategies written by Zeng Gongliang (曾公亮) and Ding Du (丁度), and finished in 1044 AD. The book's name was translated by this author.
- 46 In fact, Guangzhou became part of China earlier than the Han dynasty. It was first established as the county of Fanyu (番禺县, Fanyu Xian) in the Qin dynasty. Fanyu, along with the three counties of Longchuan (龙川), Sihui (四会) and Boluo (博罗), was under the jurisdiction of Nanhai prefecture, which was established in 214 BC. However, in 207 BC the kingdom of Nanyue (南越国) was founded by Zhao Tuo (赵佗), the rebellious head of Longchuan who took advantage of the instability of the Qin empire. The kingdom spanned all the three southernmost prefectures of the Qin dynasty (see notes 7 and 8), and later pushed its territory further to the middle of current Vietnam. It became a vassal state of the Western Han dynasty after the latter was established, and finally was conquered in 111 BC during the reign of Emperor Wu. It remained part of China until 968 AD, and then again became a vassal state of China until the late nineteenth century except for a brief occupation by the Ming dynasty in the early fifteenth century. The author of the *Collection of Military Classics and Techniques* ignored the time when Fanyu was governed by Nanhai prefecture during the Qin dynasty due to the briefness of the period.
- 47 Liu Chang (刘鋹) was the last 'emperor' of the Southern Han kingdom (南汉, Nan Han, 917–971 AD), which was one of the kingdoms during the Five Dynasties and Ten Kingdoms period (907–960 AD). It covered the southernmost region of modern China, including present-day Guangdong, Guangxi and Hainan, and the north part of modern Vietnam. Guangzhou used to be the capital of the Southern Han kingdom and was called Xingwangfu (兴王府). After the Southern Han kingdom submitted to the Song dynasty, Xingwangfu was renamed Guangzhou.
- 48 Tuen Mun Mountain is located in the southwest of present-day Kowloon in Hong Kong.
- 49 Most historians agree that Jiuruluozhou referred to the Xisha Islands.
- 50 Zhanbulao Mountain refers to CulaoCham Island, which is located in the middle of modern Vietnam.
- 51 Huanzhou was an ancient state located in the middle part of modern Vietnam.
- 52 Lingshan was the name of a cape near the present Quy Nhan of Vietnam.
- 53 For the Taiping Xingguo era see note 9.
- 54 Approximately the present-day Hanoi.
- 55 Bingma Qianxia was a military post, responsible for military affairs for different military zones, such as *lu* (more or less equivalent to present-day

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- provincial level), *zhou* (approximately the present-day municipal level), etc. Guangzhou was a *zhou*-level administrative unit during the Northern Song dynasty.
- 56 Qiongshan county was located in the north part of Hainan Island. It was included in the city of Haikou in 2002.
- 57 Hainan Island was under the governance of Guangdong province during the Ming and Qing dynasties.
- 58 Qiongzhou prefecture referred to Hainan Island during the Ming and Qing dynasties.
- 59 More commonly known as Emperor Qianlong (乾隆), reigning 1735–1796 AD. The chronicle's name was translated by the author.
- 60 See note 40.
- 61 The literal translation should be 'after Rushi was assigned here', which is the given name of the author. In Chinese literature, it is acceptable to use 'oneself' instead of 'I'.
- 62 Shichuang literally means 'stone bed'. It is a generic word denoting the features of the four island groups of the South China Sea, like Changsha and Shitang.
- 63 Zhuyu referred to Pulau Aor of Malaysia (Feng, 2005: 48). For Jiaoyang see note 37.
- 64 The *Consolidated Map of Territories and Geography and Capitals of Past Dynasties* was drawn in 1602 based on the *Map of Territories Covered by Voices and Teachings [of the Yuan Dynasty]* (声教广被图, *Sheng Jiao Guangbei Tu*) by Li Zemin in 1330, and *Consolidated Maps of the Territory [of Each Dynasty]* (混一疆理图, *Hunyi Jiangli Tu*) by Qing Jun in 1370 (Ge, 2008).
- 65 Zhu Siben (1273–1333 AD) was the greatest geographer and cartographer of the Yuan dynasty. Travelling extensively, he conducted much research and many interviews before drawing the *Map of the Territory [of Yuan]*. The original map is lost, but its accuracy was recognised by later cartographers such as Luo Hongxian (罗洪先, 1504–1564), who drew new maps based on the sources of Zhu's map, adding corrections and new information. He also divided his work into smaller quarters for different regions, so that each map would be easier to keep and maintain. It proved to be a better idea, since Zhu's map was too big to be practical (Chinese Encyclopedia Online, 2006).
- 66 Boni, Pinggaolun, Puer and Zhimen were all ancient names of different places. Boni referred to Kalimantan Island, which was also named Borneo in the old days; Pinggaolun referred to Natuna Island; and Zhimen was Tioma Island along the east coast of the Malay peninsula. Puer is still uncertain.
- 67 *Ting* was an administrative locale created in the Qing dynasty. It could be the same level as either a prefecture or a county, depending on the situation in a given place.
- 68 About 22.5° to the northwest/southeast on the compass.
- 69 Before the clock became commonly used, fishermen used burning incense to count time. It took one *geng* to finish one piece of incense, during which the fishing boat could travel about ten nautical miles. Three *gengs* equals approximately 30 nautical miles.

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- 70 About 30° to the northwest/southeast on the compass.
- 71 About 60° to the northeast/southwest on the compass.
- 72 About 15° to the northwest/southeast on the compass.
- 73 North/south on the compass.
- 74 All the names in italics were spelled in Latin letters based on the pronunciation of Hainan dialect.
- 75 Feature names in this paragraph are spelled by Latin letters based on the pronunciation of Hainan dialect; Mandarin versions are indicated in the brackets.
- 76 The book was referred to as *Introduction to the China Sea*.