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**The Spratly Islands Dispute:
Who's On First?**

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The opinions contained herein are those of the author and are not to be construed as those of IBRU.

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The Spratly Islands Dispute: Who's On First?

Daniel J. Dzurek

1. Introduction

The area of the Spratly islands¹ in the South China Sea is the most contested place on the planet. It includes both sovereignty and jurisdictional (boundary) disputes. The reference of this monograph's title to the Laurel and Hardy comic routine hints at the chronic miscommunication among the claimants. It also alludes to the allegation of 'discovery' that underlies several sovereignty assertions and to the sequential occupation of military outposts by the claimants. Brunei, China, Malaysia, the Philippines, Taiwan,² and Vietnam claim part or all of the area. All of the countries except Brunei claim some of the islands and reefs.³ Matters are complicated because there is no agreed definition of the 'Spratly islands', and international law is ambiguous about the definition of islands and the resolution of conflicting sovereignty and jurisdictional claims. The Spratly islands dispute is aggravated by historical animosity, other land and maritime boundary disputes among the claimants, and the possibility of oil and gas deposits near the islands.

2. Physical Geography

The southern portion of the South China Sea is studded with low islands, cays, and reefs extending in a rough oval southwest to northeast for approximately 900 kilometres (km). The average east-west extension is roughly 360km. The 240,000 sq. km area is roughly the size of the United Kingdom (see Figure 1). However, estimates of the jurisdictional area under dispute vary dramatically.⁴

There are more than 170 features with English names in the Spratly islands.⁵ Most are submerged banks and shoals; approximately 36 tiny islands rise above the water. Within the Spratly islands, features tend to cluster on submerged structures, variously termed table mounts, atolls, reefs, or banks, of relatively shallow depths (less than 200 metres). Some

¹ To refer to the entire Spratly group, the term Spratly islands, with a lowercase generic, will be used to remind the reader that the group is ill-defined and to distinguish from Spratly Island.

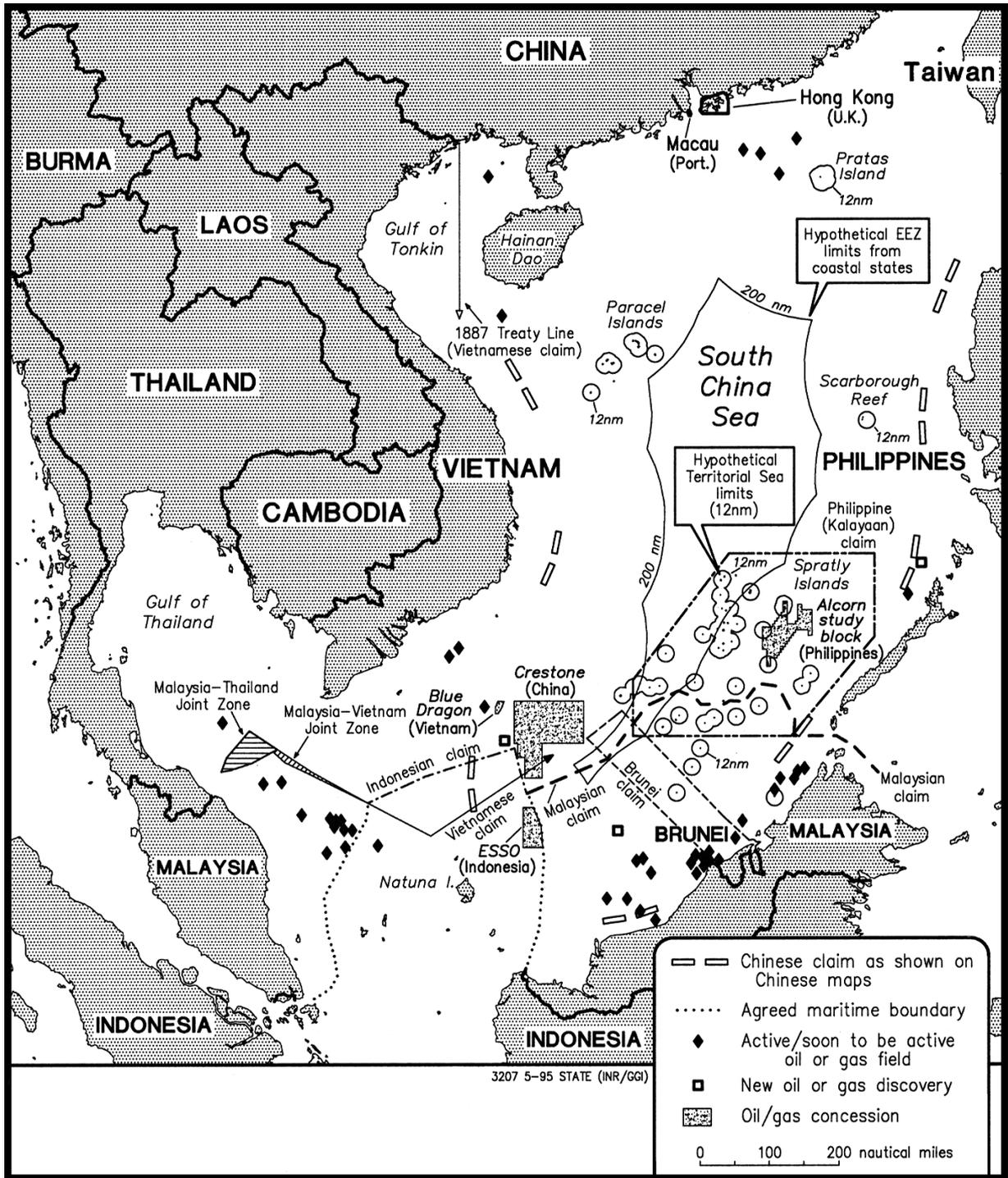
² Because troops from both Chinese authorities are present in the Spratly islands, they must be distinguished for purposes of this study. The Nationalist authorities in Taipei, Taiwan will be identified as Taiwan where a distinction is necessary, and the authorities in Beijing will be denoted as China or People's Republic of China (PRC). However, both authorities view Taiwan as a province of China and maintain similar claims to the Spratly islands.

³ Brunei claims the seas surrounding Louisa Reef.

⁴ Prescott (1993) calculates an area nearly twice as large, 154,000 square nautical miles (nm) (528,000 sq. km). Vietnamese sources give an area of 160,000-180,000 sq. km. Chinese authorities estimate an area of 800,000 sq. km.

⁵ Dzurek, 1994: 167. The *Spratly Islands: Placenames Guide* (Australia, 1988) lists 98 Chinese place names and 62 Vietnamese place names in the Spratly islands.

Figure 1: South China Sea: Selected Claims/Oil and Gas Resources



Source: US Department of State, Office of the Geographer and Global Issues.

countries have constructed fortified platforms above reefs and cays. Such shallows also hold promise for siting drilling platforms. Waters elsewhere in the Spratlys are generally less than 2,500 meters deep.

Spratly Island (8°38.5'N, 111°55'E), which lends its name to the island group in English and Vietnamese but not in Chinese, lies near the southwest edge of the chain. The island is only 2.4 meters high and 13 hectares in area. Spratly Island, like most of the other islands and cays in the group, sits on a larger coral bank or atoll. Nearly 610km northwest of Spratly Island lies the largest island of the group, Itu Aba (10°23'N, 114°21.5'E). It is only 1.4km long and 400 metres wide, with an area of 50 hectares. Itu Aba rises a mere two and one-half meters above sea level.⁶ The combined surface area of all of the Spratly features above water at high tide is probably less than a few square kilometres.

3. Definitional Problems

3.1 Where are the Spratly islands?

There is no generally accepted definition of the Spratly islands. The claimant countries differ. Malaysia and the Philippines have contended that they do not claim the Spratly islands because they do not claim Spratly Island, itself (see below). In 1991 China's Xinhua News Agency (Beijing) published reference material with a partial definition.

“The Nansha Archipelago [Spratly islands] (in ancient times called Wanli Shitang) is located from 3°37' to 11°55' north latitude and 109°43' to 117°47' east longitude, stretching south to north approximately 550 nautical miles, and spreading east to west more than 650 nautical miles; its water-territory area exceeds 800,000 square kilometers.”⁷

The description does not indicate how near the Spratly islands extend toward the coasts of Brunei, Malaysia, and the Philippines. However, on 18 May 1983 China claimed its naval squadron had “reached China's southernmost part – in the Nansha Islands.”⁸ This is James Shoal (4°N, 112°15'E), which lies 107km north of Sarawak, Malaysia. The feature had been depicted and labelled on maps of Chinese provinces since the 1940s. Therefore, China views parts of the Spratly islands as extending up to 100km from the shores of neighbouring countries.⁹

Vietnam is inconsistent in its depiction and definition of the Spratly islands. In April 1988 the Vietnamese Foreign Ministry published a white paper with a map depicting the Truong Sa [Spratly] Archipelago (see Figure 2). The labelled features stretch as far west as Bai Phuc Tan (Prince of Wales Bank at 8°07'N, 110°32'E) and as far south as Da Sac Lot (Royal Charlotte Reef at 6°57'N,

⁶ Hancox and Prescott, 1995: 9, 14.

⁷ Jiang Zhijun and Liu Maojian, ‘Nanhai Zhudao Zhuquan jiqi Zhenyi Yuolai he Xianzhuang,’ *Cankao Ziliao* [reference materials] (Beijing: New China [Xinhua] News Agency), 26 June 1991, p. 8 (author's translation).

⁸ US Foreign Broadcast Information Service, *Daily Report: China* (hereafter FBIS, *China*) (14 June 1983).

⁹ See also a discussion of China's traditional sea boundary line, below.

113°35'E). On 19 May 1992 in response to China's contract with Crestone Energy (US) for the area around Vanguard Bank (7°32'N, 109°44'E) and Prince of Wales Bank, Vietnam claimed that the contract area was on its continental shelf and *outside* the Spratly islands (see below).¹⁰ An unofficial Vietnamese definition was reportedly published in October 1992, which described the Truong Sa [Spratly] archipelago as situated from 6°50'N to 12°N and 111°30'E to 117°20'E.¹¹ However a 1992 Vietnamese map of Indochina continues to suggest that Vietnam regards the Spratly islands as encompassing Vanguard and Prince of Wales banks. The map includes a first-order administrative district label for the Truong Sa archipelago that stretches south of Vanguard Bank, which is among the features labelled on the map.¹²

Various authors have proposed definitions for the Spratly islands. Prescott has written that "*There is no single authoritative definition of the extent of the Spratly Islands, but they are found in the southeastern part of the South China Sea.*"¹³ Hancox and Prescott (1995) examined the spatial extent of the Spratly islands in an earlier *Maritime Briefing*. Heinzig's definition includes the area between 4°N and 11°30'N and from 109°30'E to 117°50'E.¹⁴

For purposes of this study, a definition encompassing the largest delimitation of the Spratly islands is desirable. Therefore the Chinese limits, up to 185 kilometres (100nm) from the Malaysian and Philippine main islands, are used. This excludes the Paracel Islands, Macclesfield Bank, and Scarborough Reef, which, though disputed, are not part of the Spratly islands under most countries' definitions.

3.2 When is Chigua Reef not Chigua Jiao?

Even the identification of particular features can be problematic in the Spratly islands. One is confronted with place names in Chinese, English, French, Malay, Filipino, and Vietnamese. There are variants within each language for some features. For example, Fiery Cross Reef (9°33'N, 112°53'E), which was the scene of a battle between the People's Republic of China (PRC) and Vietnam in 1988, also bears the English names: Fierry Cross and Investigator Northwest Reef. The same feature is identified by one set of characters in Chinese, but they are variously rendered in roman characters as *Yongshu Jiao*, *Yungshu Jiao*, and *Yung-shu Chiao*.¹⁵ It is named *Chu Thap* in Vietnamese and *Kalingan* in Filipino. The feature's French name is *Récif Croix de Feu*.¹⁶

¹⁰ 'Statement of the Ministry of Foreign Affairs of the Socialist Republic of Vietnam on the Agreement between Chinese and US Oil Companies for the Exploration and Exploitation of Oil and Gas on the Continental Shelf of Vietnam', Press Release No. 08/BC, Vietnamese Mission to the United Nations, New York, 19 May 1992.

¹¹ Luu Van Loi, 'Bien Dong', *Vietnam Courier* No. 36, October 1992, as cited in Ning Lu, 1993: 59.

¹² The label 'HUYEN TRUONG SA (TINH KHANH HOA)' curves southward beneath the island group on an inset of the map (Vietnam, 1992).

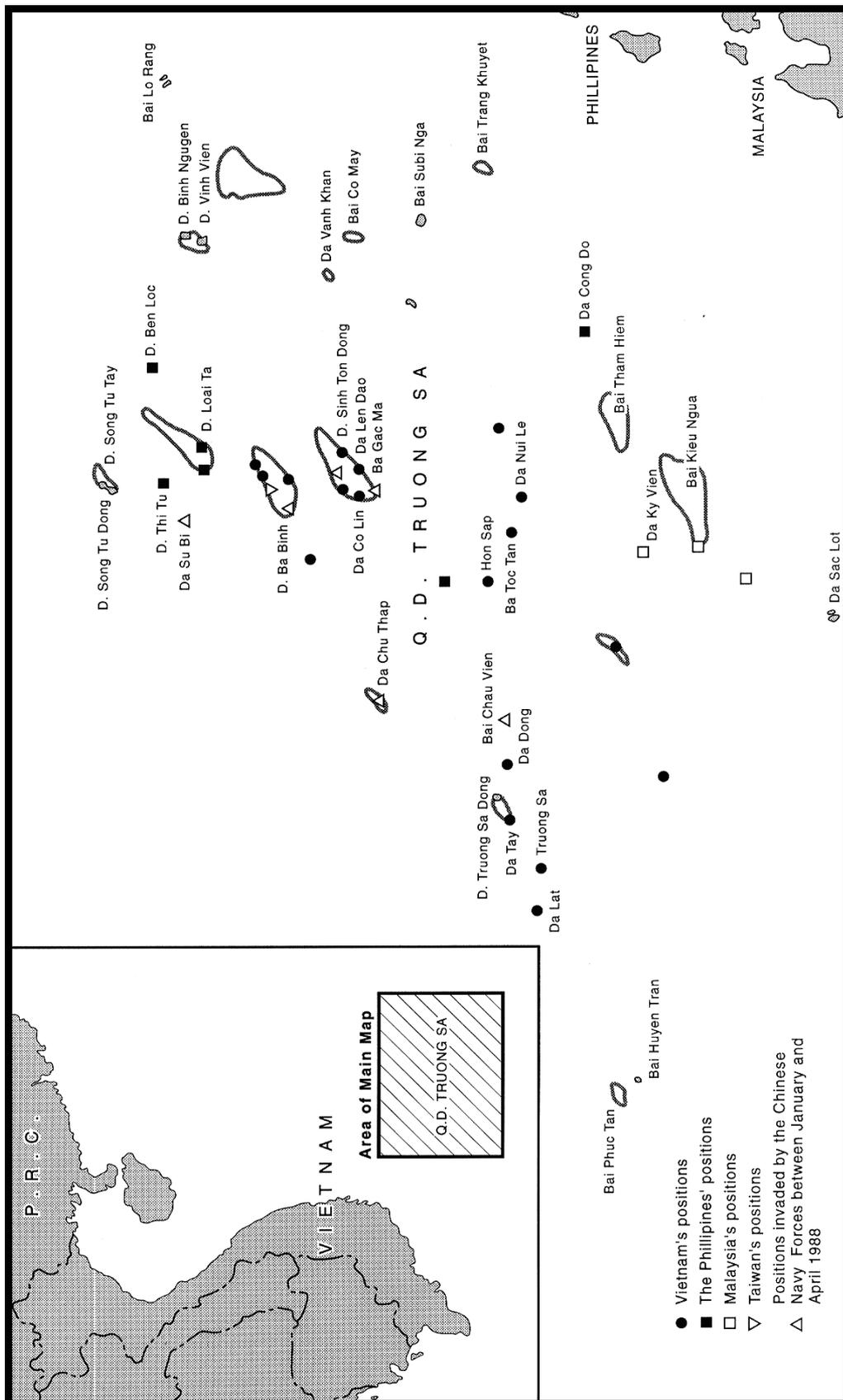
¹³ Prescott, 1985: 218.

¹⁴ Heinzig, 1976: 17.

¹⁵ The Chinese characters correspond to Chinese telegraphic codes 3057, 2540, 4339 and can be translated as "*eternal summer shoal*."

¹⁶ Gazetteer on reverse of 'The Spratly Islands and Paracel Islands' (map) (United States, 1992).

Figure 2: The Present Situation in the Truong Sa Archipelago (Vietnam)



Source: Vietnam, 1988: 33.

The location of Fiery Cross Reef also differs among sources (see Table 1). The average difference in location among the five published sources is 10km. Many features in the Spratly islands, especially reefs, extend for several kilometres, therefore precise locations can be uncertain. Also, some variation is due to differing map projections and diverse national geodetic systems. However, the largest nominal divergence among these various locations in Table 1 is some 18km.

On occasion, uncertainty is compounded because a place name in one language does not appear to correspond with that in another language. Such is the case with *Dongmen Jiao*, which was occupied by the PRC in 1988 (see Figure 3).¹⁷ A recent US government map with gazetteer identifies this Chinese name with Chigua Reef, also called Kennan Reef, located at 9°55'N, 114°29'E.¹⁸ However, both *Chigua Jiao*¹⁹ [reef] and *Dongmen Jiao* appear in Chinese documents, showing that they are separate entities. One Chinese gazetteer locates *Dongmen Jiao* at 9°54'N, 114°30'E and *Chigua Jiao* at 9°42'N, 114°18'E. This source explicitly identifies *Chigua Jiao* as 'Johnson Reef.'²⁰ The listed geographic coordinates suggest that *Chigua Jiao* in the Chinese context is Johnson Reef South, and *Dongmen Jiao* is what the United States identifies as Chigua Reef or Kennan Reef. Both 'islands' are outcroppings on the Union Reefs platform, which includes four other occupied features. Such confusing place names reflect even more bewildering historical claims.

Table 1: Geographic Coordinates of Fiery Cross Reef

Source	Latitude (N)	Longitude (E)
A	9° 33' 00"	112° 53' 00"
B	9° 38'	112° 57'
C	9° 32' 30"	112° 54' 00"
D	9° 42'	112° 54'
E	9° 33' 02"	112° 53' 34"

Sources:

- A United States, National Technical Information Service (1992) 'The Spratly Islands and Parcel Islands [map]', US Department of Commerce, National Technical Information Service (Purchase No. PB92928343);
- B United States Board on Geographic Names (1987) *Gazetteer of the Paracel Islands and Spratly Islands*, Washington, DC: Defense Mapping Agency: 11;
- C Pan Shiyong (1993) 'The Nansha Islands: A Chinese Point of View', *Window* (Hong Kong), 3 September: 29;
- D *Zhongguo Diminglu: Zhonghua Renmin Gongheguo Dituji Diming Suoyin* [Gazetteer of China: Index to the Atlas of the People's Republic of China] (1983) Beijing: Ditu Chubanshe: 273;
- E Australia, Department of Defence (1988) *Spratly Islands: Placenames Guide*, Joint Intelligence Organization Working Paper, No. 8/88 (October), Canberra: 8.

¹⁷ Chinese telegraphic codes 2639, 7024, 4339 meaning "eastern gate shoal."

¹⁸ "The Spratly Islands and Paracel Islands" (map) (United States, 1992).

¹⁹ Chinese telegraphic codes 6375, 3900, 4339 meaning "red gourd shoal."

²⁰ *Shijie Diminglu* [world gazetteer], 1994: 2,745 and 2,750.

Figure 3: Chinese Installation on Kennan Reef



PRC installation on Dongmen Jiao (probably Kennan Reef, see text), similar in design to that shown in Figure 4. Reprinted, by permission, New China Pictures Company (Beijing).

4. History of the Claims

Some claimants use centuries-old evidence of discovery as their basis for title to the Spratly islands, claiming that they were on first. However, sovereignty over the Spratlys has been hotly contested only since the end of the Second World War, with the withdrawal of Japanese and French forces that had occupied some islands. Besides the varying temporal aspect, the claims differ spatially. Only China, including Taiwan, and Vietnam claim all of the Spratly islands. The interplay of the claimants in time and space resembles a complex tapestry, the threads of which stretch into antiquity.

4.1 Before the Twentieth Century

4.1.1 China

Although the authorities in Taipei (Taiwan) and Beijing dispute which is the rightful government of China, both put forward essentially the same basis for their Spratly claim, which is similar to that for the Paracel Islands. They claim discovery of the Spratly islands and intermittent presence from the Han dynasty (2nd century BC). All Chinese authorities cite

ancient texts and maps relating to Chinese naval and fishing activity throughout the South China Sea. Given extensive naval activity by China in the South China Sea, especially during the Ming Dynasty, Chinese navigators undoubtedly were among the first to reach the islands.²¹ The Chinese activity in the Paracel Islands is better documented than that in the more distant Spratly islands.²² Moreover, place name usage and ancient maps may relate to other features in the South China Sea.²³ Modern authors' assertions of subsequent discovery of Chinese artefacts and graves²⁴ are not persuasive proof of Chinese title to the islands. Chinese goods would have been available to other peoples through trade. Graves may prove the presence of Chinese on or near the islands, but do not demonstrate continuing presence or administration.

Samuels suggests that the first distinct Chinese reference to the Spratly islands is found in a 1730 text by Ch'en Lun-chiung.²⁵ Independent witness of Chinese activity in the Spratly islands dates to 1867, when a British survey ship allegedly encountered Chinese fishermen on Itu Aba.²⁶ In 1883, according to Chinese sources, the German government suspended survey work in the Spratly islands due to a protest from the Chinese government. Haller-Trost suggests that the survey only covered the Paracel Islands.²⁷

4.1.2 Vietnam

Vietnam asserts that:

*"it has maintained effective occupation of the two archipelagoes [Paracel and Spratly islands] at least since the 17th century when they were not under the sovereignty of any country and the Vietnamese State has exercised effectively, continuously and peacefully its sovereignty over the two archipelagoes until the time when they were invaded by the Chinese armed forces."*²⁸

However, most of Vietnam's 18th and 19th century historical evidence relates to the *Bai Cat Vang* islands, which Vietnam maintains included both the Hoang Sa [Paracel] islands and the Truong Sa [Spratly] islands.²⁹ Heinzig states that "*Vietnamese argumentation, covering the period until the end of the 19th century, refers exclusively to the Paracels.*"³⁰ Given the 400km distance between them, it would be unusual to treat both island groups as a single entity or use one place name for both. Vietnam claims that it conducted surveys and mapping expeditions to both island groups.³¹ However, its activities clearly focused on the Paracel Islands.³² Use of the term *Truong Sa* appears to date to a 1867 decree of Emperor Tu Duc of Annam.³³

²¹ Heinzig, 1976: 22-24; Chang, 1991: 404-406.

²² Samuels, 1982: 9-25.

²³ Heinzig, 1976: 21-23; with Chang, 1991: 403-405.

²⁴ Pan, 1993: 24; Chang, 1991: 404.

²⁵ Hai-kuo wen-chien lu (sights and sounds of the maritime countries), see Samuels, 1982: 36.

²⁶ Heinzig, 1976: 23; Pan, 1993: 24.

²⁷ Heinzig, 1976: 25-26; Document issued by the Ministry of Foreign Affairs of the People's Republic of China: China's indisputable sovereignty over the Xisha and Nansha Islands, 30 January 1980 (China: 1982: 455); S.K.T. Yu, 1990: 10-11; Haller-Trost, 1994b.

²⁸ Vietnam, 1988: 4.

²⁹ Vietnam, 1988: 4.

³⁰ Heinzig, 1976: 24.

³¹ Heinzig, 1976: 25; Vietnam, 1988: 4-6.

³² Samuels, 1982: 43-44.

³³ Vietnam, 1988: 6, 36.

Vietnam claims that France administered the islands as part of its protectorate, established under a 1884 treaty. After France consolidated its hold on Vietnam in a war with China, the two parties concluded a peace treaty delimiting the boundary of French Indochina on 27 June 1887, which allocated islands east of the 105°43' meridian from Paris (108°03'E of Greenwich) to China. The 1887 treaty has been cited as evidence against French and Vietnamese claims to the Paracel and Spratly islands.³⁴ It is unlikely that this allocation can reasonably be interpreted to reach into the South China Sea, proper, because when extended beyond the Gulf of Tonkin the line intersects the mainland of Vietnam. This would also place islands immediately off the Vietnamese coast, such as Con Co, Cu Lao Re, and Cu Lao Con, under Chinese sovereignty, but China has never claimed these coastal islands. There is little evidence of French activity in the Spratly islands until 1930.³⁵

4.2 Early Twentieth Century

The early twentieth century was a period of turbulence and warfare throughout much of East and Southeast Asia, which also suffered during World War II. In 1902 the Chinese imperial government sent a naval task force to inspect islands in the South China Sea. The troops reportedly erected sovereignty markers and hoisted Chinese flags on some islands, but it is not clear that the task force penetrated beyond the Paracel Islands to the Spratly islands. The Chinese Republic placed the Paracel Islands under the administration of a county on Hainan Island in 1911,³⁶ but apparently did not include the Spratly islands.

A Japanese exploration team visited the Spratly islands in 1918 and met with Chinese fishermen who lived on Southwest Cay.³⁷ During the late 1920s and early 1930s Japanese phosphate companies were active in the Spratly islands. France was also active there, sending reconnaissance vessels and, apparently, occupying one island.³⁸ In 1927 France and Japan held inconclusive discussions about their activities in the South China Sea.³⁹

The Chinese claim to the Spratly islands is weakened by a 1928 Chinese government commission report that said the Paracel Islands were the southernmost territory of China. As Samuels has observed, this suggests that the Spratly islands were not viewed as Chinese territory at that time.⁴⁰

On 13 April 1930 France claimed to have taken possession of Spratly Island. It proceeded to claim all the islands between 7° and 12° North latitude and between 111° and 117° East longitude, but formal notice was not published until 1933. Marston ably recounts the resulting diplomatic exchanges between Britain and France because of an inchoate claim that Britain had to Spratly Island and Amboyna Cay.⁴¹

Although the strategic position of the islands and concerns about Japanese intentions influenced the British, they appeared to have viewed the Spratly islands as *terra nullius*. Chinese claims were not

³⁴ Park, 1978: 33-34; Thomas, 1990: 415; Dzurek, 1994.

³⁵ Samuels, 1982: 63-64.

³⁶ Chang, 1991: 405-06.

³⁷ Ogura Unosuke (1940) *Bofu No Shima* (Storm island), 5th ed. (Tokyo: 1940), cited in Lu, 1993: 28-29.

³⁸ Heinzig, 1976: 28.

³⁹ Samuels, 1982: 63-64.

⁴⁰ Samuels, 1982: 68.

⁴¹ Marston, 1986: 344-56.

considered by the British, although the French described the islands as settled by Chinese.⁴² On 26 July 1933 the Chinese foreign ministry publicly affirmed Chinese sovereignty of the islands:

*“The coral islands between the Philippines and Annam are inhabited only by Chinese fishermen, and are internationally recognized as Chinese territories.”*⁴³

On 29 September 1933 the Chinese government protested French activities in the islands by referring to the 1887 Sino-French treaty.⁴⁴ Additional protests to the French government followed.⁴⁵ Upheavals and warfare in mainland China probably precluded anything stronger than Chinese diplomatic protests. On 21 December 1933 the French governor of Cochinchina incorporated the Spratly islands into Ba Ria province.⁴⁶

Following conquest of Hainan Island, just off the Chinese mainland, Japanese forces occupied the Spratly islands by the end of March 1939. Some authors have argued that the Japanese did not attack Vietnam until late 1941; therefore their earlier occupation of the Spratly and Paracel islands must be viewed as movements against what they recognised as Chinese territory.⁴⁷ There was no report of fighting between Japanese forces and French personnel, who would be assumed to have been in the Paracel and Spratly islands.⁴⁸ Japan stationed troops on Spratly Island and put a submarine base on Itu Aba.⁴⁹ The islands were then used as a staging post for the invasion of the Philippines.

4.3 Aftermath of World War II

4.3.1 Republican China

Chinese forces accepted the surrender of Japanese troops in northern Vietnam and were instructed to do so in the South China Sea islands. It is not clear that any Japanese surrendered to them in the islands.⁵⁰

Two Chinese naval patrols were ordered to the Spratly islands in 1945-46. The French naval battleship, *Chevreud*, landed crews on Spratly Island and Itu Aba, where they placed a stone marker in October 1946.⁵¹ China protested the French action, and the two countries conducted inconclusive talks on the dispute. Another Chinese naval patrol sailed to the islands and arrived at Itu Aba on 12 December 1947. It reportedly erected markers on Itu Aba, Spratly Island, and West York Island. A garrison was established on Itu Aba, the largest of the islands. In 1946-47 China published official names for the islands and incorporated them into Guangdong province.⁵²

⁴² J. Vivielle, ‘Les Ilots des mers de Chine’, *Le Monde Coloniale Illustré Vivielle*, No. 121 (September 1933), as cited in Lu, 1993: 31, and in Chang, 1991: 406.

⁴³ Shen Shungen (1992) *Keai de Nansha*, Shanghai: Yuandong: 106 as translated in Lu, 1993: 32.

⁴⁴ France (1933) *Journal Officiel de la République française*, Vol. 65, No. 1752 (25 January 1933): 7,794, as cited in Chang, 1991: 411; see also Heinzig, 1976: 28.

⁴⁵ Van Dyke and Bennett, 1993: 63-64; Chang, 1991: 406; China, 1982: 456.

⁴⁶ Decree No. 4762-CP, reproduced in Vietnam, 1988: 38-39.

⁴⁷ Chang, 1991: 412.

⁴⁸ Samuels, 1982: 65.

⁴⁹ Heinzig, 1976: 29.

⁵⁰ Lu, 1993: 34; Heinzig, 1976: 31-32; Samuels, 1982: 75.

⁵¹ Samuels, 1982: 75.

⁵² Chang, 1991: 406-407; Bennett, 1992: 437-38; Chao, 1990: 25-26; Lu, 1993: 34-35.

Nationalist forces apparently occupied Itu Aba until 1950, when they withdrew to Taiwan in the aftermath of the Chinese civil war. They were not to return until 1956.⁵³

4.3.2 China's traditional sea boundary line

At this time, Chinese maps began to depict a tongue-shaped, interrupted boundary line that suggests Chinese jurisdiction over most of the South China Sea. A survey of Chinese maps and atlases in the Library of Congress, spanning the years 1933-50, yielded two 1947 atlases as the earliest depictions of this line.⁵⁴ Heinzig reported that he was in possession of a 1949 chart depicting the historic claim line.⁵⁵ One 1948 atlas, in the Library of Congress, depicts a continuous line, but the symbol of that line differed from that used for international boundaries.⁵⁶ Song cites a depiction of the tongue-shaped line on a map published by the Republic of China Ministry of Interior in January 1948.⁵⁷ The interrupted line is found in a 1950 PRC provincial atlas⁵⁸ and continues to appear on most maps of Chinese origin. Although often characterised in English as China's "*historic claim line*", as several Chinese speakers have observed the Chinese term might best be translated as "*traditional sea boundary line*."⁵⁹ Chinese references to the line vary,⁶⁰ but most do not include the Chinese character for "*historic*" that is found in Chinese international legal terms, such as those for historic waters or historic bay that have special usage in the law of the sea.

In the 1979 national atlas of China the line is depicted with the same symbols as an international boundary, but it is not continuous. The atlas uses the identical interrupted symbol to distinguish the sovereignty of island groups belonging to other countries. For instance, it uses such line segments to differentiate the Natuna Islands of Indonesia from nearby Malaysia and to separate the southern Philippine islands from Malaysia.⁶¹ It is notable that the segments between the Natuna Islands and Malaysia do *not* follow the agreed Indonesia-Malaysia continental shelf boundary. Therefore, China's cartographic usage suggests that this traditional sea boundary line distinguishes the sovereignty of islands, not the limits of maritime jurisdiction.

China has never precisely delimited the course of this irregular boundary. The dashed lines generally follow the 200 meter isobath. The endpoints of the interrupted segments differed by 1 to 5 nautical miles in relative position among recent PRC maps.⁶² In 1979 Hasjim Djalal, then Director of Legal and Treaty Affairs of the Indonesian Department of Foreign Affairs, wrote:

"The nature of the claim of the PRC to the South China Sea is enigmatic...It is not clear whether the lines indicated in the Chinese maps are intended as the limits of the Chinese territorial claim towards the whole area, thus including the islands, the

⁵³ Samuels, 1982: 77.

⁵⁴ 'Chung-kuo shih ti t'u piao pien tsuan she', 1947, plate 27 (Library of Congress (LC) Call Number: G2305 .C95); Chin Ch'ing-yu, 1947, plate 11 (LC Call Number: G2305 .C53).

⁵⁵ Heinzig, 1976: n. 119.

⁵⁶ Ting Wen-chiang, 1948: 28 (LC Call Number: G2305 .T502 1948a).

⁵⁷ Song, 1994: 8.

⁵⁸ Chung hua jen min kung ho kuo fen sheng ching t'u, 1950: plate 1 (LC Call Number: G2305 .Y3 1950).

⁵⁹ The term used is *chuantong haijiang xian* (traditional sea frontier line) in Jiang Zhijun and Liu Maojian, 'Nanhai Zhudao Zhuquan jiqi Zhenyi Yuolai he Zianzhuang', *Cankao Ziliao*: 9 (Ning Lu to the author, personal correspondence, 15 July 1993). See also Gao, 1994: 346.

⁶⁰ Song, 1994: 11.

⁶¹ 'Zhonghua Renmin Gongheguo Dituji' [Atlas of the People's Republic of China], 1979: plates 2, 56.

⁶² 'Nanhai zhu dao' 1:2,000,000 (Beijing: Ditu Chubanshe, 1983); 'Nanhai dixing tu' 1:3,000,000 (Beijing: Ditu Chubanshe, 1984); and 'Nanhai jilinjin dayang dishitu', (Zhongguo Kexueyuan, 1990), sheets 2 and 5.

*sea, the airspace, the seabed and all the resources contained therein; or whether the lines simply indicate that only the **islands** contained within the lines which are claimed by the PRC. Careful reading of the Chinese statements on this matter, especially those at the ICAO meetings [1979], indicates that the Chinese territorial claims are limited towards the islands and all rights related thereto, and not territorial claims over the South China Sea as a whole.”⁶³*

Chinese scholars disagree about the legal status of the waters enclosed by the tongue-shaped line. Some claim historic waters status,⁶⁴ while others agree with Djalal.⁶⁵ Official statements distinguish the PRC from Taiwan. In discussing jurisdictional claims in the South China Sea, PRC government documents generally refer to more orthodox sovereignty claims to specific island groups, based on discovery and administration, and to maritime jurisdiction derived from that sovereignty:

“The PRC has not formalized its historical claim with precise coordinates, and has kept silent on the nature of this tongue-shaped line and the legal status of the waters enclosed by the line.”⁶⁶

Thus, it would appear that for the PRC the Chinese traditional sea boundary line relates to the sovereignty of the enclosed islands.⁶⁷ If it were to include continental shelf jurisdiction, it would have little standing in modern international law.

Continental shelf jurisdiction is predicated upon natural prolongation of the geologic shelf or proximity to a landmass, if there is no natural shelf. In the South China Sea, the traditional sea boundary line does not depict the limit of a geologic shelf extending from the Chinese mainland. Nor does it follow a median line equidistant from the islands claimed by China and the territories of other coastal states. In point of fact, the tongue-shaped line seems to follow the 200-meter isobath. If the line were a continental shelf claim, China would be claiming everything beyond the minimum available to the other coastal states under a narrow interpretation of continental shelf jurisdiction current in the 1940s. However, the 1945 Truman Proclamation and the 1958 Geneva Convention on the Continental Shelf recognised coastal state jurisdiction to a depth of 200 meters (approximately 100 fathoms) *or* to the limit of exploitability. Even at the time the line first appeared on Chinese maps, the 200 meter depth limit was not an absolute. The 1982 UN Convention abandoned the 200-meter isobath criterion completely. Therefore, the Chinese traditional sea boundary line has no foundation for continental shelf jurisdiction in the law of the sea.

In response to the PRC occupation of Mischief Reef (see Section 5.5), Indonesia raised the function of the tongue-shaped line with Beijing. Jakarta apparently feared that the line represented a claim to the natural gas fields off the Natuna Islands. On 26 June 1995 Foreign Minister Ali Alatas implied that the traditional sea boundary line had recently appeared on Chinese maps.⁶⁸ Such an

⁶³ Djalal, 1979: 41-42. Djalal is also quoted in David Jenkins, ‘Trouble over Oil and Waters’, *Far Eastern Economic Review*, 7 August 1981: 26.

⁶⁴ Pan, 1994.

⁶⁵ For example, Gao, 1994: 346; S.K.T. Yu, 1990; and Hungdah Chiu, summarised in Song, 1994: 34-35.

⁶⁶ Song, 1994: 6.

⁶⁷ Gao, 1994: 346.

⁶⁸ ‘Alatas: No Boundary Dispute with PRC’, Radio Republik Indonesia (Jakarta) broadcast in Indonesian, 0600 GMT, 26 June 1995, translated in FBIS, *East Asia* (27 June 1995): 55; ‘Indonesia Delays Spratly Talks until October’, Reuter (Jakarta), 20 June 1995.

implication is inconsistent with work previously published by his Ambassador-at-large for the Law of the Sea, Hasjim Djalal. Following bilateral meetings in Beijing on 21 July the Indonesian Foreign Minister said that the PRC had never claimed the Natuna Islands, but implied that the maritime boundary between the Spratly and Natuna islands remained to be settled. The PRC Foreign Ministry confirmed the distinction.⁶⁹ Obviously, Indonesia could not negotiate a boundary between the Natuna Islands and the Spratlys without first deciding who was sovereign of the Spratlys. As a neutral party to the dispute, such a determination is unlikely. Indonesian satisfaction with the PRC position suggests that China does not interpret the tongue-shaped line as a maritime boundary. Were it to do so, the Natuna gas field would be in dispute with the PRC.

In distinction to the apparent PRC position, officials of the Republic of China (Taiwan) have recently claimed that the waters enclosed by the traditional claim line are *historic waters* of China. In June 1994 Chang King-yu, Minister without Portfolio of the Executive Yuan, said 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.*”⁷⁰ On 18 July 1991 at the Second Workshop on Managing Potential Conflicts in the South China Sea (Bandung, Indonesia), Tzen Wen-hua, Representative of the Taipei Economic and Trade Office in Jakarta, stated:

*“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.”*⁷¹

Neither Beijing nor Taipei have exercised the kind of control within the traditional claim line that would characterise historic waters jurisdiction. Under international law, historic waters

should have the status of internal waters or territorial sea. However, the vessels of other countries have exercised freedom of navigation through most of the area bounded by the tongue-shaped line. Foreign aircraft, which are prohibited from the airspace above internal waters and territorial seas without the explicit permission of the coastal state, have overflowed the South China Sea for decades. Neither the PRC nor ROC have prevented or protested these activities by foreign vessels. In addition, a claim of historic waters requires recognition by the international community. No such recognition has been given to the Nationalist claim.⁷²

Both Beijing and Taipei have decrees or legislation relating to the territorial sea that specifies its measurement from straight baselines around islands in the South China Sea (see Appendix Proclamations and Legislation). Such decrees would be superfluous if the tongue-shaped line delimited historic waters. In particular, Article 1 of the 1958 PRC Declaration on China's Territorial Sea states that:

“The breadth of the territorial sea of the People's Republic of China shall be twelve nautical miles. This provision applies to all territories of the People's Republic of

⁶⁹ ‘Indonesia Satisfied by China's Natuna Explanation’, Reuter (Jakarta), 21 July 1995; ‘On Natuna Archipelago Ownership’, Xinhua (Beijing) broadcast in English, 22 June 1995, transcribed in FBIS, *Daily Report: China* (22 June 1995).

⁷⁰ Statement at a conference sponsored by the Chinese Society of International Law (Taipei), as reported in *United Daily News* (29 June 1994: 4), and quoted in Song, 1994: 7.

⁷¹ Excerpt of Tzen's statement distributed by the Coordination Council for North American Affairs at the South China Sea Conference, 7-9 September 1994, American Enterprise Institute, Washington, DC.

⁷² Song, 1994: 28-36.

china, including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands and all other islands belonging to China which are separated from the mainland and its coastal islands by the high seas” [emphasis added].⁷³

Article 2 lists the islands inside the Chinese baseline, whereas Article 4 lists Taiwan, the Spratly islands, and others. The PRC 1958 Declaration clearly groups the Spratly islands among those which are separated from the mainland by the high seas. Therefore proclamations and laws by the Chinese authorities relating to the Spratly islands, especially the PRC 1958 Declaration, are inconsistent with a historic waters claim delimited by the tongue-shaped line.

4.3.3 Defining the Philippines

A series of treaties between Spain and the United States (1898 and 1900) and the United Kingdom and the United States (1930) established the national area of the Philippines by lines of allocation, connecting points of specified geographic latitude and longitude. All the islands within these so-called treaty limits were administered by the US and, in 1946, became the Republic of the Philippines. Although the geographic polygon was only intended to designate the sovereignty of islands, the Philippines subsequently claimed that the treaty limits established territorial sea jurisdiction.⁷⁴ It also used that same methodology in its later claim to part of the Spratly islands (see Section 4.6.4).

4.4 The San Francisco Peace Treaty, 1951

4.4.1 Philippines

In 1947, a year after gaining independence, the Philippine Secretary of Foreign Affairs called for the territory occupied by Japan during the Second World War to be awarded to the Philippines.⁷⁵ Chinese communist success in China's civil war heightened Philippine security concerns. On 7 April 1949 the Chinese Republican Legation in Manila informed the Philippines government that the Chinese were garrisoning Itu Aba in an effort to block the traffic of arms through Hainan to Communist forces. However the Philippine government continued to express concern and discussed inducing Filipinos to settle in the Spratly islands. On 17 May 1950 Philippine President Quirino told a press conference that the Spratly islands belonged to the Philippines, but the statement was disavowed by a government spokesman.⁷⁶ The Philippines did not make a claim to the islands during the 1951 San Francisco peace conference. However the Philippines has interpreted the Japanese renunciation of the Spratly islands in the resulting treaty as making the area *res nullius* and open to acquisition.⁷⁷

⁷³ People's Republic of China, Declaration on China's Territorial Sea, 9 September 1958, reprinted in US Department of State, Office of the Geographer, 1972: 1.

⁷⁴ Prescott, J.R.V. and Morgan, J.R. (1983) 'Marine Jurisdictions and Boundaries', in Morgan and Valencia: 50.

⁷⁵ Coquia, 1990: 119.

⁷⁶ Chao, 1990: 28-29.

⁷⁷ Drigot, 1982: 44.

4.4.2 Vietnam

Under French sponsorship, a Vietnamese delegation participated in the 1951 San Francisco peace conference, where the delegation head issued a statement reaffirming Vietnamese sovereignty over the Paracel and Spratly islands.⁷⁸ Vietnam points out that no delegation objected to the statement, but fails to mention that China was not represented at the conference. The resulting treaty included a Japanese renunciation of the Spratly and Paracel islands, without designating which country was sovereign.

“Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.”⁷⁹

However, this failure to designate a successor was not unique to the South China Sea islands. Japan did not formally designate a successor for any of the other territories mentioned in the same treaty article, such as Formosa (Taiwan), the Kuril Islands, and part of Sakhalin.⁸⁰

4.4.3 Taiwan

Because the Allies, in particular the United Kingdom and the United States, could not agree on which government represented China, no Chinese delegation participated in the 1951 San Francisco Peace Conference. Therefore, the Republic of China (Taiwan) negotiated a separate peace treaty with Japan, signed on 28 April 1952. Article 2 of the text included a reference to the San Francisco treaty:

“It is recognized that under Article 2 of the Treaty of Peace with Japan signed at the city of San Francisco in the United States of America on September 8, 1951, Japan has renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratly Islands and the Paracel Islands.”⁸¹

Taiwan has argued that the explicit reference to the Spratly and Paracel islands in the text of this *bilateral* treaty implies Japanese recognition of Chinese sovereignty.⁸² Samuels and Lu have observed that, unlike the 1951 treaty, the Sino-Japanese text mentions the Spratly and Paracel islands in the same sentence with Taiwan and the Pescadores islands. The latter are generally recognised as Chinese territories. Moreover, according to the negotiating record Japan insisted that the renunciation article deal only with Chinese territory. This shows that the ROC and Japan viewed the islands of Taiwan, the Pescadores, the Spratlys, and the Paracels as having similar status – that is, belonging to China.⁸³

4.4.4 People's Republic of China

The People's Republic of China was proclaimed on 1 October 1949. On 6 June 1950 with the success of Communist forces in the Chinese civil war, the Nationalist garrison in the Spratly islands

⁷⁸ Vietnam, 1988: 7.

⁷⁹ Treaty of Peace with Japan, 1952: 3,172.

⁸⁰ Samuels, 1982: 77.

⁸¹ Treaty of Peace Between the Republic of China and Japan: 38.

⁸² Republic of China, Foreign Ministry statement, 10 June 1956, as cited in Chao, 1990: 31.

⁸³ Samuels, 1982: 79-80; Lu, 1993: 38; Chao, 1990: 30, n. 74.

temporarily withdrew to Taiwan.⁸⁴ The People's Republic of China (PRC) did not station its own troops in the islands until 1988. However, on 26 May 1950 the *People's Daily* (Beijing), reacting to the statement by Philippine President Quirino, reiterated China's claim to the Spratly islands.⁸⁵

In August 1951 PRC Foreign Minister Zhou Enlai responded to a draft of the San Francisco peace treaty by stating that the islands had always been Chinese territory.⁸⁶ Andre Gromyko, the Soviet delegate, proposed an amendment to the treaty that would have recognised the People's Republic of China as sovereign, but the amendment was ruled out of order.⁸⁷

4.5 Claims by Meads and Cloma, 1950s

Following the withdrawal of Japan and the unsettled situation throughout Asia after the war, two individuals claimed the area of the Spratlys where the Philippines subsequently asserted rights. In the mid-1950s Morton F. Meads made a claim to islands in the vicinity of Itu Aba, based on their 'discovery' by James G. Meads in the 1870s and subsequent establishment there of the 'Kingdom of Humanity' in 1914.⁸⁸

In 1956 Thomas Cloma, a Filipino, asserted ownership of thirty-three islands and reefs and fishing grounds within a geographic polygon covering 65,000 sq. nm.⁸⁹ Cloma coined the term *Kalayaan* (Freedomland) for the area and sent a letter to the Philippine Vice-President, requesting official endorsement. After several months, the Philippine government gave qualified support to Cloma. The Philippine government observed that the Kalayaan Islands were *res nullius* and open to exploitation by Filipinos since no country had established sovereignty. Manila further distinguished the Kalayaan Islands from the "seven" Spratly islands, which the Philippines claimed were a *de facto* trusteeship of the Allies and therefore also open to economic use and settlement by Philippine nationals.⁹⁰ Beijing, Taipei, and Saigon lodged protests with Manila.

At this time Taiwanese troops reportedly reestablished their presence on Itu Aba, but Heinzig presents contradictory reports. His evidence suggests continuing Taiwanese occupation of Itu Aba only since 1971, when Taiwan's forces repulsed an attempted Philippine landing.⁹¹ Lu, citing Taiwanese sources, describes a series of Taiwanese patrols, beginning in March 1956, which covered the area from 9°30'N to 12°N and from 113°30'E to 114°50'E. The first patrol reportedly apprehended Felmon Cloma, the brother of Thomas, who provided a note acknowledging Chinese sovereignty.⁹² Other authors hold that Taiwan reestablished a presence in the late 1950s.⁹³

⁸⁴ Lu, 1993: 35; Chao, 1990: 29.

⁸⁵ Lu, 1993: 36.

⁸⁶ Heinzig, 1976: 39; Buchholz, 1984: 66; Lu, 1993: 36.

⁸⁷ Heinzig, 1976: 40; Whiteman, 1965: 545, 552-53.

⁸⁸ Samuels, 1982: 168-72; Pinther, M. (1988) 'Islands In the News', *The Carto-Philatelist* 33 (June): 52; Dzurek, 1985: 273.

⁸⁹ Coquia, 1990: 119; Heinzig, 1976: 36; Drigot, 1982: 44.

⁹⁰ Lu, 1993: 63-65; Samuels, 1982: 81-86.

⁹¹ Chao, 1990: 34-38; Coquia, 1990: 119; Heinzig, 1976: 35-36, 42.

⁹² 'Haijun Xunyi Nansha Haijiang Jingguo' (Account of a naval patrol in the Spratly sea frontiers), in *Zhongguo Nanhai Zhu Qundao Wenxian Huibian* (Collected works on the archipelagos in the South China Sea] (Taipei: Taiwan Xuesheng Shuju) (1975), as cited in Lu, 1993: 39-41.

⁹³ Hamzah, 1990: 5; Samuels, 1982: 84-85.

4.5.1 Vietnam

Vietnam maintains that the Paracel and Spratly islands, which lie south of the 17th parallel that formerly separated North and South Vietnam, were transferred by the French to South Vietnamese administration in 1956.⁹⁴ Evidently France ceded control of the Paracel Islands to Vietnam on 15 October 1950, but there is no record of a similar devolution of French rights in the Spratly islands when they withdrew from Indochina in 1956. Indeed, in that year the French reportedly notified the Philippine government that they regarded the Spratly islands as French territory and had not ceded them to Vietnam.⁹⁵ On 1 June 1956 the government of South Vietnam issued a communiqué reaffirming its sovereignty over the Paracel and Spratly islands.⁹⁶ During August 1956 the government of South Vietnam sent a naval patrol to Spratly Island, but it did not at that time establish a base there.⁹⁷

4.6 The Oil Rush: 1958 to 1987

Southeast Asia's first offshore well was drilled in 1957,⁹⁸ but active offshore hydrocarbon exploration in the South China Sea, indeed in most of East and Southeast Asia, can probably be traced to a 1969 publication by the ECAFE⁹⁹ Committee for the Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (CCOP), which suggested that there were petroleum resources under the Yellow and East China seas.¹⁰⁰ In the same year, the World Court enunciated the natural prolongation principle in deciding the North Sea Continental Shelf cases. In 1972 Kenya proposed a 200-nm EEZ. This was followed by a steep rise in oil prices beginning in 1973.¹⁰¹ A 1974 agreement between Japan and South Korea jointly to develop an area in the East China Sea prompted a protest from the PRC and sensitised coastal states in the region to potential marine resources.

Throughout Asia, the rush was on. It was during the late 1960s and early 1970s when most South China Sea littoral countries claimed continental shelves and the sovereignty disputes over the Spratly and Paracel islands grew in prominence.

The early 1970s saw a shift in the Southeast Asian regional political balance, especially as the United States began disengaging from Vietnam. In 1971 Taiwan was expelled from the United Nations and the PRC took its seat. US President Nixon visited China in 1972, and the following year the US signed the Paris agreements ending the Vietnam War. The United States recognised the People's Republic of China in 1978. The US withdrawal uncorked regional tensions that had been bottled-up during the Vietnam War. Taiwan became marginalised, and Vietnam resurgent. There was a resultant shift among the South China Sea powers, and, in an ironic consequence, a falling-out between a reunited Vietnam and its former ally, China.

⁹⁴ Vietnam, 1988: 8.

⁹⁵ Philippines Ministry of Defense, *The Kalayaan Islands*, Series One Monograph No. 4 (Makati: Development Academy of the Philippines Press, 1982), as cited in Gunn, 1990. See also, Samuels, 1982: 77 and 84; Yu, S.K.T., 1990.

⁹⁶ Hamzah, 1990: 5.

⁹⁷ Samuels, 1982: 85-86.

⁹⁸ Valencia, 1985: 158; Samuels, 1982: 154.

⁹⁹ Economic Commission for Asia and the Far East (ECAFE), an organ of the United Nations Economic and Social Council.

¹⁰⁰ Emery, 1969.

¹⁰¹ Dzurek, 1985: 261.

4.6.1 People's Republic of China

On 4 September 1958 during the rising tensions in the Taiwan Straits, the government of the People's Republic of China issued a declaration on China's territorial sea, which extended the territorial sea to 12nm, claimed straight baselines along parts of its coast, and listed several island groups belonging to China, including the Spratly and Paracel islands.¹⁰² Ten days later, Pham Van Dong, the premier of North Vietnam, sent a diplomatic note to the PRC recognising and supporting the territorial sea declaration (see Section 4.6.3).¹⁰³ South Vietnam did not protest the Chinese declaration at the time, but in February 1959 South Vietnamese forces harassed PRC fishermen in the Paracel Islands.

During the 1960s China fought along its land frontiers and suffered the Cultural Revolution. In 1962 it battled India. The USSR and China clashed in 1968. The PRC was also supporting North Vietnam against the US. At sea, China focused on building defences on the Paracel Islands and repeatedly denounced American violations of claimed territorial seas and airspace of the islands.¹⁰⁴

In January 1974 the PRC condemned South Vietnam's actions in the Spratly islands and seized control of the remaining Paracel Islands after an air and sea battle with South Vietnamese forces. During the 1970s, China began offshore oil exploration. By 1977 a Chinese oil rig was reported operating in the Paracel Islands.¹⁰⁵

Beijing did not occupy any of the Spratly islands until 1988, but it frequently protested actions by other Spratly claimants.¹⁰⁶ On 21 July 1980 the PRC Ministry of Foreign Affairs protested an agreement between the Soviet Union and Vietnam to conduct hydrocarbon exploration activities off southern Vietnam. Foreshadowing the 1992 exchange over the Crestone contract (see Section 5.2), the PRC claimed that the area was under Chinese jurisdiction because China was sovereign over the Spratly islands.¹⁰⁷

In the mid-1980s China sent several naval patrols into the Spratly islands and conducted scientific surveys there. In July 1987 the Spratly islands were included as part of the new province of Hainan. During November of that year, the PRC navy conducted manoeuvres as far south as James Shoal.¹⁰⁸

¹⁰² New China News Agency (Beijing) broadcast in Chinese, 4 September 1958, reproduced in US Department of State, Office of The Geographer (1972) 'Straight Baselines: People's Republic of China', *Limits in the Seas* No. 43 (Washington, DC: US Department of State, 1 July); Hamzah, 1990: 6; Samuels, 1982: 86-87.

Note from Pham Van Dong to Zhou Enlai, 14 September 1958, *Nhan Dan* (Hanoi), 22 September 1958.

Facsimiles of the official diplomatic note in Vietnamese, translations into English and French, and copies of the *Nhan Dan* page can be found in 'Some Documentary Evidence Showing That the Vietnamese Government Recognized the Xisha and Nansha Islands as Chinese Territory', available from the PRC Ministry of Foreign Affairs. There is also some evidence that North Vietnam recognised PRC sovereignty over the Spratly islands in June 1956 (see Haller-Trost, 1994b: 22).

¹⁰⁴ Samuels, 1982: 87-88.

¹⁰⁵ Samuels, 1982: 161.

¹⁰⁶ Chang 1990: 22; Samuels, 1982; 98-113.

¹⁰⁷ PRC Ministry of Foreign Affairs (1982) 'Zhonghua Renmin Gongheguo waijiaobu fayaren jiu Sulian he Yüenan qianding suowei zai 'Yüenan nanfang dalujia' hezuo kantan, kaifa shiyou he tianranqi de xieding shifabiao de shengming', in *Chinese Yearbook of International Law, 1982* (Beijing: Zhongguo Duiqiaifanyi Chubangongsi Chuban): 463-64.

¹⁰⁸ Chang, 1990: 24.

4.6.2 Taiwan

Throughout this period, Taiwan continued to support and enhance its base on Itu Aba (T'ai P'ing) Island. In 1963 it sent a large task force to the island. Taiwan also sent reconnaissance patrols into the Spratly islands and erected boundary markers on Thitu, Namyit, and other islands. On 10 July 1971 the Philippines alleged that Taiwanese vessels fired on a Philippine vessel attempting to land on Itu Aba, but Taiwan denied the allegation.¹⁰⁹ In response to the PRC's 1974 attack in the Paracels, Taiwan reinforced Itu Aba and began routine air and sea convoys there.¹¹⁰ On several occasions Taiwan issued statements and lodged protests reaffirming sovereignty over the Parcel and Spratly islands.¹¹¹

4.6.3 A United Vietnam

As the Vietnam War neared an end, especially after the 1973 Paris agreements and subsequent withdrawal of the United States, claims in the South China Sea were reinvigorated. In 1971 North Vietnam began exploring for oil in the Gulf of Tonkin, where it came into conflict with China over their maritime frontier.¹¹² Hanoi apparently had second thoughts about its acquiescence to China's Spratly islands claim and, in 1971 and 1973, proclaimed the Spratly islands to be Vietnamese territory. On 20 July 1973 the government in Saigon awarded eight offshore tracts, including several near the western edge of the Spratly islands. South Vietnam incorporated ten Spratly islands into Phuc Tuy province on 6 September 1973, and sent troops to Spratly Island and Namyit Island. Eventually, Saigon forces occupied five or six islands.¹¹³

In April 1975 troops from Hanoi seized six of the Spratly islands that South Vietnamese troops had occupied earlier that year.¹¹⁴ The next year Hanoi published a map of the new united Vietnam that included both the Parcel and Spratly island.¹¹⁵ Relations between the former allies deteriorated and, in 1979, China and Vietnam fought a brief land border war.

4.6.4 The Philippine Presidential Decree of 1978

In the 1960s the Philippines' strategic concerns ebbed, but offshore oil beckoned when a 1969 United Nations-sponsored study suggested offshore petroleum in the Yellow and East China seas.¹¹⁶ During 1970-71 when exploration began off Palawan island, Philippine forces reportedly occupied three Spratly islands in the Kalayaan area that Manila subsequently claimed. In 1971 the Philippines alleged that one of its vessels attempted to land on Itu Aba, but was repulsed by Chinese troops from Taiwan.¹¹⁷ Philippine concerns heightened following Chinese actions in the Parcel Islands. During February 1974 Manila reinforced its deployment in Kalayaan and listed the

¹⁰⁹ Samuels, 1982: 89; Chang, 1991: 407; Hindley, M. and Bridge, J. (1994) 'South China Sea Disputed Islands', *Free China Review* (August): 45.

¹¹⁰ Samuels, 1982: 102-103.

¹¹¹ Reportedly, on 25 January, 9 August, 27 August, and 26 December 1973, and on 18 January 1984, as cited in Chang, 1991: 407.

¹¹² Samuels, 1982: 158-60; Dzurek, 1994: 164-66.

¹¹³ Samuels, 1982: 99, 106-107.

¹¹⁴ Chang, 1990: 22.

¹¹⁵ Samuels, 1982: 108.

¹¹⁶ Dzurek, 1985: 261.

¹¹⁷ Hamzah, 1990: 6; Heinzig, 1976: 36.

islands that it occupied. It also protested South Vietnamese and Taiwanese activities in the Spratly islands, but suggested a negotiated settlement. The Philippines reportedly occupied two more islands in 1975.¹¹⁸ In June 1976 oil was discovered in the Nido Complex off Palawan.¹¹⁹ In July the Philippine national oil company proposed that the Paracel Islands be divided between China and Vietnam, while the Philippines gain undisputed possession of the Spratly islands.¹²⁰ About the same time, the Philippines signed an exploration contract for the Reed Bank in the eastern Kalayaan area.¹²¹

On 11 June 1978 when he also signed the Philippine EEZ decree, President Marcos formally decreed sovereignty over a geographic polygon¹²² roughly corresponding to Cloma's limits. This presidential decree was not published until February 1979.¹²³ The Philippines holds that Kalayaan is distinct from the Spratly islands, to which it has no claim.¹²⁴ The Philippine claim to Kalayaan is based on geographic proximity, effective occupation and control, vital interest, and the interpretation that the islands became *res nullius* when Japan renounced sovereignty in the 1951 San Francisco Peace Treaty.¹²⁵ Use of a geometric polygon to claim the area is probably patterned after the Philippines' archipelagic definition.

4.6.5 Malaysia's Continental Shelf Claim, 1979

In 1978 Malaysian troops visited the southern Spratly islands.¹²⁶ They landed on Amboyna Cay and reportedly erected a monument, which was subsequently removed by Vietnamese forces, who remained on the cay.¹²⁷ The following year, Malaysia published a map delimiting its continental shelf claim,¹²⁸ which enclosed several Spratly features including some occupied by the Philippines and Vietnam.

Malaysia uses an aberrant interpretation of the law of the sea. It claims islands by reason of its title to the surrounding continental shelf, instead of acknowledging that island sovereignty confers jurisdiction in the surrounding seas.¹²⁹

During April 1980 Malaysia proclaimed an EEZ, but has not delimited it. The continental shelf map and EEZ proclamation led to protests by other Spratly claimants. In May 1983 troops from Malaysia landed on Swallow Reef, where they have maintained a base since. In November 1986

¹¹⁸ Kota, Lawak, Likas, Pagasa, and Parola islands (in Filipino; Loaita, Nanshan, West York, Thitu, and Northeast Cay, in English). See, Samuels, 1982: 103-105.

¹¹⁹ Samuels, 1982: 157.

¹²⁰ Park, 1978: 49.

¹²¹ Samuels, 1982: 92, 157; Drigot, 1982: 54-55, n. 11 and 12.

¹²² The Philippine claim abuts its treaty limits and links the following coordinates: (12°N, 118°E), (12°N, 114°30'E), (8°N, 112°10'E), (7°40'N, 112°10'E), (7°40'N, 116°E), and (10°N, 118°E).

¹²³ Presidential Decree No. 1596, 1979: 1,556-57; see also Coquia, 1990: 119.

¹²⁴ Philippines Ministry of Defense (1982) *The Kalayaan Islands* (Makati: Development Academy of the Philippines Press): 13, as given in Villacorta, 1990.

¹²⁵ Drigot, 1992: 40-52.

¹²⁶ Bahrin and Khadijah, 1990: 2.

¹²⁷ Hamzah, 1990: 3.

¹²⁸ Malaysia, 1979.

¹²⁹ Hamzah, 1990: 7; Cordner, 1994: 67; Haller-Trost, 1990: 9-10.

two more atolls were occupied.¹³⁰ Malaysia has dredged materials to expand Swallow Reef into a cay of 6 hectares, including a 500 metre air strip.¹³¹

4.6.6 Brunei

At Brunei's independence in 1984, it inherited a continental shelf partially delimited by the United Kingdom.¹³² That shelf area lay between parallel lines drawn to the 100 fathom isobath. On behalf of Brunei, the United Kingdom also protested Malaysia's claim to Louisa Reef on its 1979 map.¹³³ If extended farther, the lines would enclose Louisa Reef. Brunei is reported to claim the marine area around the reef, but does not appear to view the reef as an island subject to a claim of sovereignty.¹³⁴

Bruneian authorities claim to have declared fisheries limits in 1983.¹³⁵ In 1987-88 the Surveyor General of Brunei reportedly printed maps depicting fishery and continental shelf claims extending the lateral boundaries to an area beyond Rifleman Bank.¹³⁶ This bank lies beyond the Malaysian continental shelf claim. It is 242nm from the nearest coastal point of Brunei, but only 201nm from the turning point of Vietnam's straight baseline at Hon Hai islet. Rifleman Bank is 278nm from Mui Ke Ga, a cape on the Vietnamese mainland.¹³⁷ Therefore, Brunei's continental shelf claim discounts the Vietnamese baseline and the effect of offshore islands. Corder contends that "*the East Palawan Trough terminates the natural prolongation of the continental shelf 60 to 100 miles off Brunei.*"¹³⁸ Under this interpretation, Brunei could not claim the Rifleman Bank area. However, ICJ rulings in the Libya-Malta, Libya-Tunisia and Canada-US cases have diminished natural prolongation as an argument in continental shelf boundary disputes between states with opposite coastlines.

4.7 The Battle for Fiery Cross Reef, 1988

Apparently by February 1988, the Chinese navy was searching for bases in the Spratly Islands. The PRC also claims to have been preparing sites for scientific observation stations under a UNESCO plan. Vietnam complained about Chinese naval vessels; the PRC responded that the Spratly islands were part of China. Construction of a Chinese base at Fiery Cross Reef had begun by 14 March 1988, when Vietnamese forces may have sought to disrupt construction work. On that date there was an armed battle in which about 75 Vietnamese personnel were killed or reported missing and three Vietnamese ships were set ablaze. Chinese casualties were apparently minor. The battle lasted for about 28 minutes.

¹³⁰ Chang, 1990: 23, 25; Hamzah, 1990: 3, 7.

¹³¹ Mellor, W. (1993) 'Tug of War', *Asia, Inc.* (September): 54.

¹³² Haller-Trost, 1990: 3; Prescott, 1987: 227-28.

¹³³ Hamzah, 1990: 7; Corder, 1994: 68.

¹³⁴ Statement of the Foreign Minister of Brunei, January 1993, as reported in Thomas, 1993: 4.

¹³⁵ Brunei, 'Brunei Declares EEZ', government press release, published in *Borneo Bulletin*, 26 July 1993.

¹³⁶ Hamzah, 1990, 26, n. 24; Haller-Trost, 1994a: 2-5, 43-44, and map 3 (p. 55).

¹³⁷ Great circle distances calculated from published coordinates and US Defense Mapping Agency chart 71028 (scale 1:1,091,700, 7th ed., 21 May 1983) and chart 93030 (scale 1:1,071,000, 4th ed, 15 March 1980).

¹³⁸ Corder, 1994: 68.

The Chinese version of the events was that a Chinese survey team landed on Fiery Cross Reef to set-up an observation post. Three Vietnamese ships arrived and landed troops on the reef. When the Chinese asked them to leave, the Vietnamese opened fire. Chinese ships returned fire. According to Vietnam, three Chinese warships landed troops on Fiery Cross Reef, removed Vietnam's flag, and planted China's flag. When the Vietnamese asked the Chinese to leave, the Chinese troops and ships opened fire.¹³⁹

On 23 March 1988 Vietnam offered to open talks on the Spratly dispute. The following day China rejected the offer. Vietnam repeated the offer to negotiate and was again rejected.¹⁴⁰ However, the PRC took a softer line toward Malaysia and the Philippines. By 12 May 1988 perhaps in response to a public relations disaster, the PRC proposed negotiations with Vietnam while repeating a demand for the withdrawal of Vietnamese forces.¹⁴¹

Following the clash, the PRC sent more ships to the islands, and warned of another battle. China occupied additional reefs, bringing the total to seven by early May 1989. As of July the Chinese base at Fiery Cross Reef was complete.¹⁴² The PRC continued to fortify some islands (see Figure 4).

Vietnam increased its occupation to 21 islets and reefs. Shortly after the armed clash with China, the Vietnamese Minister of Defence reportedly visited the Spratly islands. In November 1988 Vietnam reported that a PRC destroyer had fired on one of its ships, but China denied the incident.¹⁴³ In August 1989 Vietnam built facilities on Bombay Castle (on Rifleman Bank), Vanguard Bank, and Prince of Wales Bank, bringing to 24 the number of islets and reefs under its control.¹⁴⁴

Though not directly involved in the clash near Fiery Cross Reef, the other claimants reacted vigorously. In February, Malaysia's Deputy Foreign Minister stated:

*"The islands and atolls are under Malaysian sovereignty, and Malaysia has in the past reaffirmed its jurisdiction....They are within Malaysia's continental shelf area and Malaysia's sovereignty over them has been officially declared through the new Map of Malaysia, published on December 21st, 1979....The claim is in line with the Geneva Convention of 1958 pertaining to territorial waters and continental shelf boundaries, and the UN Convention on the Law of the Sea, as well as other international practices."*¹⁴⁵

Taiwan reacted, in March, by reasserting its sovereignty and resupplying its garrison on Itu Aba.¹⁴⁶ On 20 August 1988 Malaysia apprehended four Taiwanese fishing vessels within the Spratly area overlapped by the Malaysian EEZ claim. Taiwanese authorities did little to protest the Malaysian actions, and the Malaysian court fined the four ship masters.¹⁴⁷

¹³⁹ Chang, 1990: 25-26; Chang, 1991: 408; Davidson, 1988: 345-47.

¹⁴⁰ Davidson, 1988: 346.

¹⁴¹ Thomas, 1990: 422.

¹⁴² Chang, 1990: 27; Thomas, 1990: 419.

¹⁴³ Chang, 1990: 27; Thomas, 1990: 419.

¹⁴⁴ Thomas, 1990: 419-20.

¹⁴⁵ *New Straits Times*, 25 February 1988, as quoted in Haller-Trost, 1990: 9-10.

¹⁴⁶ Thomas, 1990: 416; Chang, 1990: 29.

¹⁴⁷ Yu, P.K.H., 1990: 78-81.

Figure 4: Chinese Installation on Gaven Reef



PRC installation on Gaven Reef [Nanxun jiao in Chinese]. Presumably, the initial structures are in the foreground, raised on stilts and made of bamboo. The white, brick and concrete block structure in the background may have been erected later. Note the gun replacements on the roof, satellite dish and communications antennae. Reprinted, by permission, New China Pictures Company (Beijing).

On 17 March 1988 the Philippines reacted to the recent China-Vietnam clash by warning both not to interfere in Kalayaan. Manila also urged peaceful settlement of the issue. In April a Philippine delegation visited Hanoi and reached an agreement not to use force in settling disputes. Philippine President Aquino visited China in the same month and agreed with China to shelve the dispute. Also in April Philippine fishermen were detained by the Malaysian navy near Commodore Reef. Manila protested, and the fishermen were eventually released by Malaysia as a good will gesture without prejudice to Kuala Lumpur's claim. Both Malaysia and the Philippines increased defence preparations and tensions rose. A Philippine scientific survey was mounted in May. In August the Philippine navy apprehended four Taiwanese fishing vessels for intruding in Kalayaan.¹⁴⁸

5. Recent Developments

The 1990s have seen different tactics used by the claimants to the Spratly islands. Before 1988 the PRC was on the margins of the Spratly dispute. With its occupation of some Spratly islands the PRC has become the principal player in the game. Gao observes that the PRC was concerned with

¹⁴⁸ Chang, 1990: 28-30; Yu, P.K.H., 1990: 79-80; Thomas, 1990: 422-23.

security in the South China Sea before the 1980s, but the Fiery Cross Reef incident was a turning point in PRC policy, which shifted toward economic interests.¹⁴⁹

When the Cambodian problem was resolved in 1991, the disputes in the South China Sea, especially that over the Spratly islands, became the principal source of tension in Southeast Asia.¹⁵⁰ Most of the other claimants found themselves reacting to Chinese tactics. During the first half of the decade, the contending countries made contracts with foreign oil companies and undertook offshore exploration activities in the disputed areas. The disputants also used fishing activities to press claims. This has also been the period of non-governmental conferences sponsored by Indonesia and Canada, ASEAN involvement, and formal bilateral talks.

5.1 1990-91 – Indonesian Workshops Begin

The first of the Indonesia-sponsored, non-governmental workshops on the South China Sea was held in Bali during January 1990. The initial meeting was generally limited to academics or officials from ASEAN countries and Canada, which provided some funding.¹⁵¹ On 29 December 1990 the ROC Foreign Minister reaffirmed its claim to the Spratly islands.¹⁵²

During 1991 Malaysia announced its decision to construct a resort and airstrip on Swallow Reef. In July Taiwan restated its sovereignty claim to the Spratly islands.¹⁵³ During that month the second Indonesian workshop met in Bandung and was expanded to include non-ASEAN participants. Subsequent workshops included participants from the PRC, Taiwan, Vietnam, and other Southeast Asian countries.¹⁵⁴

5.2 1992 – PRC Territorial Sea Law and Manila Declaration

1992 saw new laws, workshops, and declarations about the Spratly islands. The PRC passed a law defining its territorial sea that reiterated previously claimed island groups, including the Spratlys, and Vietnam modified the definition of its continental shelf. Both the PRC and Vietnam used oil exploration licensing to reinforce their overlapping claims. At its meeting in Manila, ASEAN approved a declaration to resolve the South China Sea disputes peacefully and explore cooperation in various fields, such as navigation, protection of the marine environment, and combating piracy. Indonesia hosted a third non-governmental workshop.

During February 1992 the PRC passed its Law on the Territorial Sea, which reiterated its claim to various island groups in the South China Sea. The new law essentially codified and elaborated the 1958 Declaration on the Territorial Sea. The law listed the same groups of islands (including the Spratly islands) claimed in the earlier declaration, but added the Diaoyu Islands that China disputes

¹⁴⁹ Gao, 1994: 352-53.

¹⁵⁰ Gao, 1994: 350.

¹⁵¹ McDorman, 1993: 274.

¹⁵² Chang, 1991: 399.

¹⁵³ McDorman, 1993: 276.

¹⁵⁴ Vatikiotis, M. (1991) 'Eye on the Islands', *Far Eastern Economic Review*, 4 July: 19; McDorman, 1993: 274, 283.

with Japan in the East China Sea.¹⁵⁵ Although there were no new claims in the law vis-à-vis the South China Sea, various Southeast Asian countries reacted strongly.

In its 1992 Law the PRC also claimed a contiguous zone, as permitted in international law. The new law provides the right of innocent passage for foreign non-military ships, but requires PRC approval before foreign military vessels can enter China's territorial sea, as had the 1958 Declaration. The requirement for prior approval of military ship passage is inconsistent with the 1982 UN Convention.¹⁵⁶ However, twenty-eight countries, including Burma, Cambodia, the Philippines, Vietnam, and even Denmark, require prior permission for the transit of foreign warships through their territorial seas.¹⁵⁷ The restriction on innocent passage may be inconsistent with international law, but it is not unusual.

In March the Philippines arrested Chinese fishermen in the disputed area. The fishermen were later released.¹⁵⁸ A major development occurred in May, when Crestone Energy Corporation (Denver) and the PRC's China National Offshore Oil Corporation (CNOOC) signed an oil exploration contract for a large area encompassing Vanguard, Prince Consort, Prince of Wales, Alexandra, and Grainger banks, which the Chinese termed Wan-an Bei 21 (WAB-21). Vietnam promptly protested and the PRC rejected the protest.¹⁵⁹ There was a strong response throughout Southeast Asia, where commentators viewed the Crestone contract and the new PRC Law on the Territorial Sea as evidence of "China's new hegemonic interest in the region."¹⁶⁰

The third Indonesian workshop met in Yogyakarta from 29 June through 2 July 1992. The participants agreed to set up two expert working groups: on resource assessment and ways of development and on marine scientific research. On the last day of the conference, the PRC Foreign Ministry spokesperson reaffirmed Chinese sovereignty over the Spratly islands.¹⁶¹

During the July ASEAN ministerial meeting in Manila, the ministers issued the "ASEAN Declaration on the South China Sea", patterned after the principles enunciated at the Bandung workshop. In the Declaration the ASEAN Foreign Ministers:

"Emphasize the necessity to resolve all sovereignty and jurisdictional issues pertaining to the South China Sea by peaceful means, without resort to force;

¹⁵⁵ 'Law on Territorial Waters, Adjacent Areas', Xinhua (Beijing) in Chinese, 25 February 1992, translated in FBIS, *China* (28 February 1992): 2; People's Republic of China, National People's Congress, Legislative Affairs Commission, 'Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone', adopted 25 February 1992 (booklet in English); Law of the People's Republic of China concerning Territorial Waters and Adjacent Regions (1992) *Gazette of the State Council of the People's Republic of China* (13 March 1992) no. 3, serial no. 688:69-71 (in Chinese).

¹⁵⁶ Wang and Pearse, 1994: 438-39.

¹⁵⁷ Roach and Smith, 1994: 158-59.

¹⁵⁸ McDorman, 1993: 276.

¹⁵⁹ 'China's Decision on Spratlys Causes Ripples in Vietnam,' *New Straits Times*, 27 June 1992: 20; Kristof, N.D. (1992) 'China Signs U.S. Oil Deal for Disputed Waters,' *New York Times*, 18 June 1992; 'China Rejects Vietnam Claims on Crestone Deal,' *Platt's Oilgram News*, 29 June 1992.

¹⁶⁰ Hamzah, B.A. (1992) 'China's Strategy,' *Far Eastern Economic Review*, 13 August 1992: 22.

¹⁶¹ 'Cooling off a Flashpoint,' *Asiaweek* (17 July 1992): 21-23; Michael Richardson, 'Oil Hunt in South China Sea: Some See Flash Point,' *International Herald Tribune* (30 June 1992); McDorman, 1993: 283-84; PRC Ministry of Foreign Affairs spokesman, 'China Has Indisputable Sovereignty over the Spratly Islands,' *Peoples Daily* (3 July 1992).

Urge all parties concerned to exercise restraint with the view to creating a positive climate for the eventual resolution of all disputes;

Resolve, without prejudicing the sovereignty and jurisdiction of countries having direct interests in the area, to explore the possibility of cooperation in the South China Sea relating to the safety of maritime navigation and communication, protection against pollution of the marine environment, coordination of search and rescue operations, efforts towards combating piracy and armed robbery as well as collaboration in the campaign against illicit trafficking in drugs;

Commend all parties concerned to apply the principles contained in the Treaty of Amity and Cooperation in Southeast Asia as the basis for establishing a code of international conduct over the South China Sea;

Invite all parties concerned to subscribe to this Declaration of principles."¹⁶²

PRC Foreign Minister Qian assured the ASEAN foreign ministers that China would not use force in the Spratly dispute and said that the PRC favours shelving the territorial issues.¹⁶³

During August 1992, probably in response to the Crestone contract, Vietnam modified its definition of the continental shelf to extend to the 1,500 meter isobath, thereby encompassing Vanguard Bank but excluding Rifleman Bank and Spratly Island. Vietnam sought to make its claim to the contract area distinct from its sovereignty claim to the Spratly islands.¹⁶⁴

During September the link between the Chinese-Vietnamese dispute in the Spratlys and their other boundary and maritime disputes became more apparent. On 4 September Vietnam demanded the withdrawal of Chinese drilling ships from the Gulf of Tonkin. The PRC foreign minister rejected Vietnam's complaint.¹⁶⁵ During his visit to Hanoi, PRC Deputy Foreign Minister Xu said that China was willing to discuss the land boundary dispute and the Gulf of Tonkin maritime boundary when their experts were to meet, but not the Spratly dispute.¹⁶⁶

The end of 1992 found other claimants entering the fray and the Vietnamese using the foreign oil company gambit. In November Taiwanese officials said that Taiwan would set up a task force to deal with the Spratly dispute.¹⁶⁷ On 2 December Philippine Foreign Secretary Romulo said that Washington should clarify the application of the Mutual Defense Treaty to the Spratly Islands.¹⁶⁸ PRC Prime Minister Li Peng visited Vietnam (30 November-4 December) and discussed the various disputes between China and Vietnam. The PRC and Vietnam agreed to use 1887 and 1895

¹⁶² McDorman, 1993: 285.

¹⁶³ Thomas, 1993: 2; McDorman, 1993: 281; William Branigin, 'China Assures Asian Bloc on Islands,' *Washington Post* (22 July 1992): A23.

¹⁶⁴ Huynh Minh Chinh, 'Thu Chinh Bank Is on Vietnam's Continental Shelf,' *Vietnam Courier*, No. 34, August 1992.

¹⁶⁵ Kathleen Callo, 'China Puts Oil Platform in Vietnam Waters,' Reuter (Hanoi), 5 September 1992; 'Note dated 8 September 1992 from the Ministry of Foreign Affairs of China to the Ministry of Foreign Affairs of Viet Nam,' in United Nations General Assembly, 47th sess. (25 September 1992), doc. A/47/472, annex; Murry Hiebert, 'Ruffled Waters,' *Far Eastern Economic Review* (24 September 1992).

¹⁶⁶ 'Vietnam: Border dispute Overtures,' *Far Eastern Economic Review* (1 October 1992); 'PRC Border Talks to Resume 14 Feb,' AFP (Hong Kong) in English, 4 February 1993, transcribed in FBIS, *East Asia* (4 February 1993): 51.

¹⁶⁷ 'Taiwan to Set up Taxk Force on Spratly Islands,' *Straits Times* (30 November 1992): 5.

¹⁶⁸ 'US Urged to Back Talks on Disputed Spratlys,' *Straits Times* (3 December 1992): 17.

French maps to resolve their land boundary dispute, but China refused to compromise on the Wan-an Bei area. At the farewell to Li Peng, Vietnam Foreign Minister Cam said that Hanoi had unnegotiable sovereignty of the Vanguard area and all claimants of the nearby Spratly islands should hold talks.¹⁶⁹ About this time, British Petroleum (BP) spudded Lan Do 1 well in Vietnam Block 06, near by the Crestone concession at WAB-21.¹⁷⁰

5.3 1993 – Oil Exploration and an EEZ for Brunei

In 1993 the PRC and Vietnam made some progress on their other disputes, but tensions heightened in the Spratly islands. Each claimant used survey ships to pressure the other. Later in the year, Vietnam offered exploration tracts overlaying the area that the PRC contracted to Crestone. Malaysia and Vietnam reached agreement for joint development of their overlapping claims west of the Spratlys. Brunei claimed an EEZ, which included the area around Louisa Reef.

During the January ASEAN summit Brunei's Foreign Minister reportedly stated at a press conference that Brunei claims only seas surrounding Louisa Reef.¹⁷¹ On 6 January Vietnam's UN representative reaffirmed sovereignty over Vanguard Bank and the Spratly and Paracel islands. He called for negotiations and restraint in the Spratly dispute. BP spudded a second well, Lan Tay 1, in Vietnam's block 06.¹⁷²

During 14-17 February in Hanoi, the PRC and Vietnam held their second round of expert-level talks. The parties discussed the principles for resolving the land and maritime disputes.¹⁷³ In April an additional bilateral irritant was revealed. Vietnam reported that during the preceding two months the PRC had seized 18 Vietnamese ships allegedly engaged in smuggling between Hong Kong and China. Vietnam said that 20 vessels had been apprehended in the third quarter of 1992.¹⁷⁴

During April and May the PRC and Vietnam conducted survey activities to reinforce their overlapping claims. From 19 April to 18 May 1993 the Vietnam Centre for National Sciences and Technology conducted a general survey in the Spratly islands. About the same time, the PRC seismic vessel *Fendou-4* surveyed Vietnamese blocks, disturbing seismic surveys being conducted by the BP consortium in the area. Vietnam protested. The PRC vessel left on 11 May.¹⁷⁵

¹⁶⁹ 'Comrades Apart,' *Far Eastern Economic Review* (17 December 1992): 23; Mary Kay Magistad, 'Vietnamese and Chinese Open Talks,' *Washington Post* (1 December 1992): A31; 'Visit to Vietnam a Success, Says Li Peng,' *Straits Times* (4 December 1992): 4.

¹⁷⁰ Dev George, 'Vietnamese Waters Churn As Major Operators Vie for Best Prospects,' *Offshore* (April 1993): 30.

¹⁷¹ Thomas, 1993: 4, n. 3

¹⁷² United Nations General Assembly, *Provisional Verbatim Record*, 83rd Meeting (10 December 1992), doc. A/47/PV.83 (6 January 1993), part 5; George, 1993: 30.

¹⁷³ 'PRC Border Talks to Resume 14 Feb,' 'Hanoi Radio Reports Border Talks with PRC,' Voice of Vietnam (Hanoi) in Vietnamese 19 February 1993, translated in FBIS, *East Asia* (22 February 1993): 59.

¹⁷⁴ 'Spokesman: China Holding 13 SRV Cargo Ships,' AFP (Hong Kong) in English, 22 April 1993, transcribed in FBIS, *East Asia* (23 April 1993): 54.

¹⁷⁵ 'Researchers Carry Out 'General Survey' of Spratlys,' VNA (Hanoi) in English, transcribed in FBIS, *East Asia* (9 June 1993): 56; 'Ministry Accuses PRC Ship of Violating Territory,' AFP (Hong Kong) in English, 11 May 1993, and 'VNA Reports Violation,' VNA (Hanoi) in English, 11 May 1993, transcribed in FBIS, *East Asia* (12 May 1993): 50-51; 'Chinese Shooting Seismic in Vietnam Block 06,' *Offshore* (July 1993): 17; Gao, 1994: 350.

During May and June Malaysia came to bat. On 12 May 1993 the Malaysian Prime Minister told Vietnam's First Deputy Prime Minister that the parties should stick to principles and not introduce historical arguments or other conditions to disputes in the South China Sea.¹⁷⁶ From 30 May to 3 June the working group on marine science research formed at the Yogyakarta workshop held its first meeting, in Manila.¹⁷⁷ On 4 June Malaysia and Vietnam exchanged diplomatic notes establishing a joint development zone (1,358 sq. km) in their overlapping claims at the entrance to the Gulf of Thailand.¹⁷⁸ On 10 June the PRC protested the visit of Vietnam Deputy Prime Minister Tran Duc Luong to the Spratly islands.¹⁷⁹

During July 1993 Brunei became the most recent of South China Sea littoral countries to claim an EEZ, leaving only the PRC as odd man out. The claim extends the lines decreed by Britain in 1958 to the median line between Borneo and the Asian mainland or to 200 nautical miles. An extension to 200 nm would fall short of reaching the seaward limit of Malaysia's continental shelf claim, but it would enclose Louisa Reef (6°20'N, 113°14'E). However, Brunei's continental shelf claim extends beyond that of Malaysia.¹⁸⁰ Also in July the Working Group on Resources Assessment and Ways of Development, set up in the Indonesian workshop talks, held its second meeting in Jakarta.¹⁸¹

On 7 August Vietnam provided an export tax exemption for fishing in the Spratly islands.¹⁸² At the end of that month, PRC and Vietnam held talks in Beijing on principles to solve border issues and the Gulf of Tonkin. The parties agreed to continue discussions and pledged that neither side would carry out activities to complicate the conflict, use force or threaten to use force.¹⁸³

The autumn of 1993 saw move and counter-move by the PRC and Vietnam on the oil exploration and leasing front. On 16 September a Vietnam foreign ministry source said that the PRC had resumed oil exploration in the Gulf of Tonkin. A month later Vietnam invited oil companies to bid on nine offshore blocks, including contract areas around Vanguard Bank and Prince of Wales Bank in the PRC's Crestone area. PetroVietnam Chairman Ho Si Thoang said that this was not in a disputed area and that the Spratly islands were not entitled to an EEZ.¹⁸⁴ On 19 October the PRC

¹⁷⁶ 'Mahathir, SRV Minister on Resolving Disputes,' BERNAMA (Kuala Lumpur) in English, 12 May 1993, transcribed in FBIS, *East Asia* (12 May 1993): 34.

¹⁷⁷ *Far Eastern Economic Review* (27 May 1993): 30; Statement of Working Group Meeting on Marine Scientific Research in the South China Sea, Manila, 2 June 1993 (mimeograph).

¹⁷⁸ 'Oil Exploration Agreement Signed with SRV,' BERNAMA (Kuala Lumpur) in English, 4 June 1993, transcribed in FBIS, *East Asia* (8 June 1993): 31; 'Hanoi, KL Seal 40-year Oil, Gas-exploration Pact,' *Straits Times* (5 June 1993).

¹⁷⁹ 'Knotty Reefs,' *Far Eastern Economic Review* (10 June 1993): 9.

¹⁸⁰ Brunei, 'Brunei Declares EEZ'; Haller-Trost, 1994a: 4-5, 43-44, and map 3 (p. 55).

¹⁸¹ Statement of the Working Group Meeting on Resources Assessment and Ways of Development in the South China Sea, Jakarta, 6 July 1993 (mimeograph).

¹⁸² 'Incentives Granted to Promote Spratlys Fishing,' VNA (Hanoi) in English, 30 August 1993, transcribed in FBIS, *East Asia* (1 September 1993): 38.

¹⁸³ 'Deputy Foreign Minister Heads PRC Border Talks,' Voice of Vietnam (Hanoi) in English, 30 August 1993, and 'More on Border Talks with PRC,' Voice of Vietnam (Hanoi) in Vietnamese, 30 August 1993, in FBIS, *East Asia* (2 September 1993): 39; 'Diplomacy: Border Talks,' *Far Eastern Economic Review* (9 September 1993): 14.

¹⁸⁴ 'PRC Resumes Oil Exploration,' KYODO (Hanoi) in English, 16 September 1993, transcribed in FBIS *East Asia* (16 September 1993): 52; 'Vietnam Protests against Chinese Oil Rig in Tonkin Gulf,' *Straits Times* (18 September 1993): 9; 'PetroVietnam Official on Spratlys Exploration,' *Bangkok Post (Inside Indochina supplement)* (2 November 1993): 2; reprinted in FBIS, *East Asia* (3 November 1993): 54-44.

and Vietnam signed an agreement on principles to resolve territorial and border issues.¹⁸⁵ In November PetroVietnam opened bidding on Blue Dragon (Block 5-1), west of the Crestone area.¹⁸⁶ On 8 November Vietnam announced that it had built a lighthouse on Song Tu Tay (Southwest Cay, 11°25'45"N, 114°19'40"E).¹⁸⁷ The presidents of Vietnam and the PRC ended their summit in Beijing on 15 November without any further agreement on territorial disputes.¹⁸⁸ On 20 December Mobil Corporation announced that it was part of a consortium awarded drilling rights by Vietnam to Blue Dragon.¹⁸⁹

5.4 1994 – Oil Company Surrogates

During 1994 the PRC and Vietnam continued to use foreign oil companies as designated hitters in the Spratlys and the Gulf of Tonkin. The Philippines also tried that play by contracting with another American company in the Kalayaan area. Vietnam ratified the 1982 UN Convention on the Law of the Sea. Indonesia's proposals to formalise its workshops as governmental fora and allocate the South China Sea into zones of control were rejected. The PRC and Vietnam discussed their island disputes in the South China Sea for the first time at the ministerial level and agreed to form an expert group on the matter.

On 22 January 1994 a Vietnam Foreign Ministry spokesman responded to a 14 January PRC statement by reasserting Vietnamese sovereignty over the Spratly and Paracel islands. A few days later, Defence Secretary De Villa said that the Philippines may invoke the US defence treaty if its forces were attacked by other claimants in the Spratly islands.¹⁹⁰

On 3 February a Vietnam Foreign Ministry spokeswoman accused Taiwan of violating Vietnamese sovereignty by considering building an airport, port, and lighthouse on Itu Aba. During that month PRC authorities reportedly warned Conoco to stop negotiating with PetroVietnam on acreage overlaying Crestone's contract area.¹⁹¹ In late February Chinese experts visited Hanoi to discuss starting talks on the land boundary dispute. Vietnam also indicated that it was talking with Thailand and Indonesia on their maritime boundary disputes.¹⁹²

On 29 March Vietnam responded positively to Philippine President Ramos' proposal to demilitarise the Spratly islands. The Philippines and Vietnam agreed to joint marine research in the area.¹⁹³

¹⁸⁵ 'China, Vietnam Agree Not to Use Force in Border Disputes,' *Straits Times* (20 October 1993); 'Hanoi Reviews Relations with China in 1993,' *Voice of Vietnam* (Hanoi) in English, 3 January 1994, transcribed in FBIS, *East Asia* (5 January 1994): 39.

¹⁸⁶ 'Bidding Begins on Big Blue Dragon,' *Offshore* (November 1993): 14.

¹⁸⁷ 'Lighthouse Built on Island in Spratlys,' *VNA* (Hanoi) in English, 8 November 1993, transcribed in FBIS, *East Asia* (10 November 1993): 73.

¹⁸⁸ 'Foreign Minister Briefs Press on PRC Visit,' *Voice of Vietnam* (Hanoi) broadcast in Vietnamese, 16 November 1993, translated in FBIS, *East Asia* (17 November 1993): 66; 'Government, PRC Said to Disagree over Spratlys,' *KYODO* (Tokyo) in English, 19 November 1993, transcribed in FBIS, *East Asia* (22 November 1993): 53.

¹⁸⁹ 'Mobil Group Wins Vietnam Oil Rights,' *Washington Post* (21 December 1993): D3.

¹⁹⁰ 'Ministry Reasserts Sovereignty over Spratlys,' *Voice of Vietnam* (Hanoi) in English, 22 January 1994, transcribed in FBIS, *East Asia* (24 January 1994): 65; 'US Pact May Be Invoked If Attack in Spratlys,' *AFP* (Hong Kong) in English, 25 January 1994, transcribed in FBIS, *East Asia* (25 January 1994): 63-64.

¹⁹¹ 'Vietnam Criticises Taiwan for Spratly Actions,' *Reuter* (Hanoi) 3 February 1994; 'China Vietnam Head to Head at WAB-21,' *Offshore* (April 1994): 15.

¹⁹² 'Vietnam, China to Discuss Border Dispute, Spratlys,' *Reuter* (Hanoi) 25 February 1994.

¹⁹³ 'Vietnam Backs Ramos on Spratlys Demilitarisation,' *Reuter* (Hanoi) 29 March 1994; *Reuter* (Manila) 30 March 1994.

In April the PRC and Vietnam continued to joust, using foreign oil companies as surrogates. On 19 April Mobil signed a production-sharing contract with PetroVietnam for Block 5-1b (Blue Dragon). The PRC Ministry of Geology was reported to be planning to drill a well in the same area, in the vicinity of Blue Dragon. Within the PRC claimed area, but north of the Crestone area, PetroVietnam and Nopec offered offshore licenses in Vietnamese blocks 122-130.¹⁹⁴ Crestone planned a seismic survey of WAB-21 with drilling later in the year. On 20 April Vietnam protested the Crestone plans. A PRC Foreign Ministry spokesman reiterated China's sovereignty over the Spratly Islands, but expressed hopes that negotiations on territorial disputes would progress based on already agreed principles.¹⁹⁵

In May Vietnam accused the PRC and Taiwan of coordinating surveys in the Spratly islands.¹⁹⁶ Also in May the Philippines contracted with Alcorn Petroleum (subsidiary of VAALCO, a US company) to gather information on petroleum resources in 1.5 million hectares of the disputed Spratly islands region. On 5 May the Philippines renewed its call to demilitarise the Spratly area, set aside sovereignty issues, and develop the area through cooperation.¹⁹⁷ On the same day the Vietnam Foreign Ministry warned against Crestone's survey and reaffirmed Vietnamese sovereignty over the Spratly islands. In several statements during 8-12 May 1994 the PRC Foreign Ministry called Vietnam's contract with Mobil for the Blue Dragon prospect illegal because the area was part of the Spratly islands. Vietnam responded to the PRC's 10 May statement by affirming that Vanguard Bank and Thanh Long (Blue Dragon) were Vietnam's under the 1982 UN Convention.¹⁹⁸ All of Blue Dragon lies on Vietnam's side of a median line between Vietnam's Hon Hai island and Spratly Island, but most of the Crestone block lies on the Spratly Island side of the median line.¹⁹⁹

During May or June 1994 PetroVietnam began to drill in Vietnam's block 135, which is within Crestone's concession from the PRC.²⁰⁰ On 28 June 1994 during a visit to Moscow, PRC Foreign Minister Qian suggested that discussions should be halted and a start be made on joint exploitation of the Spratly islands (the PetroVietnam drilling rig was Russian). Despite tensions on other fronts,

¹⁹⁴ 'Mobil Signs Vietnam Deal,' *Oil Daily* (20 April 1994): 5; 'Vietnam: Mobil Back to Work,' *Far Eastern Economic Review* (5 May 1994): 79; 'China Vietnam Head to Head at WAB-21,' *Offshore* (April 1994): 15; 'Vietnam Frontier Licenses,' *Offshore* (April 1994): 11.

¹⁹⁵ 'Crestone Begins Project in South China Sea Despite Dispute over Sovereignty of Area,' *Oil Daily* (20 April 1994): 3; 'Vietnam: Protest over Surveys,' *Far Eastern Economic Review* (5 May 1994): 13; China Radio International (Beijing) in English, 22 April 1994, transcribed in British Broadcasting Company, *Summary of World Broadcasts* (hereafter, BBC, *SWB*).

¹⁹⁶ 'Foreign Ministry on Spratlys, South Africa,' Voice of Vietnam (Hanoi) in Vietnamese, 5 May 1994, translated in FBIS, *East Asia* (5 May 1994): 45.

¹⁹⁷ 'Ramos Defends Oil Search in Dispute Waters,' Kyodo (Tokyo) in English, 6 July 1994, transcribed in FBIS, *East Asia* (6 July 1994): 54; Joubert Burgos, 'Spratlys Dispute Hinders Oil Exploration Work,' *Manila Standard* (3 July 1995): 13, transcribed in FBIS, *East Asia* (6 July 1995): 72; 'Renewed Tension in Spratlys Worries Manila,' *Manila Standard* (5 May 1994): 4, reprinted in FBIS, *East Asia* (10 May 1994): 38.

¹⁹⁸ 'Vietnam Warns China over Crestone Work Near Spratly Islands,' *Oil Daily* (6 May 1994): 7; 'Spratly Islands Dispute Heats Up,' UPI (Beijing), 8 May 1994; *Far Eastern Economic Review*, 5 May 1994: 79; 'Chinese Claim for Oil Field: Sovereignty Battle with Hanoi,' AFP (Beijing) 10 May 1994; AP (Beijing), 12 May 1994; 'Ministry Refutes PRC Claims on Thanhlong Sea,' VNA (Hanoi) in English, 11 May 1994, transcribed in FBIS, *East Asia* (13 May 1994): 70.

¹⁹⁹ Distances were great circle distances calculated, using published coordinates for Hon Hai and Spratly islands.

²⁰⁰ 'Vietnam Unaware of Oil Block,' AP (Hanoi), 21 July 1994; Barry Wain, 'Tension Mounts As Vietnam Vies with Beijing over Oil Exploration,' *Wall Street Journal* (25 July 1994); John Rogers, 'Vietnam: PetroVietnam to Consider Joint Spratlys Oil Search,' Reuter (Hanoi) 24 August 1994.

the PRC and Vietnam conducted the second meeting of their land-border joint working group. The week-long meeting in Beijing concluded on 1 July 1994.²⁰¹

On 2 July Vietnam seized three Chinese fishing boats in the Gulf of Tonkin. The next day two Chinese fishing boats fired on a Vietnamese patrol vessel in the Spratly islands, injuring two officials according to the Vietnamese Foreign Ministry.²⁰² On 6 July 1994 Philippine President Ramos defended the May agreement with Alcorn Petroleum for 'desktop' exploration in the disputed Spratly islands.²⁰³ Responding to Vietnam's restatement of its sovereignty claims and ratification of the 1982 UN Convention, the PRC Foreign Ministry said that China was ready to shelve the Spratly sovereignty dispute and enter into joint development. During the same period (4-8 July) the PRC and Vietnam were holding the second round of their Gulf of Tonkin talks in Beijing. They agreed to hold a third round in Hanoi in November 1994.²⁰⁴

On 15 July 1994 the Vietnamese embassy in Manila brushed off an earlier Philippine protest of Vietnam's construction of a lighthouse on Song Tu Tay (Southwest Cay, 11°25'45"N, 114°19'40"E). Philippine Chief of Staff Enrile said that the armed forces were ready to protect Kalayaan.²⁰⁵ While the Philippines and Vietnam sparred in the northwestern Spratly islands, the PRC and Vietnam threatened counter-moves 680km to the southwest. On 19 July the PRC warned Vietnam to stop drilling on Wan An reef. Chinese ships reportedly blockaded the Vietnamese rig, but the PRC later said the Foreign Ministry source was misquoted. The Vietnamese Foreign Ministry denied any knowledge of a PRC blockade. On 20 July 1994 a CNOOC spokesman said that CNOOC and Crestone intended soon to proceed with seismic surveys in the Vanguard Bank area, even though the Vietnamese were planning to drill nearby.²⁰⁶

With this backdrop, the ministers of ASEAN met in Bangkok (22-23 July), followed by the ASEAN Regional Forum (ARF) meeting (25 July). On 21 July 1994 the PRC Foreign Ministry spokesman said that the South China Sea disputes should be discussed bilaterally under the ARF. He reiterated the proposal to shelve claims and discuss joint development. Following talks with Vietnam and the Philippines at the ASEAN ministerial meeting, PRC Foreign Minister Qian unequivocally reaffirmed its sovereignty over the Spratlys but agreed to seek a peaceful resolution. The same day a PRC Foreign Ministry spokesman said that China and Vietnam agreed to resolve their South China Sea claims and that the Chinese Vice Foreign Minister would visit Hanoi in

²⁰¹ 'Russia: China - Report on Qian Qichen's Press Conference,' ITAR-TASS (Moscow) broadcast in Russian, 28 June 1994, translated in BBC, *SWB* (30 June 1994); 'Minutes Signed on Border Talks with PRC,' Voice of Vietnam (Hanoi) broadcast in Vietnamese, 4 July 1994, translated in FBIS, *East Asia* (6 July 1994): 66.

²⁰² AP (Beijing), 7 July 1994; 'Spokesman on Seizure of PRC Fishing Boats,' VNA (Hanoi) in English, 5 July 1994, transcribed in FBIS, *East Asia* (6 July 1994): 66; and 'China Wants to Shelve Spratly Dispute,' UPI (Beijing), 7 July 1994.

²⁰³ 'Ramos Defends Oil Search.'

²⁰⁴ 'China Wants to Shelve Spratly Dispute'; AP (Beijing), 7 July 1994; 'Sino-Vietnamese Group on Tonkin Gulf Meets,' Voice of Vietnam (Hanoi) in Vietnamese, 11 July 1994, translated in FBIS, *East Asia* (12 July 1994): 68.

²⁰⁵ 'Protest over Spratly Lighthouse Dismissed,' Radio Filipinas (Quezon City) in English, 15 July 1994, transcribed in FBIS, *East Asia* (15 July 1994): 44; 'Military Said Ready to Protect Spratly Claims,' *Business World* (Manila) (15 July 1994): 8, reprinted in FBIS, *East Asia* (19 July 1994): 65.

²⁰⁶ 'PRC Attempts to Stop Spratly Drilling Denied,' AFP (Hong Kong) broadcast in English, 21 July 1994, transcribed in FBIS, *East Asia* (21 July 1994): 55; 'Vietnam Unaware of Oil Block'; John Rogers, 'Spratlys Row Hangs over Vietnam-China Talks,' Reuter (Hanoi), 13 August 1994; Philip Shenon, 'China Sends Warships to Vietnam Oil Site,' *New York Times* (21 July 1994).

August to discuss joint development.²⁰⁷ On 23 July Indonesian Foreign Minister Alatas backed away from a proposal to formalise the Spratly workshops after a cool reception from the PRC, Vietnam, and Malaysia. The Indonesian 'doughnut' formula was cold-shouldered by ASEAN, and a senior ASEAN official said that Malaysia now agreed with the PRC that the Spratly dispute would have to be resolved bilaterally.²⁰⁸ The final ASEAN communiqué included a bland call for a peaceful settlement of South China Sea disputes and appeared to endorse bilateral talks:

*"On conflicting territorial claims, the ministers expressed appreciation at Indonesia's initiative in promoting confidence-building measures and at the bilateral consultations which some countries had begun. They were convinced that, given the political will and spirit of cooperation of all states concerned, peace and stability in the region could be significantly enhanced."*²⁰⁹

The meeting also prepared to accept Vietnam as a member of ASEAN.²¹⁰ The ARF held its first meeting, which included the United States, Russia, Japan and the European Union, but not Taiwan, among the 18 nations represented. South China Sea disputes were among the topics covered.²¹¹

On 25 July Philippine Defence Secretary De Villa cited the 1992 Manila Declaration and said that there was general agreement for a peaceful Spratly settlement; he proposed demilitarisation.²¹² At the end of the month it was reported that the Mobil consortium would soon start drilling in the Blue Dragon prospect.²¹³

During 15-16 August 1994 in Hanoi, the PRC and Vietnam held their second round of ministerial talks. Progress was reported on the land boundary dispute and with the Gulf of Tonkin maritime boundary. The Spratly and Paracel islands were discussed for the first time at that level. The PRC invited the Vietnamese to Beijing for the 1995 round.²¹⁴ On 24 August 1994 PetroVietnam Chairman Thoang said that PetroVietnam was ready to consider joint exploration in the Spratlys if

²⁰⁷ 'PRC: ARF Should Discuss South China Sea,' *The Nation* (Bangkok) (22 July 1994): A2, excerpted in FBIS, *East Asia* (22 July 1994): 1-2; Sonya Hepinstall, 'China Seeks Dialogue in Row over Spratlys,' Reuter (Bangkok), 21 July 1994; Tony Allison, 'PRC Minister Reaffirms Spratly Sovereignty,' *South China Morning Post* (Hong Kong) (23 July 1994): 9, transcribed in FBIS, *East Asia* (25 July 1994): 18-19; 'PRC, Vietnam Agree to Meet on Spratlys Dispute,' *The Nation* (23 July 1994): A1, A4, transcribed in FBIS, *East Asia* (2 August 1994): 1; Reg Gratton, 'China and Vietnam Agree on Spratlys Self-restraint,' Reuter (Bangkok), 22 July 1994.

²⁰⁸ 'Nations Differ on Spratlys Talks Proposal,' *The Sunday Nation* (Bangkok) (24 July 1994): A2, transcribed in FBIS, *East Asia* (25 July 1994): 19; Nayan Chanda, 'Divide and Rule: Beijing Scores Points on South China Sea,' *Far Eastern Economic Review* (11 August 1994): 18.

²⁰⁹ 'Excerpts' of Joint Communiqué,' *The Sunday Nation* (Bangkok) (24 July 1994): A6, transcribed in FBIS, *East Asia* (25 July 1994): 10.

²¹⁰ Tim Johnson, 'Summit Concludes 23 Jul,' Kyodo (Tokyo) in English, 23 July 1994, transcribed in FBIS, *East Asia* (25 July 1994): 8-9; Sonya Hepinstall, 'ASEAN to Strengthen Security Role, Admit Vietnam,' Reuter (Bangkok), 23 July 1994.

²¹¹ Robert Birsell, 'East Asian Talks Hailed As Force for Peace,' Reuter (Bangkok), 25 July 1994; Tim Johnson, 'Regional Forum Addresses South China Sea Issue,' Kyodo (Tokyo) broadcast in English, 25 July 1994, transcribed in FBIS, *East Asia* (25 July 1994): 19-20.

²¹² 'Solutions to Spratly dispute to Be Pursued,' PNA (Manila) broadcast in English, 25 July 1994, transcribed in FBIS, *East Asia* (25 July 1994): 82.

²¹³ John Rogers, 'Hopes Are High in Vietnam's Oil Industry,' Reuter (Ho Chi Minh City), 31 July 1994.

²¹⁴ John Rogers, 'Vietnam, China Agree to Keep Talking on Spratlys,' Reuter (Hanoi), 18 August 1994; 'SRV Officials Exchange Views with Tang on Border Issues,' China Radio International (Beijing) in Vietnamese, 18 August 1994; 'Vietnam: Talks with China over Disputed Territorial Claims End without Agreement,' Kyodo (Tokyo) in English, 16 August 1994, transcribed in BBC, *SWB* (18 August 1994).

his government agreed and other claimants recognised Vietnam's sovereignty. He reiterated that Vanguard Bank was on Vietnam's continental shelf.²¹⁵

On 10 September 1994 a Foreign Ministry spokesman rejected the PRC criticism of Vietnam for constructing a fishing harbour in the Spratlys. On 23 September Vietnamese Foreign Minister Cam implied support for a multilateral settlement. He said a Spratly settlement or joint development depended on agreement of *all* parties.²¹⁶

In October Vietnamese oil exploration in both the Gulf of Tonkin and the Spratly islands returned to centre stage. On 14 October a PRC Foreign Ministry spokesman criticised Vietnam's offer of oil exploration contracts in the Gulf of Tonkin "*including an area belonging to China.*"²¹⁷ Vietnam rejected the PRC protest and China's claim of high seas fishing rights in the central Gulf (beyond 12nm from the coast). The spokesman reiterated Vietnamese economic zone and continental shelf rights there. Surprisingly, the Vietnamese spokesman made no reference to historic waters for the Gulf of Tonkin. On 20 October a Vietnamese Foreign Ministry spokeswoman said there had been 10 Chinese fishing violations since May and detailed two incidents in August and September in the Gulf of Tonkin.²¹⁸ About the same time, the PRC and Vietnam traded charges about Vietnam's prospecting in the Vanguard Bank area. While the PRC and Vietnam exchanged accusations, Taiwan's Ministry of Transportation and Communication announced that it would equip a weather station on Itu Aba. It said that Taiwan would never renounce its claim of sovereignty, but was willing to shelve the dispute to cooperate on economic development.²¹⁹

The end of October also saw the fifth Indonesia-sponsored workshop and a third meeting of the PRC-Vietnam land boundary experts.²²⁰ The Indonesian workshop (26-28 October 1994, Bukittinggi) ended without consensus. Although most participants called for a halt to military build-up, some had reservations. A proposal to institutionalise the workshops was rejected. There was agreement on technical cooperation in such matters as environmental issues and shipping. Taiwan reportedly objected to discussing only the Spratly and Paracel conflicts, citing other disputes. The PRC and Vietnam also objected. Beijing rejected Indonesia's proposal to involve the US, Japan, or European countries in technical projects.²²¹

²¹⁵ John Rogers, 'Vietnam: PetroVietnam to Consider Joint Spratlys Oil Search,' Reuter (Hanoi), 24 August 1994.

²¹⁶ 'Vietnam Rejects Chinese Charge on Spratlys,' Reuter (Hanoi), 9 September 1994; 'Vietnam Set to Join ASEAN Next Year - Minister,' Reuter (Hanoi), 23 September 1994.

²¹⁷ 'Beijing Protests SRV 'Exploitation' of Tonkin Gulf,' China Radio International (Beijing) broadcast in Vietnamese, 15 October 1994, translated in FBIS, *China* (17 October 1994): 21.

²¹⁸ 'PRC 'Violations' 'Unacceptable',' Voice of Vietnam (Hanoi) broadcast in Vietnamese, 17 October 1994, translated in FBIS, *East Asia* (18 October 1994): 88; 'Ministry Rebuts PRC Territorial Water Claim,' Voice of Vietnam (Hanoi) broadcast in Mandarin, 19 October 1994, translated in FBIS, *East Asia* (20 October 1994); 'Spokeswoman Details PRC Shipping Violations,' AFP (Hong Kong) broadcast in English, 20 October 1994.

²¹⁹ 'China Criticises Viet Oil Exploration in Spratlys,' Reuter (Beijing), 17 October 1994; 'Concerned' over Oil Prospecting,' Xinhua (Beijing) in English, 17 October 1994, transcribed in FBIS, *China* (17 October 1994): 21; 'Spokesman Rebuts PRC Claims,' Voice of Vietnam (Hanoi) in Vietnamese, 18 October 1994, translated in FBIS, *East Asia* (18 October 1994): 88; 'Taiwan to Build Up Weather Station in Spratlys,' Reuter (Taipei), 17 October 1994.

²²⁰ AFP (Hong Kong) in English, 20 October 1994.

²²¹ 'South China Sea Talks Ends without Consensus,' UPI (Bukittinggi) 28 October 1994; 'Little Headway Made at Indonesia Spratly Talks,' Reuter (Jakarta) 28 October 1994; 'Taiwan Objects to Talks on Dispute Spratlys,' Reuter (Jakarta) 27 October 1994.

At the end a three-day visit by PRC President Jiang Zemin to Vietnam on 22 November, the two countries announced that they would form a third expert group, which would consider South China Sea issues.²²² The communiqué said that, “*the two countries will continue talks on their sea territorial problems to seek basic and long-term solutions acceptable to both sides....They will not use force, or threaten to use force against each other...and both sides should remain cool headed*”, if a new dispute occurs.²²³ However, both countries restated their respective claims, without apparent modification. The PRC Foreign Minister Qian said that “*Pending a peaceful settlement, the two countries could start joint development of the potentially oil-rich archipelago in the South China Sea.*”²²⁴

On December 4 the Vietnamese Defence Minister visited the Philippines to discuss the Spratly dispute. Six days later, in response to a renewed PRC assertion of sovereignty, Philippine Foreign Affairs Minister Romulo reiterated his country's claim to the Kalayaan Island Group.²²⁵

5.5 1995 – PRC Occupies Mischief Reef

1995 was dominated by the PRC's occupation of Mischief Reef in the eastern Spratlys (see Figure 5) and the Philippines' efforts to regionalise and internationalise the issue. Vietnam became a full member of ASEAN, which became more deeply embroiled in the dispute. The resultant escalation of tensions prompted statements of concern by Japan and the United States. About mid-year diplomatic activity reduced the dispute to a simmer. Although much of the reported 'progress' on the diplomatic front was semantic and not substantive, the PRC, the Philippines, and Vietnam reached bilateral agreements-in-principle on adopting codes of conduct to prevent clashes in the Spratlys. The PRC and Vietnam held their first expert-level meeting on the Spratly and Paracel islands disputes.

In January 1995 the PRC warned Vietnam to stop conducting geological surveys in their disputed area. About the same time, Filipino fishermen reported PRC activity at Mischief Reef (9°55'N, 115°32'E),²²⁶ which lies in the centre of the Philippines' Kalayaan claim and the Alcorn contract area. Mischief Reef is 715km from Cam Ranh Point (Vietnam), 1,110km from Hainan Island (PRC), and 239km from Palawan Island (Philippines). The reef is the eastern-most of PRC outposts in the Spratlys, roughly 100km equidistant from the nearest features occupied by the Philippines (Nanshan Island), Vietnam (Sin Cowe East Island), and Taiwan (Itu Aba). It lies outside the claims of Brunei and Malaysia, but within those of the Philippines, PRC, Taiwan, and Vietnam.²²⁷

The PRC had erected four clusters of buildings on steel pylons over the reef. The Chinese claimed that the structures were shelters for fishermen. On 8 January Philippine President Ramos said that

²²² 'New Talks, Old Split over Spratly Islands,' *Washington Post* (23 November 1994): A16; 'China, Vietnam ye Border Pact,' AP (Hanoi) 22 November 1994; 'China, Vietnam to Set Up Committee on Spratlys,' Reuter (Hanoi) 21 November 1994.

²²³ Lorien Holland, 'China, Vietnam Sign Economic Accords,' UPI (Beijing) 22 November 1994.

²²⁴ 'Vietnam, China to Discuss Spratlys Dispute,' Reuter (Hanoi) 22 November 1994; 'China, Vietnam Agree to Talks,' AP (Hanoi), 21 November 1994.

²²⁵ 'Vietnamese Minister in Manila for Spratlys Talks,' Reuter (Manila) 4 December 1994; 'Philippines Restates Claim to Spratlys,' Reuter (Manila), 10 December 1994.

²²⁶ Mischief Reef is known as Panganiban Reef in Filipino, Meiji Jiao in Chinese, and Vanh Khan in Vietnamese.

²²⁷ Dzurek, 1995: 65.

the Chinese actions were inconsistent with international law and with the 1992 ASEAN Manila Declaration on the Spratlys, which had been endorsed by the PRC.²²⁸

Besides flanking a Vietnamese base at Sin Cowe East Island, 105km west of Mischief Reef, the PRC may have put an installation on a reef closer to the Philippine home islands to warn against colluding with Vietnam, which was about to become a member of ASEAN. On February 3 Vietnamese Foreign Minister Cam visited Manila to discuss the Spratly dispute with Foreign Secretary Romulo.

Faced with a *fait accompli* and insufficient military strength to dislodge the Chinese, Manila ruled out an armed response. It resorted to diplomatic protest and sought to regionalize the issue as a problem for ASEAN and rally international opinion. Philippine President Ramos claimed violation of its unilaterally claimed EEZ, conveniently disregarding any economic zone that might radiate from the Spratly islands, themselves.²²⁹ Philippine legislators attempted to invoke the Philippine-US Mutual Defense Treaty, but Foreign Secretary Romulo acknowledged that the treaty did not apply to the Spratly area. Previous efforts by the Philippine government to use the treaty for the Kalayaan area had been rebuffed by the US.²³⁰

The occupation of Mischief Reef also resurrected the issue of freedom of navigation in the South China Sea. Many news reports on the Spratly islands include the observation that the islands 'straddle' major shipping lanes. This is correct in a technical sense, but the navigation routes stay roughly 140km from the nearest Spratly islands and shoals. Activities in the Spratlys pose no direct threat to navigation.²³¹ Nonetheless, the occupation of Mischief Reef revived the wider question of a threat to navigation, which became current in 1992. In discussing the occupation of Mischief Reef, Philippine President Ramos repeatedly called attention to the strategic sea lanes of the South China Sea.²³² The Philippines managed to induce Japan and the US to reiterate their interest in freedom of navigation.²³³

²²⁸ 'Vietnam Dismisses China Protest on Spratly Islands,' Reuter (Hanoi), 24 January 1995; 'Manila Probes Report of Chinese Ship in Spratlys,' Reuter (Manila), 30 January 1995; 'Philippine Navy Sends Ship to Disputed Shoal,' Reuter (Manila), 2 February 1995; William Branigin, 'China Takes over Philippine-claimed Area of Disputed Island Group,' *Washington Post* (11 February 1994): A18.

²²⁹ Malcolm Davidson, 'Manila Rules Out Armed Response in Spratlys,' Reuter (Manila), 10 February 1995; Amando Doronila, 'Analysis,' *Philippine Daily Inquirer* (Manila) (19 February 1995): 1, 4, transcribed in FBIS, *East Asia* (24 February 1995): 62-63; Pepper Rodriguez, 'Manila to Beef Up Forces in Spratlys,' UPI (Manila), 15 February 1995; 'With Eyes Wide Open,' *Malaya* (Quezon City, Philippines) (14 February 1995): 4, transcribed in FBIS, *East Asia* (16 February 1995): 61.

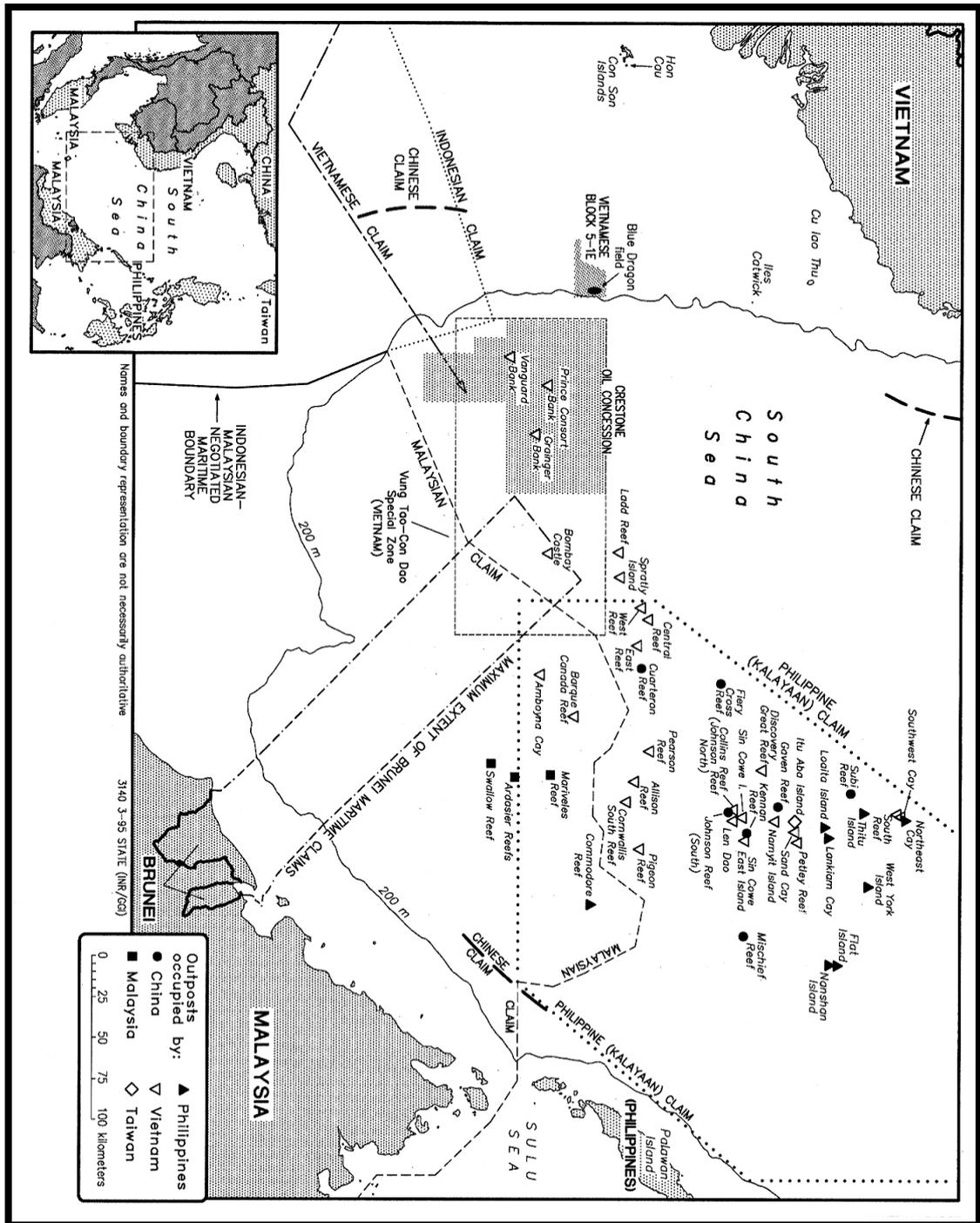
²³⁰ 'FVR Gets Suckered on Spratlys,' *Malaya* (Quezon City) (16 February 1995): 4, transcribed in FBIS, *East Asia* (21 February 1995): 88-89; 'Review of Defense Treaty with US Urged,' Quezon City GMA-7 Radio-Television Arts Network broadcast in Tagalog, 14 February 1995, translated in FBIS, *East Asia* (15 February 1995): 50; 'De Villa Says 'No Risk of War' on Spratlys,' *Business World* (Manila) (14 February 1995): 1, 6, transcribed in FBIS, *East Asia* (16 February 1995): 60-61; Branigin, 'China Takes over Philippine-claimed Area;' 'China Tests the Water: Diplomatic Options,' *Philippine Daily Inquirer* (Manila) (15 February 1994): 8, transcribed in FBIS, *East Asia* (17 February 1995): 64-65; 'US Pact May be Invoked If Attack in Spratlys,' AFP (Hong Kong) in English, 25 January 1994, transcribed in FBIS, *East Asia* (25 January 1994) 63; Keith B. Richburg and Steven Mufson, 'Dispute over Islands and China's Gunboats Roiling Asian Waters,' *Washington Post* (5 June 1995) A14.

²³¹ Dzurek, 1995: 66.

²³² Doronila, 'Analysis;' Holland, L. 'China Downplays Spratly Dispute,' UPI (Beijing), 16 February 1995; 'Philippines Lowers Spratlys Alert,' UPI (Manila), 11 February 1995; Maragay, F.V. 'Ramos, Romulo View Status of Spratlys Dispute,' *Manila Standard* (18 February 1995): 3, in FBIS, *East Asia* (23 February 1995): 70-71; 'Manila on Spratlys: Force Not an Option,' UPI (Manila), 17 February 1995.

²³³ 'China, Philippines to Talk on Spratlys,' Reuter (Manila), 23 February 1995; 'US Concerned over Spratlys,' AP, 3 April 1995; US Department of State Daily Press Briefing, no. 67, 10 May 1995.

Figure 5: South China Sea: Claims and Outposts in the Spratly Island Region



Source: US Department of State, Office of the Geographer and Global Issues.

On 28 February Vietnam announced that it had reinforced its Spratly outposts. In March the ASEAN foreign ministers expressed concern.²³⁴ The Philippine military destroyed Chinese markers that had been erected on Jackson Atoll (10°30'N, 115°44.5'E), Half Moon Shoal (8°52'N, 116°16'E) and Sabina Shoal (9°45'N, 116°29'E). Beijing and Manila began talks on 19 March that ended without agreement, except to continue discussions. On 25 March the Philippine navy detained four PRC boats and 62 fishermen near Alicia Annie Reef (9°23'N, 115°27'E).²³⁵ Five days later the Nationalists on Taiwan said that they would send patrol boats to the Spratlys. The Philippines and Vietnam objected. Taiwan recalled the patrol.²³⁶ On 24 March the PRC warned oil companies working in Vietnam not to become involved in Sino-Vietnamese territorial disputes. Vietnam responded by reiterating its sovereignty over the Vanguard Bank area. On 25 March Vietnam reported that Taiwanese forces on Itu Aba (Dao Ba Binh in Vietnamese) shelled one of its cargo ships, which was sailing from Discovery Great Reef to Sand Cay. No damage was reported. On 31 March Singapore Senior Minister Lee Kuan Yew indicated that ASEAN would back Vietnam in its South China Sea dispute with the PRC.²³⁷ Despite increased tension over Mischief Reef, the Sino-Vietnamese joint working group on the Tonkin Gulf held its scheduled fourth meeting, which concluded on 31 March with agreement to meet again in June.²³⁸

As the rhetoric threatened to reel out of control,²³⁹ an ASEAN delegation visited Hangzhou to discuss the issue with PRC officials on 3-4 April.²⁴⁰ The ROC Defense Minister announced that Taiwan would not send more forces to the Spratlys.²⁴¹ At about the same time, Indonesia sought clarification of China's traditional sea boundary line, fearing a claim to the Natuna gas fields, and intensified its patrols of the area (see Section 4.3.2).²⁴² On 25 April President Le Duc Anh reasserted Vietnam's sovereignty over the Spratly islands.²⁴³

²³⁴ 'Hanoi Reinforces Troops on Spratlys,' Kyodo (Tokyo) broadcast in English, 28 February 1995, transcribed in FBIS, *East Asia* (28 February 1995): 85; 'ASEAN Ministers Express Concern over Spratlys,' Reuter (Singapore), 18 March 1995.

²³⁵ 'China Lashes Out at Philippines,' Reuter (Beijing), 25 March 1995; Lorien Holland, 'Philippines Downplays China Dispute,' UPI (Beijing), 24 March 1995; Benjamin Kang Lim, 'China, Philippines to Hold More Talks on Spratlys,' Reuter (Beijing), 22 March 1995; 'China: No Tension over Spratlys,' UPI (Beijing), 10 March 1995; 'China Calls for Talks on Spratlys,' UPI (Beijing), 16 March 1995; 'Philippine Navy Seizes Vessels,' AP (Manila), 25 March 1995; 'Philippine Navy Holds Chinese Fishermen,' Reuter (Manila), 26 March 1995.

²³⁶ 'Patrol Mission to Spratly Islands Begins 31 Mar,' Taipei China Broadcasting Corporation News Network broadcast in Mandarin, 30 March 1995, translated in FBIS, *Daily Report: China* (31 March 1995): 88; Alice Hung, 'Taiwan to Start Spratly Patrol, Denies Aggression,' Reuter (Taipei), 30 March 1995; 'Vietnam Urges Talks on Spratlys,' Reuter (Hanoi), 29 March 1995; 'Taiwan Move on Spratlys Seen Raising Tensions,' Reuter (Manila), 30 March 1995; 'Taiwan Not to Send More Forces to Spratlys,' Reuter (Taipei), 10 April 1995.

²³⁷ 'Vietnam Restates Sovereignty Claim in Sea Area,' Reuter (Hanoi), 30 March 1995; 'Ministry Spokesman on Taiwan Action in Spratlys,' Voice of Vietnam Network (Hanoi) broadcast in Vietnamese, 4 April 1995, in FBIS, *East Asia* (5 April 1995): 41; 'US Concerned over Spratlys,' John Rogers, 'ASEAN Will Back Vietnam in Row with China - Lee,' Reuter (Hanoi), 31 March 1995.

²³⁸ 'China: Sino-Vietnamese Tonkin Gulf Delineating Group Meets,' Voice of Vietnam (Hanoi) broadcast in English, 6 April 1995, transcribed in BBC, *SWB* (8 April 1995).

²³⁹ Jane Macartney, 'Spratly Dispute Rattles Asian Equilibrium,' Reuter (Beijing), 30 March 1995; Ruben Alabastro, 'Manila Alleges Chinese Duplicity in Spratlys,' Reuter (Manila), 10 April 1995; 'Report: China May Wage War,' AP (Hong Kong), 18 April 1995.

²⁴⁰ 'Philippines Says ASEAN Has One Voice on Spratlys,' Reuter (Manila), 5 April 1995; 'China Lauds Spratly Talks,' UPI (Beijing), 6 April 1995.

²⁴¹ 'Taiwan Not to Send More Forces to Spratlys,' Reuter (Taipei), 10 April 1995.

²⁴² 'Clarification of PRC Maritime Maps Sought,' AFT (Hong Kong) in English, 7 April 1995, transcribed in FBIS, *East Asia* (7 April 1995): 59-60; 'Indonesia to Intensify Patrols in South China Sea,' Reuter (Jakarta), 10 April 1995.

²⁴³ 'Vietnam Reasserts Claim over Spratly Islands,' Reuter (Hanoi), 26 April 1995.

Tensions peaked in mid-May, when the Philippines military used an amphibious assault craft to ferry 36 journalists near Mischief Reef and then overflew the PRC outpost with helicopters. President Ramos denied attempting to provoke the PRC.²⁴⁴ Thereafter, both Manila and Beijing began to tone down their rhetoric. On 18 May the PRC Foreign Ministry stated that its actions in the Spratlys would not interfere with normal navigation. President Ramos sent an emissary to Beijing to explore ways to reduce tensions and the PRC proposed a joint venture with the Philippines in the Spratlys.²⁴⁵ However, Malaysia ended the month by reiterating its sovereignty claim to Swallow Reef.²⁴⁶

Throughout June and July 1995, in preparation for the August ARF meeting in Brunei, the claimants generally moderated the level of invective. Manila released some of the Chinese fishermen it had detained and announced that it was negotiating with Beijing. Malaysian officials downplayed the dispute and called for formal talks. UNESCO agreed to cosponsor a regional workshop on protecting the South China Sea, to be held in the Philippines in October.²⁴⁷ Indonesia postponed its sixth informal workshop on the South China Sea disputes from July until October.²⁴⁸ The Philippines was reported to be studying the PRC's proposal jointly to explore for oil in the Reed Bank. A suggestion to make the Spratly Islands a protected marine area was also floated in Manila.²⁴⁹ When the Philippines destroyed more PRC markers on other Spratly features, Beijing warned that its restraint would not persist if the Philippines continued such provocations. However, the PRC offered a cooperative agreement to prevent fisheries disputes.²⁵⁰ In late June Vietnam inaugurated a lighthouse on Amboyna Cay.²⁵¹

At the beginning of July the Philippines reported major progress when the PRC agreed to negotiate over the Spratlys based on international law, including the 1982 UN Convention. Philippine

²⁴⁴ 'Philippine Leader Defends Spratlys Tour to China,' Reuter (Manila), 15 May 1995; 'Chinese Boats Block Philippine Vessel,' UPI (Off Mischief Reef), 16 May 1995; Rene Pastor, 'Philippine Leader Rejects China's Spratly Protest,' Reuter (Manila), 17 May 1995; Ed Marso, 'Manila Denies Provoking China,' UPI (Manila), 17 May 1995; 'China, Philippines Feud over Spratlys,' *Washington Post* (17 May 1995): A31.

²⁴⁵ 'China Says Spratly Waters Are Safe,' UPI (Beijing), 18 May 1995; 'PRC Seeks Joint Venture Project in Spratlys,' Kyodo (Tokyo) in English, 31 May 1995, transcribed in FBIS, *East Asia* (2 June 1995): 8-9; J. V. Cruz, 'PROC Assures Free Navigation across Spratlys,' *Manila Chronicle* (30 May 1995): 4, transcribed in FBIS, *East Asia* (2 June 1995): 76-77.

²⁴⁶ 'Minister: Claim to Island Indisputable,' *Berita Harian* (Kuala Lumpur) (1 June 1995): 1, translated in FBIS, *East Asia* (1 June 1995): 59-60; 'Layang-Layang: China Is Aggravating the Situation,' *Berita Harian* (Kuala Lumpur) (2 June 1995): 10; translated in FBIS, *East Asia* (2 June 1995): 65-66.

²⁴⁷ Abe de Ramos, 'Manila Releases Eight Chinese Fishermen,' UPI (Manila), 7 June 1995; 'Siazon Announces Dialogue with PRC,' DZBB Radyo Bisig Bayan (Quezon City) broadcast in Tagalog, 9 June 1995, translated in FBIS, *East Asia* (9 June 1995): 45; 'Foreign Minister Comments on Spratlys Incidents,' *Utusan Malaysia* (15 July 1995): 33, and 'Military Intelligenc Chief on Spratly Dispute,' *Utusan Malaysia* (Kuala Lumpur) (16 July 1995): 9, both translated in FBIS, *East Asia* (18 July 1995): 43-44; 'Malaysia Calls for Formal Talks over Spratlys,' Reuter (Kuala Lumpur), 16 Jun 1995; 'Workshop to Be Held on Disputed Spratlys,' UPI (Manila), 16 June 1995.

²⁴⁸ 'Indonesia Delays Spratlys Talks until October,' Reuter (Jakarta), 20 June 1995.

²⁴⁹ Merlinda Manalo, 'Joint Oil Exploration in Reed Bank Studied,' *Manila Standard* (20 June 1995): 6, transcribed in FBIS, *East Asia* (22 June 1995): 42; 'Officials Propose Protected Area in Spratlys,' *Business World* (Manila) (21 June 1995): 10, transcribed in FBIS, *East Asia* (23 June 1995): 75.

²⁵⁰ Merlinda Manalo, 'Warns against Provocative Acts,' *Manila Standard* (23 June 1995): 4, and 'Proposes Fishing Cooperation,' *Manila Standard* (22 June 1995): 4, both transcribed in FBIS, *East Asia* (27 June 1995): 59-60.

²⁵¹ 'New Lighthouse in Spratly Islands Inaugurated,' *Thoi Bao Kinh Te Saigon* (Ho Chi Minh City) (22-28 June 1995): 29, translated in FBIS, *East Asia* (24 July 1995): 88.

Foreign Ministry officials mentioned the convention's dispute settlement mechanisms. Later that month the Indonesian Foreign Minister made much the same claim.²⁵² The assertion of progress was hollow. The 1982 UN Convention gives no guidance on island sovereignty disputes, which are explicit grounds for exception to compulsory dispute settlement mechanisms under Article 298. Chinese claims to sovereignty in the Spratlys are usually couched in terms of international law, so the PRC appears to have promised nothing new.

Manila restated its proposal for a 'stewardship' plan for the Spratlys, which would place areas nearest each coastal state under that country's control. Such a plan would be disadvantageous to the PRC and Taiwan and is unlikely to satisfy Chinese interests. The PRC and the Philippines agreed to hold a second round of talks in late August, at the undersecretary level.²⁵³

Oil, gas, and fish continued to figure in the dispute. The uproar over Mischief Reef reportedly inhibited Philippine offshore exploration. The Philippine government apparently restricted the area of Alcorn's 'desk top' survey, and the company filed a request for reconsideration. On 18 July Philippine Energy Secretary Viray said that there were not commercial quantities of oil in the Spratlys.²⁵⁴ On 21 July Indonesia announced that the PRC had reassured it regarding the Natuna Islands and nearby gas field. Foreign Minister Ali Alatas confirmed that China did not claim the islands, but admitted that, "*the sea border line is not clear between the Spratly Islands and the surrounding areas. However, China said it has no dispute with Indonesia.*"²⁵⁵ On 12 and 17 July PRC patrols intercepted and boarded Taiwanese fishing boats in the Spratly islands. The boats were allowed to continue without further incident, but this was the first time that mainland Chinese had interfered with the Taiwanese in the Spratlys.²⁵⁶ This followed ROC President Lee's unofficial visit to the US and Beijing's military exercises near Taiwan.

The 28th ASEAN ministerial gathering and subsequent ARF meeting in Brunei at the end of July and beginning of August displayed strong differences in approaches to the dispute. The PRC reiterated its agreement to use international law and support for freedom of navigation. It offered to shelve the dispute, suggested bilateral negotiations among claimants, and strongly opposed consideration of the Spratlys in the Regional Forum among non-claimants, especially the US. Earlier, Singapore had stressed that the Spratly islands dispute should be handled by the claimants or by international mediators, but not by ASEAN. Indonesia, apparently placated about the Natuna Islands, chaired an ASEAN meeting with the PRC, called for peaceful settlement, and made much of the PRC's pledge to observe international law. Manila chose not to raise the Spratlys in the Regional Forum, but held bilateral side-talks with Beijing. The US Secretary of State called for peaceful settlement, said that the Spratlys were one reason for continued American presence in the area, and stated that freedom of navigation was of fundamental interest. The Malaysian Foreign Minister summarised the ARF talks as concluding that only claimants could play a role in settling

²⁵² 'Manila: China Agrees to Spratlys Talks,' UPI (Manila), 7 July 1995; 'Spratlys Not Oil Rich, Manila Says,' UPI (Manila), 18 July 1995; Ruben Alabastro, 'Manila Says China May Declare New Spratlys Stance,' Reuter (Manila), 18 July 1995; 'Indonesia Says China to Use Sea Law in Disputes,' Reuter (Bandar Seri Begawan), 27 July 1995.

²⁵³ Merlinda Manalo, 'Manila, Beijing Discuss Spratlys Stewardship,' *Manila Standard* (20 July 1995): 2, transcribed in FBIS, *East Asia* (25 July 1995): 60-61; 'Philippines, China Hold Spratlys Talks in August,' Reuter (Manila), 25 July 1995.

²⁵⁴ Burgos, 'Spratlys Dispute Hinders Oil Exploration Work'; 'Spratlys Not Oil Rich, Manila Says,' UPI (Manila), 18 July 1995.

²⁵⁵ 'Indonesia Satisfied by China's Natuna Explanation,' Reuter (Jakarta), 21 July 1995.

²⁵⁶ 'Chinese Police Board Taiwan Boats in Spratlys,' Reuter (Taipei), 12 July 1995; 'China Police Board Taiwan Boat in South China Sea,' Reuter (Taipei), 17 July 1995.

the dispute. The Forum encouraged all contestants to reaffirm ASEAN's 1992 Declaration on the South China Sea, which called for restraint.²⁵⁷

Philippine President Ramos claimed improved relations with the PRC following discussions at the ASEAN meeting. The PRC and the Philippines held vice-ministerial talks on their dispute from 8 to 12 August 1995 in Manila. The two agreed to abide by a code of conduct in the Spratlys to avoid military confrontation, but the particulars were not settled. They set up panels to discuss confidence-building measures, such as cooperation in conservation, meteorology, disaster relief, search and rescue, navigation, and environmental protection. However, no meeting date was set for the panels. The talks deadlocked when the Philippines asked the PRC to evacuate Mischief Reef. The sides pledged to have legal experts discuss their respective claims. Manila said it would study Beijing's proposal for bilateral cooperation in oil and gas exploration in the Spratlys.²⁵⁸ Except for progress toward a military code of conduct, the Manila talks were long on promise and short on product.

Following the bilateral talks, the Philippines announced plans for similar discussions with other claimants, but emphasised that there would be no talks with Taiwan because of Manila's one-China policy. A Philippine court convicted 62 PRC fishermen of malicious mischief, and President Ramos pardoned them.²⁵⁹ In late August Hanoi reiterated its claim in response to PRC statements and Crestone's announcement of an agreement with China's Exploration Development Research Centre to evaluate the oil potential of the Wan-an Bei contract area.²⁶⁰

In September Indonesia and the Philippines discussed including extra-regional countries, such as Japan, in cooperative Spratly ventures. Taiwan lauded the code of conduct agreement-in-principle between the Philippines and PRC.²⁶¹

On 5 October the PRC, Taiwan, and ASEAN members concluded a two-day governmental conference in Jakarta by agreeing to cooperate on navigation, shipping and communications in the South China Sea.²⁶² Five days later the sixth Indonesia-sponsored non-governmental workshop on the South China Sea began in Balikpapan. Many issues were raised at the workshop, but little progress was reported, except agreement to study biodiversity in the South China Sea. There was

²⁵⁷ 'PRC to Discuss Spratlys,' *Bangkok Post* (31 July 1995): 1, 3, transcribed in FBIS, *East Asia* (31 July 1995): 5-6; Dean Visser, 'Hope Dims for Quick Spratlys Solution,' UPI (Bandar Seri Begawan), 30 July 1995; K. T. Arasu, 'China Says Ready to Solve Spratlys Dispute by Law,' Reuter (Bandar Seri Begawan), 30 July 1995; Linda Chong, 'Singapore Backs Vietnam in ASEAN,' UPI (Hong Kong), 28 July 1995; Bill Tarrant, 'ASEAN Optimistic over Easing Tensions over Disputed Islands,' Reuter (Bandar Seri Begawan), 30 July 1995; P. V. Cruz, 'U.S. Wants End to Spratlys Dispute,' UPI (Bandar Seri Begawan), 1 August 1995; 'Malaysia's Badawi Views Spratlys,' *The Star* (Kuala Lumpur) (2 August 1995), transcribed in FBIS, *East Asia* (2 August 1995): 5.

²⁵⁸ 'Manila Hails Improved Ties with Beijing,' UPI (Manila), 5 August 1995; Rene Pastor, 'Manila, Beijing Agree on Spratlys Code of Conduct,' Reuter (Manila), 10 August 1995; 'Manila, Beijing End Spratlys Talks,' UPI (Manila), 10 August 1995; 'Manila, Beijing Set Spratlys Code,' UPI (Manila), 11 August 1995; Paul N. Villegas, 'PRC Agrees to Joint Projects in Spratlys,' *Business World* (Manila) (11 August 1995): 8, transcribed in FBIS, *East Asia* (15 August 1995): 76-77.

²⁵⁹ 'Manila to Meet Other Claimants,' *Business World* (Manila) (14 August 1995): 12, transcribed in FBIS, *East Asia* (16 August 1995): 46; 'Manila Convicts 62 Chinese Fishermen,' UPI (Manila), 15 August 1995; 'Manila Pardons 62 Chinese Fishermen,' UPI (Manila), 25 August 1995.

²⁶⁰ 'Vietnam Condemns Chinese Drilling Contract,' Reuter (Hanoi), 31 August 1995.

²⁶¹ 'Manila Welcomes Outside Powers in Spratly Venture,' Reuter (Manila), 10 September 1995; 'Taipei Hails Spratly Islands Agreement,' UPI (Manila), 12 September 1995.

²⁶² 'Southeast Asian Pact to Boost Sea Cooperation,' Reuter (Jakarta), 5 October 1995; Lewa Pardomuan, 'Fresh Talks on Spratlys Aimed at Easing Tension,' Reuter (Jakarta), 8 October 1995.

reticence to undertake additional confidence-building measures, but general agreement to consolidate past proposals.²⁶³

Despite the spate of discussions, the military dimension became active in late October. Jakarta announced plans to station a squadron of new jet fighters near the Natuna gas field. The PRC held naval exercises in the Yellow Sea, which troubled Taiwan and others in the region.²⁶⁴ On 28 October Philippine President Ramos emphasised that:

*“The Philippines cannot be put completely at ease in our bilateral relations with China until the situation at Panganiban Reef [Mischief Reef] in our Kalayaan group of islands is completely normalised.”*²⁶⁵

November saw further bilateral discussions between the Philippines and Vietnam and between China and Vietnam. On 7 November the Philippines and Vietnam concluded three days of talks in Hanoi by agreeing to a nine-point code of conduct for the Spratly area. The code reportedly included targets and benchmarks concerning protection of marine resources and respect for freedom of navigation and overflight. A joint commission will work out the details of the code. During his visit to Manila on 29 November, Vietnamese President Le Duc Anh and Philippine President Ramos called for a common code of conduct to be adopted by all Spratly claimants and for a multilateral meeting to deal with the issue.²⁶⁶

In mid-November the PRC and Vietnam held the first expert-level meeting on their Spratly and Paracel islands disputes. The expert group had been agreed during President Jiang's visit to Hanoi in November 1994. The two sides pledged to negotiate based on international law, including the 1982 UN Convention and scheduled another meeting in Beijing during the second quarter of 1996.²⁶⁷ Other expert groups were already dealing with their land boundary dispute and maritime frontier dispute in the Gulf of Tonkin. On 26 November Vietnam Communist Party Chief Do Muoi arrived in China for a six-day visit. The various boundary and sovereignty disputes were likely to be discussed.²⁶⁸

At the end of November Australia and the Philippines reiterated concerns about the Spratly islands dispute. Australian Defence Minister Ray said that the Spratly dispute posed a major threat to

²⁶³ Lewa Pardomuan, 'Spratlys Talks Start with Indonesian Appeal,' Reuter (Balikpapan), 10 October 1995; Lewa Pardomuan, 'Spratlys Talks Slow Down in Confidence Building,' Reuter (Balikpapan), 11 October 1995; 'No Progress Made in S. China Sea Talks,' UPI (Jakarta), 12 October 1995.

²⁶⁴ 'Indonesian Jet Fighters to Be Based Near Natuna,' Reuter (Jakarta), 17 October 1995; Jeffrey Parker, 'China's Jiang Presides over Fiery Navy Exercises,' Reuter (Beijing), 18 October 1995; 'China Defends Holding of Naval Exercises,' Reuter (Beijing), 19 October 1995.

²⁶⁵ 'Manila Sees China As Threat Despite Assurances,' Reuter (Manila), 28 October 1995; 'Ramos Wary of Chinese Peace Promises,' UPI (Manila), 28 October 1995.

²⁶⁶ Girlie Linao, 'Manila Encouraged by Hanoi Talks,' UPI (Manila), 8 November 1995; 'Vietnam, Philippines Sign Spratly Code of Conduct,' Reuter (Manila), 8 November 1995; 'Manila and Hanoi Agree to Hold Workshop on Spratlys,' *Straits Times* (1 December 1995): 33; 'Manila, Hanoi Urge Wider Spratlys Code of Conduct,' Reuter (Manila), 29 November 1995.

²⁶⁷ 'China and Vietnam Reach Sea Accord,' UPI (Hanoi) 17 November 1995.

²⁶⁸ 'Vietnam Communist Party Chief Do Muoi Visits China,' Reuter (Hanoi), 26 November 1995; Marat Abdulkhatin, 'Beijing and Hanoi to Discuss Trust-building Measures,' ITAR-TASS (Beijing), 22 October 1995.

regional security and seemed to side with ASEAN against the PRC. President Ramos repeated the Philippines' unease over the continued presence of Chinese on Mischief Reef.²⁶⁹

At about the same time, Vietnam's Communist Party leader, Do Muoi, visited Beijing, and its President, Le Duc Anh, went to Manila. The Spratly islands were discussed in both venues, but no progress was reported with the Chinese. At the meeting in the Philippines, Anh and Ramos proposed that a common code of conduct be adopted by all claimants. In late December, Philippine President Ramos awarded a posthumous Legion of Honor to Thomas Cloma, "in recognition of the claim he made on part of the Spratly Islands for the Philippines in 1956."²⁷⁰

5.6 1996 – PRC Delimits Straight Baselines and Ratifies the UN Convention

China stimulated most of the Spratly-related developments during the first half of 1996. Its March military exercises near Taiwan increased anxiety among its neighbours. In April Vietnam and Conoco, an US oil company, signed contracts for blocks 133 and 134, which overlay China's Wan-an Bei concession to Crestone. In May the PRC ratified the 1982 UN Convention, claimed an EEZ, and delimited most of its straight baselines. Even though no baselines were drawn about the Spratly islands, the Chinese declarations and display of military force renewed tensions in Southeast Asia. A June meeting between the PRC and ASEAN made little progress in resolving the Spratly dispute, though it suggested a change in Chinese policy to permit multilateral discussion of the topic.

During January Taiwan postponed a plan to build an airstrip on Itu Aba island, due to the "sensitive issues" involved and lack of funds.²⁷¹ PRC Vice Foreign Minister Tang's mid-March visit to Manila for talks on the Spratly islands was overshadowed by China's military exercised near Taiwan. The discussions resulted in little progress.²⁷²

On 11 April the American oil company Conoco signed an exploration and production agreement with PetroVietnam for Blocks 133 and 134, which overlay the western portion of Crestone's WAB-21 block. The PRC reiterated its sovereignty over the Spratly islands and threatened, "confrontation, losses and liabilities" if the deal was consummated. Conoco said that it would wait until China and Vietnam resolved their dispute before beginning to search for oil. Later in the month, a joint Philippine-Vietnam team undertook a marine research cruise from Manila Bay through the Spratly islands to Ho Chi Minh City. A Philippine official said that other countries could join the research and that similar projects had been discussed with the PRC.²⁷³

²⁶⁹ 'Australia Sees Spratlys As Major Security Threat,' Reuter (Canberra), 22 November 1995; 'Manila Uneasy with China over Mischief Reef,' Reuter (Manila), 22 November 1995.

²⁷⁰ Jeffery Parker, 'China, Vietnam Report No Easing of Turf Disputes,' Reuter (Beijing), 27 November 1995; 'Manila, Hanoi Urge Wider Spratlys Code of Conduct,' Reuter (Manila), 29 November 1995; *Tiempo* (Manila, 21 December 1995): 1; *Manila Times* (22 December 1995).

²⁷¹ 'Taiwan Delays Planned Airstrip in Spratlys,' CNA (Taipei), 16 January 1996.

²⁷² 'Chinese Minister in Manila, Defends Exercises,' Reuter (Manila), 13 March 1996; 'Manila, Beijing Hold Frank Talks on Spratlys,' Reuter (Manila), 15 March 1996; Ferthe Aboda, 'Accord to Solve Spratlys Dispute "Gradually" with PRC,' *Manila Standard* (15 March 1996): 7, transcribed in FBIS, *East Asia* (25 March 1996).

²⁷³ 'Vietnam Defends Right to Oil Area near Spratlys,' Reuter (Hanoi), 12 April 1996; 'Vietnam Defends Conoco Deal,' AP (Hanoi), 12 April 1996; 'China Raps Vietnam over Oil Contract,' UPI (Beijing), 17 April 1996; 'Manila, Hanoi to Start Marine Research,' UPI (Manila), 23 April 1996; 'Manila, Hanoi Launch South China Sea Research,' Reuter (Manila), 23 April 1996.

On 10 May a PRC general visiting Manila confirmed that Chinese warships were ordered to avoid the Mischief Reef area to avoid trouble. The same day, an ARF security meeting in Yogyakarta ended prematurely and without issuing a formal resolution. The Spratly dispute was among the topics discussed, but a Chinese delegate subsequently stated that the Spratly islands were not within the scope of the ARF.²⁷⁴ On 15 May the PRC claimed an EEZ, ratified the 1982 UN Convention, and delimited straight baselines along most of its coast.

The PRC had claimed to use straight baselines in its 1958 Declaration on China's Territorial Sea and its 1992 Law on the Territorial Sea and the Contiguous Zone. The 15 May Declaration on the Baselines of the Territorial Sea gave partial effect to these earlier claims. It delimited a continuous, 3,230-km baseline from the tip of the Shandong peninsula along the mainland coast to the western cape of Hainan island and drew a 526-km baseline around the Paracel Islands. The Spratly islands were not explicitly mentioned.²⁷⁵

On the same day that it delimited its straight baseline, the PRC ratified the 1982 UN Convention and claimed an EEZ in the statement accompanying its instrument of ratification, which was deposited with the UN Secretary-General on 7 June.²⁷⁶ It seems unusual for a country to include a new jurisdictional claim with an instrument of ratification. However, the director of the State Oceanography Bureau indicated that the PRC will promulgate specific legislation to implement this EEZ claim.²⁷⁷

Concurrent with the baseline and EEZ claims, PRC authorities suggested that they had added 2.5 million sq. km. of jurisdictional area.²⁷⁸ A PRC Foreign Ministry spokesman elaborated on the baseline declaration by observing that:

*"The Chinese Government will successively determine and announce other parts of the baseline of the territorial seas, including the baseline of the PRC territorial seas around Taiwan and other outlying islands."*²⁷⁹

The Philippines, Taiwan, and Vietnam swiftly objected. However, Japan responded that ratification of the 1982 UN Convention would facilitate negotiations over its EEZ frontier with the PRC.²⁸⁰

In point of fact, the PRC did not define the outermost limit of its EEZ, so there is no way to determine how much area it claims. Because marginal seas surround the PRC, there are very few

²⁷⁴ 'China Orders Warships to Steer Clear of Spratlys,' Reuter (Manila) 10 May 1996; Raju Gopalakrishnan, 'Asia's Premier Security Forum Ends Meeting Early,' Reuter (Yogyakarta), 10 May 1996.

²⁷⁵ For the text of the PRC straight baseline claim and a detailed analysis, see Dzurek, 1996: 77-87; or Office of Ocean Affairs, 1996.

²⁷⁶ 'China Says U.N. Sea Convention Boosts Territory,' Reuter (Beijing), 15 May 1996; E-mail message of Mori Hayashi, Director, Division of Ocean Affairs and the Law of the Sea, UN Office of Legal Affairs, to Int boundaries@mailbase.ac.uk, 7 June 1996, archived at web site <http://nisp.ncl.ac.uk/lists-f-j/int-boundaries/>.

²⁷⁷ 'Perfect Maritime Legal System, Update Maritime Concepts,' *Renmin Ribao* (Beijing, 18 May 1996): 3, translated in FBIS, *China* (6 June 1996).

²⁷⁸ 'China Says,' 15 May 1996.

²⁷⁹ 'Spokesman on "Peaceful" Nuclear Tests, Law of Seas,' *Zhongguo Xinwen She* (Beijing, 15 May 1996), translated in FBIS, *China* (15 May 1996).

²⁸⁰ 'Vietnam Sounds Off over Chinese Territorial Claim,' Reuter (Hanoi), 17 May 1996; 'Philippines Slams China's Sea Declaration' and 'Asian Reaction Swift to China's Maritime Expansion,' Reuter (Manila), 17 May 1996; 'Tokyo to Talk with PRC over 200-mile Economic Zone,' Kyodo (Tokyo) broadcast in English, 16 May 1996, transcribed in FBIS, *East Asia* (16 May 1996).

areas where it could claim a full 200-nm EEZ without overlapping neighbours. Its ratification statement promises negotiated boundaries with opposite and adjacent states, so its EEZ area is unsettled. The new PRC straight baseline encloses significant areas as internal waters, but the total would fall far short of 2.5 million sq. km.

The PRC delimited archipelagic baselines around the Paracels, but it is not entitled to such baselines under the 1982 UN Convention, for two reasons. First, only an archipelagic state (constituted wholly by one or more archipelagos) may draw archipelagic baselines around its island groups, according to Article 46. Neither China nor Vietnam, which also claims the Paracel Islands, is an archipelagic state. Second, the ratio of the water to land area in an archipelago must be between 1:1 and 9:1 (Article 47). The area enclosed by the PRC straight baselines is 17,400 sq. km. The land area of the Paracels is not well defined, but the total, including that enclosed by reefs, is probably a few hundred sq. km. That is far less than the minimum 1,933 sq. km required for an acceptable water-to-land ratio. The same arguments preclude the PRC from claiming archipelagic baselines around the Spratly islands.

Delimitation of straight baselines along China's southern coast and around the Paracel Islands is logically inconsistent with any purported claim to historic waters within the irregular, tongue-shaped line found on Chinese maps. Some commentators maintain that this line is a historic waters claim (see Section 4.3.2), but historic waters have the status of either internal waters or territorial sea. A straight baseline divides internal waters from territorial sea. The 1992 PRC Law on the Territorial Sea specifies that China's territorial sea extends 12nm from its baseline. Therefore, the new PRC baseline delimits its claim to internal waters along the coast and within the Paracel baseline and its territorial sea up to 12nm from that baseline. The PRC must view the remaining area in the northern South China Sea as EEZ or continental shelf.

China's straight baseline claim and the Spratly dispute were topics at the second ASEAN-PRC consultative meeting, which began in Bukittinggi, Indonesia, on 10 June. Indonesia, among other participants, objected to the way in which the PRC drew its baselines. On 18 June the Information Director of Taiwan's office in Manila said that the ROC may follow Beijing in claiming extended maritime jurisdiction.²⁸¹ Thus, by midyear the overlap of jurisdictional claims about the disputed islands threatened to become even more complicated.

6. Summary of National Claims

At the time of writing, the claimants appear to have entered into more extensive bilateral and multilateral negotiations over the Spratly islands dispute. The status and nature of their respective claims will be reviewed before examining relevant legal principles, which will inform those discussions.

²⁸¹ Ian MacKenzie, 'China and ASEAN to Review Regional Developments,' Reuter (Jakarta), 7 June 1996; 'PRC Adopts "Increasingly Open Stance" toward ASEAN,' *Suara Pembaruan* (Jakarta, 11 June 1996), translated in FBIS, *East Asia* (14 June 1996); Johnny C. Nunez, 'Taiwan Plans to Expand Maritime Regime in Spratlys,' PNA (Manila) broadcast in English, 19 June 1996, transcribed in FBIS, *East Asia* (21 June 1996).

6.1 Brunei

The maritime claims of Brunei in the Spratly area are the most recent and least well documented of any claimants. Even Bruneian maps depicting its maritime claims are restricted to official use only. Brunei's unilateral claim extends lateral continental shelf boundaries with Malaysia, which were delimited by the United Kingdom in 1958 Orders in Council. The 1958 lines originally extended only to the 100 fathom isobath. In 1983 Brunei enacted a Fisheries Limits Act that extended the 1958 lines out to 200nm from an inferred baseline. Five years later Brunei delimited a continental shelf claim extending the British lines farther out to 265nm (490km) (see map of South China Sea: Claims and Outposts in the Spratly Island Region). The seaward limit of Brunei's continental shelf claim is a straight line linking (7°35.32'N, 111°05.50'E) and (8°15.23'N, 111°56.27'E). In so doing, Brunei claimed jurisdiction out to a potential median line with Vietnam that ignores undisputed Vietnamese islands. The claimed zone also ignores possible jurisdictional effects of Swallow Reef, occupied by Malaysia, and Amboyna Cay and Spratly Island, occupied by Vietnam. Brunei and Malaysia are reported to be negotiating to delimit their continental shelf boundary.²⁸² Brunei's continental shelf claim encloses Louisa Reef (6°20'N, 113°14'E), Owen Shoal (8°09'N, 111°58'E), and Rifleman Bank, including Bombay Castle (7°56'N, 111°40'E). Louisa Reef has a number of rocks on its surface that are above water at high tide and a navigational light maintained by Malaysia. Vietnam has constructed an outpost above Bombay Castle, which is a submerged feature. Brunei reportedly does not claim territorial sovereignty over Louisa Reef, only maritime jurisdiction there. Thus, Brunei has the smallest jurisdictional claim in the Spratly area and does not contest sovereignty over any of the island features. In its claim to a continental shelf, it ignores undisputed Vietnamese islands and Spratly features occupied by Vietnam and Malaysia.²⁸³ Brunei has been relatively silent on recent developments in the disputed area.

6.2 China

For both the PRC and authorities on Taiwan, sovereignty claims to the Spratly islands are linked and nearly identical to their claims to the Paracel Islands. The PRC claims sovereignty by virtue of discovery and effective administration of the Spratly islands. Although it cites ancient texts, in 1928 the government of China did not include the Spratlys as Chinese territory. Formal Chinese governmental claims appear to have begun in 1933, in response to French claims. Chinese maps from the 1940s also show claim lines encompassing the Spratlys. Chinese naval patrols were ordered to the Spratlys after the Second World War, a garrison was established on Itu Aba in 1947, and the islands were officially incorporated into Guangdong province. The Nationalist troops withdrew from Itu Aba in 1950. But forces from Taiwan have been present since at least 1971, and probably from 1956.

6.2.1 People's Republic of China

Less than a year after the establishment of the PRC, Beijing responded to a 1950 statement by the Philippine President and expressed its claim on the Spratly islands. A claim it pressed through diplomatic efforts until the 1980s. Beijing began sending naval patrols to the Spratly islands in the

²⁸² Corder, 1994: 67.

²⁸³ Haller-Trost, 1994a: 2, 4, 37-49; Hancox and Prescott, 1995; Statement of the Foreign Minister of Brunei, January 1993, as reported in Thomas, 1993: 4, n. 3.

mid-1980s and occupied its first outpost, Fiery Cross Reef, in 1988. The PRC has listed the Spratly islands among its possessions in laws and decrees dating to a 1958 Declaration on the Territorial Sea. The PRC also cites recognition of its sovereignty by Vietnam, when that country acknowledged the PRC's 1958 declaration.

With the occupation of Mischief Reef in 1995, the PRC has expanded its Spratly outposts to seven. It claims all the islands within the tongue-shaped 'traditional sea boundary line', thereby overlapping all other claimants. The function of the tongue-shaped line is ambiguous. Despite allegations by various commentators, there is no PRC governmental pronouncement suggesting the tongue-shaped line is a jurisdictional limit. Its 1958 Declaration indicates that Beijing views the Spratly islands as separated from the Chinese mainland by high seas.

6.2.2 Republic of China on Taiwan

The 1952 Peace Treaty between the ROC and Japan shows tacit Japanese recognition that the Spratly islands were Chinese territory. Forces from Taiwan may have returned to Itu Aba in 1956, but certainly have been present since 1971. By either measure, Taiwan has the longest continuing presence in the island group. Recently, the ROC has claimed historic waters jurisdiction within the tongue-shaped line found on Chinese maps. Therefore, the Nationalist claim sovereignty over the same islands as the PRC, but their jurisdictional claim is more restrictive.

6.3 Malaysia

Malaysian troops visited the southern Spratlys in 1978. The following year Malaysia published a map of its continental shelf limits, which encompassed Barque Canada Reef and Amboyna Cay (currently occupied by Vietnam), Commodore Reef (occupied by the Philippines), and Marveles Reef, Ardasier Reefs and Swallow Reef (now occupied by Malaysia). Malaysia claims sovereignty over the enclosed islands because they are within its continental shelf limits. Kuala Lumpur proclaimed an EEZ in 1980, but has not delimited it. Thus, Malaysia disputes the sovereignty of several southern Spratly islands with five of the other claimants. Since it has no agreed maritime boundaries with Brunei, Malaysia's jurisdictional claim overlaps that of Brunei.

6.4 Philippines

Japan used the Spratly islands for launching its invasion of the Philippines. In 1947 Manila called for the territory surrendered by Japan to be given to the Philippines, but made no claim to the Spratlys during the 1951 peace conference. In 1956 the Philippines supported Cloma's claim to Kalayaan, because it interpreted the Japanese renunciation of sovereignty in the peace treaty as making the area *res nullius* and open to acquisition. It also distinguished between the Spratly islands and Kalayaan – a distinction Manila no longer appears to maintain.

Philippine forces attempted to occupy Itu Aba in 1971, but were repulsed by Taiwanese troops. However, Manila put troops on other islets. In 1978 President Marcos decreed sovereignty over Kalayaan, which encloses almost all the Spratly features. This claim was based on the Philippine interpretation of the 1951 Peace Treaty, the area's proximity, Manila's vital interest, and occupation and effective control of the area.

The Philippines' Kalayaan claim overlaps those by all the other contenders, though only minimally with that of Brunei. Kalayaan encompasses 36 occupied features, of which only eight are held by Philippine garrisons. Vietnam occupies 19 islets or reefs in the Philippine claimed area. The others are held by the PRC (7), Taiwan (1), and Malaysia (1).

6.5 Vietnam

Vietnam claims that it has exercised effective and continuous sovereignty over the Spratly and Paracel islands since the 17th century, when they were *res nullius*. However, Vietnam's claim hinges on succession to French rights. France claimed to have taken possession of Spratly Island in 1930, but formal notice was not published until 1933. Late that year the French governor of Cochin-China incorporated the Spratlys into Ba Ria province. After the Second World War France placed markers on Spratly Island and Itu Aba, which led to Chinese protests and inconclusive talks. During the 1951 Peace Conference, the Vietnamese delegation issued a statement reaffirming sovereignty over the Spratly and Paracel islands. Japan renounced sovereignty over the islands in the resulting treaty without designating a successor. Vietnam claims that France ceded control of the Paracel and Spratly islands to South Vietnam in 1956, but there is no record of devolution of the Spratlys. The South Vietnamese government claimed both island groups, but did not occupy the Spratlys until 1973. In 1956 and 1958 North Vietnam recognised Chinese sovereignty, but revised its view in 1971 and 1973. During April 1975 North Vietnam seized six of the Spratlys that were occupied by South Vietnamese forces. In March 1988 PRC forces took Fieri Cross Reef from the Vietnamese. As of mid-1996, Vietnam occupies the most Spratly features (25) of any claimant. Its outpost are found throughout the island group.

Vietnam claims all of the Spratly islands, but in 1992 it adjusted its continental shelf claim to distinguish between a mainland shelf, which incorporates Vanguard Bank and Prince of Wales Bank, and the Spratly Islands to the east. Despite the modification, Hanoi still claims all the features, whether by reason of sovereignty over the Spratly islands or by right of mainland continental shelf jurisdiction.

7. Relevant International Legal Principles

Although most of the Spratly claimants refer to the 1982 UN Convention on the Law of the Sea, the Convention has little relevance to the critical issue of island sovereignty that lies at the heart of the Spratly islands dispute. However, the dispute settlement provisions of the 1982 UN Convention could provide a resolution framework if the claimants agreed to use its procedures. Once the sovereignty issue is resolved, the law of the sea comes into play to address the question of appropriate maritime jurisdiction and jurisdictional boundaries. Which, if any, of the Spratly islands is a true island as opposed to a 'rock', and what effect should such islands have on jurisdiction in the South China Sea? Also, which principles (if any) may be utilised to delimit the jurisdiction between these islands?

7.1 Establishing Sovereignty over Islands

Sovereignty under *modern* international law is established if a country demonstrates effective, continuous, and peaceful occupation and control of an island for a significant period. Discovery must be followed by effective occupation and administration, but not all the islands of a group need be occupied. The requirements for establishing sovereignty over uninhabited islands, as exemplified in the arbitrations relating to the islands of Palmas (1928) and Clipperton (1931), are less strict than standards for establishing sovereignty over populated territories. Recognition of title by other countries is evidence of sovereignty. Abandonment cannot be presumed because of non-use, but must be voluntarily effected.²⁸⁴

In *premodern* times Western international law had fewer conditions for establishing title. Sovereignty could be established by discovery and some symbolic act of annexation or other act of physical appropriation.²⁸⁵

Because the Spratly islands and reefs are minuscule and had little economic importance until the development of extended jurisdiction under the new law of the sea, the claimants made little effort to secure clear title to them by means of occupation. Moreover, international law is essentially a Western construct with recent writ in Asia.²⁸⁶

*“Territorial control by boundary delineation and administrative jurisdiction was an ancient tool of the Confucian bureaucracy both within China and between China and foreign states, but the abstract concept of state territoriality (i.e. rule over spaces defined by geometric grids) was not part of the traditional Confucian-literati cognitive map. The area of a state (kuo) and its various compartments was not a function of legal limit but of social organization, history, and the loyalty of subjects...the Emperor and his officials ruled men not space.”*²⁸⁷

A complicating factor is that most of the claimants were not independent nation-states until after the Second World War. The antiquity of some of the claims suggests that they be examined in premodern terms, while recent claimants might be held to a stricter, modern standard. The following analysis is patterned, with modifications, after that used by Haller-Trost in her analyses of the Spratly dispute. The Spratly claims are evaluated in terms of four modes of territorial acquisition: occupation, prescription, conquest and annexation, and cession.²⁸⁸ The fifth mode, accretion and avulsion, does not appear to be relevant to the Spratly dispute.

7.1.1 Modes of territorial acquisition

A country may obtain valid title to territory that is *terra nullius* by occupation. Such occupation requires effective control by the state. The PRC and Taiwan base their Spratly islands claims on occupation. Although the Chinese may have discovered the islands, they did not demonstrate effective control necessary in modern international law or the symbolic acts of incorporation required by pre-modern Western international law. China's 1928 statement that the Paracel Islands

²⁸⁴ Van Dyke and Brooks, 1983: 267-70.

²⁸⁵ Hamzah, 1990: 10-12; Chang, 1991: 408-10.

²⁸⁶ Li, 1979: 228-30.

²⁸⁷ Samuels, 1982: 51.

²⁸⁸ See, for example, Haller-Trost, 1994b.

were the southernmost Chinese possessions argues against formal incorporation. Neither Vietnam nor France established effective control of the islands that they claimed. The Philippine position that the Kalayaan area was *terra nullius* following World War II is obviously false. Itu Aba was inhabited by 1956, when the Philippines supported Cloma's claim, and the rest of the islands had been claimed by that date.

Prescription confers sovereignty on a state that exercises peaceful, unopposed, continuous governance over a territory when that territory actually belongs to another country. None of the claimants has acquiesced in the occupation of the Spratly islands by opponents. Since modern occupation has been by military forces, it cannot be viewed as peaceful.

Conquest and annexation is a mode of territorial acquisition, which is viewed as valid for conquests made before the Second World War. In addition to conquest, some formal proclamation of intent to annex the territory, frequently in a peace treaty, was necessary. The acquiring party was required to enact national legislation respecting the territory.

In pre-modern times the Spratly islands were sparsely or seasonally inhabited and never the subject of overt conquest. Some scholars have argued that the islands were conquered by the Japanese. Therefore, they were a potential object of annexation following the Second World War, but that neither the 1951 San Francisco Peace Treaty nor the 1952 ROC-Japan Treaty explicitly confer sovereignty on a recipient.²⁸⁹ As discussed above, Taiwan can make a case that the inclusion of the Spratlys in the same sentence that renounced Japan's rights over Taiwan implies ROC sovereignty. However annexation by implication seems a weak argument, and it is not clear that the authorities on Taiwan enacted the appropriate enabling legislation. Since modern law no longer permits conquest, the 1988 PRC capture of Fiery Cross Reef cannot transfer putative sovereignty of the reef.

Cession is the forced or voluntary transfer of territory from one state to another, and is usually accomplished by treaty. The only likely candidate for a cession agreement was the 1887 Sino-French treaty regarding the Gulf of Tonkin. However, that treaty cannot be viewed as applying to the Spratly islands.

7.1.2 Other legal considerations

The legal principle of *uti possidetis iuris*, in which the colonial boundaries are not subject to alteration, has some relevance in Southeast Asian maritime jurisdictional disputes,²⁹⁰ but it does not appear to be relevant to the Spratly Island sovereignty dispute. The colonial boundaries that defined the Philippines and divided it from Malaysia do not extend into the Spratlys. Indeed, the Philippines treaty limits show that it did not have a historic claim in the Spratlys. The United Kingdom stopped Brunei's colonial continental shelf lateral limits at the 100 fathom line, well short of the Spratly islands (see Section 4.6.6).

Vietnam could have argued *uti possidetis iuris* if it had maintained the same Spratly claim delimited by France in 1930. However, Vietnam has an ambiguous definition of the islands. Moreover, there is no documentary evidence that France ceded its claim in the Spratlys to Vietnam.

²⁸⁹ Haller-Trost, 1994b: 1,718.

²⁹⁰ Haller-Trost, 1994a: 32.

Estoppel is the legal principle which bars a party from asserting a claim inconsistent with a position that party previously took. In terms of the Spratly islands dispute, estoppel may apply to both China and Vietnam. In 1928 Chinese officials stated that the Paracel Islands were the southernmost Chinese territory. Other claimants could argue that estoppel prevents the PRC or Taiwan from asserting a claim to the Spratlys.

A more certain application of estoppel relates to North Vietnam's recognition of PRC sovereignty over the Spratly islands in the 1950s, because that recognition was made at the highest governmental level and was contained in bilateral diplomatic correspondence. Hanoi has implied that the recognition was made under duress, but offered no proof. Vietnam has also argued that the Spratlys islands were then under South Vietnam's jurisdiction and that the new government of a united Vietnam succeeded to Saigon's rights. North Vietnam never recognised the government in Saigon. The current government in Hanoi is clearly the successor to the former government of North Vietnam and bound by that government's decisions. Therefore, the PRC can cite the principle of estoppel as barring Vietnam from claiming the Spratly islands.

7.1.3 Fallacious legal arguments

Some of the Spratly claimants, especially the Philippines, cite proximity as an argument for sovereignty claims. Proximity is an important consideration in maritime jurisdictional claims, but it is irrelevant to island sovereignty.

Another specious argument made by the Philippines and Malaysia is that they have sovereignty over the islands because the features fall within their unilaterally claimed continental shelf (Malaysia) or exclusive economic zone (the Philippines). Marine jurisdiction flows from sovereignty over land territory, not the reverse. Indeed, both countries have ignored the possible jurisdictional zones radiating from such islands in making their original shelf and EEZ claims.

7.2 Island or Rock?

According to the 1982 United Nations Convention on the Law of the Sea:

*"An island is a naturally formed area of land, surrounded by water, which is above water at high tide. Except [for rocks], 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. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf."*²⁹¹

Only about 36 of the Spratly islands are above water at high tide. Most of the features in the Spratlys are submerged, however the extensive efforts of the coastal states to build installations on many features (see Figures ?) suggest that they may ignore the 1982 Convention's provisions regarding 'rocks'. Elsewhere in the South China Sea, China and Taiwan claim Macclesfield Bank as 'islands', although the features on this submerged bank lie 7 to 82 meters beneath the surface of the sea.²⁹² The argument as to the jurisdictional effect of various 'occupied' features has yet to be

²⁹¹ Article 121.

²⁹² Dzurek, 1985: 272.

joined by most of the claimant governments, which are currently engaged with the sovereignty issue. Vietnam appears to make an exception with regard to features west of Spratly Island. A 1992 article in the *Vietnam Courier* maintained that “[t]he submarine banks in the [Wan-an Bei] area cannot generate any maritime zone of their own...”²⁹³ In November 1993 the Chairman of PetroVietnam said that the Spratly islands were not entitled to an EEZ.²⁹⁴

8. Conclusions

The application of Western-developed international legal criteria to this Asian dispute is of questionable validity and limited utility. Even such apparently simple problems as whether a feature is above water at high tide or can support human habitation are virtually insoluble, because of ignorance about the feature’s original condition and modern technology that permits habitation where none was previously possible. However, there is no Asian paradigm with which to resolve the legal dispute, so this legal framework is the only one available to the analyst. None of the claimants has an overwhelming legal case for sovereignty over the Spratly islands. That said, it is apparent that there are relatively better claims.

The authorities on Taiwan have the strongest claim because they have the longest continuing occupation of the largest Spratly island, Itu Aba. They can argue succession to ancient Chinese rights and a consistent pattern of diplomatic protests since the 1930s. Taiwan’s claim is reinforced by Japan’s tacit recognition of its sovereignty. Since Japan’s rights received international acknowledgement in the San Francisco Peace Treaty, its negotiation of the 1952 ROC-Japan Treaty carries special weight. Haller-Trost acknowledges a ROC claim to Itu Aba based on the principle of effective control, but she concludes that control of one island feature does not confer sovereignty over the entire Spratly group.²⁹⁵ However, effective occupation does not require that all the islands in a group be occupied. Taiwan’s claim is the best of a poor lot, but its strength is diminished because the ROC government is not recognised by the other claimants.

The PRC’s claim is weaker because it did not occupy any of the Spratly islands until 1988. Like the authorities on Taiwan, it can argue succession to ancient Chinese rights and a consistent pattern of diplomatic protests since the 1930s. The PRC’s claim is especially strong vis-à-vis Vietnam under the principle of estoppel. This could be decisive in that portion of the Spratlys around Spratly Island that is only disputed among the PRC, ROC, and Vietnam.

Vietnam has the third strongest claim to the Spratlys based on the historical record and possible succession to French rights. Its claim against the PRC is weakened by *estoppel*, but Hanoi has a stronger case than that of the Philippines, Malaysia, or Brunei.

The last three claimants have very poor arguments for sovereignty over their claimed areas of the Spratlys. All base their claims on misinterpretations of international law.

However, the law may have become irrelevant to the Spratly islands dispute. International legal considerations have been overwhelmed by the multiplicity of claimants and the complexity of military occupation. Although final resolution may be framed using the language of the law, it will

²⁹³ Huynh, ‘Thu Chinh Bank.’

²⁹⁴ ‘PetroVietnam Official on Spratlys Exploration.’

²⁹⁵ Haller-Trost, 1994b: 30.

be a political result based on practical considerations of relative power, geographic position, economic need, and external factors.

Mid-1996 finds the claimants pursuing bilateral negotiations and adopting codes of conduct to prevent military clashes. The Indonesia-sponsored workshops will continue to be useful and develop confidence building measures, but probably will not be converted into formal, governmental discussions. Some joint development agreement appears to be the only likely solution to the Spratly dispute, but first the claimants must negotiate or shelve the island sovereignty issue. If joint development is out of the question, then they must settle the island sovereignty disputes, agree on which features are true islands, and determine which of those islands should be accorded extended maritime jurisdiction. Only then could they resolve their jurisdictional disputes and delimit continental shelf and EEZ boundaries. Even under the best of circumstances, we will never know who was on first and the final score until well into the twenty-first century.

Table 2: Selected Spratly Island Place Names

English ¹	Chinese	Vietnamese	Malaysian	Filipino	Coordinates (N, E)	Occupier ²
Alexandra Bank	Renzhun Tan	Bai Huyen Tran			8°02' 110°37'	
Alison Reef	Liumen Jiao	Bai Toc Tan			8°49' 114°06'	V
Amboyna Cay	Anbo Shazhou	Dao An Bang	P. Kecil Amboyna	Kalantiyaw	7°53.8' 112°55'	V
Ardasier Reef	Guangxingzi Jiao		Terumbu Ubi		7°37' 113°56'	M
Ardasier Reefs	Andu Tan	Bai Kieu Ngua	Permatang Ubi		7°36' 114°17'	
Barque Canada Reef	Bai Jiao	Chaw Shai/Chan Chai	Mascado		8°10' 113°18'	V
Bombay Castle (Rifleman Bank)	Pengbo Bao				7°56' 111°40'	V
Central Reef (London Reefs)	Zhong Jiao	Con Giua/Trong Sa Dong			8°55' 112°21'	V
Chigua Reef ³	Dongmen Jiao	Ken Nan			9°55' 114°29'	C
Collins Reef/Johnson Reef, North (Union Reef)	Guihan Jiao	Bai Vung May/Co Lin			9°45' 114°13.7'	V
Commodore Reef	Siling Jiao	Da Cong Do	Terumbu Lanksamana	Rizal Reef	8°21.5' 115°13.7'	P
Cornwallis South Reef	Nanhua Jiao	Da Nui Le/Nut'le			8°43' 114°11'	V
Cuarteron Reef	Huayang Jiao	Bai Chau Vien			8°51.5' 112°50'	C
Discovery Great Reef	Daxian Jiao	Da Lon		Paredes	10°04' 113°51'	V
East Reef (London Reefs)	Dong Jiao	Con Dong/Da Dong		Silangan	8°49' 112°36'	V
Fiery Cross Reef	Yongshu Jiao	Chu Thap		Kalingan	9°33' 112°53'	C
Flat Island	Feixin Dao	Dao Binh Nguyen		Patag	10°49.5' 115°50'	P
Gaven Reefs	Nanxun Jiao	Da Ga Ven			10°12.5' 114°13'	C
Grainger Bank	Lizhun Tan	Bai Que Duong			7°47' 110°28'	V
Investigator Shoal	Yuya Ansha	Bai Tham Hiem	Terumbu Peninjau		8°08' 114°42'	
Itu Aba Island (Tizard Bank)	Tai Ping Dao	Dao Ba Binh/Dao Thai Binh		Ligaw	10°23' 114°21.5'	T
James Shoal	Zengmu Ansha		Beting Serupai		4°00' 112°15'	
Johnson Reef, South (Union Reef)	Chigua Jiao	Gac Ma			9°42.7' 114°16.8'	C
Ladd Reef	Riji Jiao	Da Lat			8°37' 111°40'	V

English ¹	Chinese	Vietnamese	Malaysian	Filipino	Coordinates (N, E)	Occupier ²
Lankiam Cay	Yangxin Shazhou			Panata	10°43' 114°32'	P
Len Dao (Union Reefs)	Qiong Jiao				9°46' 116°43.8'	V
Loaita Island	Nanyue Dao	Dao Loai Ta		Dagahoy Dugao	10°40' 114°25.5'	P
Louisa Reef	Nantong Jiao		Terumbu Semarang Barat Kecil		6°20' 113°14'	
Mariveles Reef	Nan Hai Jiao	Das Ky Vien	Terumbu Montanani		7°59' 113°54'	M
Mischief Reef	Meiji Jiao	Da Vanh Khan		Panganiban	9°55' 115°32'	C
Namyit Island (Tizard Bank)	Hongxiu Dao	Nam Yit/Nam Yet		Binago	10°11' 114°22'	V
Nanshan Island	Mahuan Dao	Dao Vinh Vien		Lawak	10°44' 115°48.5'	P
North Luconia Shoals	Beikang Ansha		Gugusan Beting Raja Jarum		5°40' 112°35'	
Northeast Cay (North Danger Rf)	Beizi Dao	Dao Song Tu Dong		Parola	11°27.5' 114°21'	P
Pearson Reef	Bisheng Jiao	Hon Sip/Hon Sap		Hizon	8°57' 113°40.5'	V
Petley Reef (Tizard Bank)	Bolan Jiao	Do Thi			10°24.5' 114°35'	V
Pigeon Reef	Wumie Jiao	Da Tien Nu			8°51.8' 114°39.2'	V
Prince Consort Bank	Xiwei Tan	Bai Phuc Nguyen			7°53' 110°00'	V
Prince of Wales Bank	Guangya Tan	Bai Huyen Tran/Bai Phuc Tan			8°07' 110°32'	
Reed Tablemount	Liyue Tan				11°20' 116°50'	
Sand Cay (Tizard Bank)	Dunqian Shazhou	Da Son Ca			10°22.7' 114°28.7'	V
Sandy Cay (Thitu Reefs)	Tiexian Jiao				11°03' 114°13.5'	
Sin Cowe Island (Union Reefs)	Jing Hong Dao	Dao Sinh Ton/Gac Ma		Rurok	9°53.2' 114°19.7'	V
Sin Cowe East Island (Union Reef)		Sinh Ton Dong			9°54.8' 114°33.5'	V
South Luconia Shoals	Nankang Ansha		Gugusan Beting Patinggi Ali		5°00' 112°35'	
South Reef (North Danger Reef)	Nailuo Jiao	Da Nam			11°23.2' 114°17.9'	V
Southwest Cay (North Danger Rf)	Nanzi Dao	Dao Song Tu Tay		Pugad	11°25.8' 114°19.7'	V
Spratly Island	Nanwei Dao	Dao Truong Sa		Lagos	8°38.5' 111°55'	V
Subi Reef	Zhubi Jiao	Da Su Bi			10°55.5' 114°05'	C

English¹	Chinese	Vietnamese	Malaysian	Filipino	Coordinates (N, E)	Occupier²
Swallow Reef	Dan Wan Jiao	Da Hoa Lau	Terumbu Layang Layang		7°23' 113°48'	M
Thitu Island	Zhongye Dao	Dao Thi Tu		Pagasa	11°03.2' 114°17'	P
Vangurd Bank	Wanan Tan	Bai Tu Chinh			7°31.7' 109°43.7'	V
West Reef (London Reefs)	Xi Jiao	Con Tay/Da Day			8°51' 112°12'	V
West York Island	Xiyue Dao	Ben Loc		Likas	11°05.5' 115°01.5'	P

Table 3: Distances Between Occupied Spratly Features (in kilometers)

	Itu Aba (Taiwan)	Northeast Cay (Philippines)	Mischief Reef (PRC)	Swallow Reef (Malaysia)	Spratly Island (Vietnam)
Vietnam Occupied					
Southwest Cay	116	4	213	453	406
South Reef	111	9	211	448	401
Petley Reef	24	119	117	346	352
Sand Cay	13	120	126	340	340
Namyit Island	22	141	131	317	318
Discovery Great Reef	65	163	184	298	264
Sin Cowe East Island	56	173	106	293	322
Sin Cowe Island	55	174	131	284	298
Len Dao	268	320	132	416	542
Collins Reef	71	190	144	267	281
Pearson Reef	175	288	230	174	196
Central Reef	273	357	366	233	56
Pigeon Reef	171	290	151	189	301
West Reef	291	373	384	239	38
Alison Reef	176	294	199	162	240
East Reef	259	350	344	206	77
Cornwallis South Reef	186	305	199	154	249
Spratly Island	330	410	421	249	-
Ladd Reef	354	431	447	271	27
Barque Canada Reef	272	383	312	102	160
Bombay Castle	401	489	478	242	83
Amboyna Cay	318	425	364	112	137
Prince Consort Bank	552	620	648	422	226
Grainger Bank	515	589	604	369	185
Vangurd Bank	599	668	690	448	270
Philippines Occupied					
Northeast Cay	119	-	214	456	410
West York Island	107	84	141	433	435
Thitu Island	74	45	186	411	372
Flat Island	168	176	106	442	492
Nanshan Island	163	178	95	432	485
Lankiam Cay	41	84	140	379	367
Loaita Island	32	88	147	371	355
Commodore Reef	244	357	176	190	365
PRC Occupied					
Subi Reef	67	66	194	394	347
Gaven Reef	24	139	147	317	306
Mischief Reef	138	214	-	339	421

Chigua Reef	53	171	114	291	315
Johnson Reef, South	75	194	139	263	285
Fiery Cross Reef	186	256	293	260	146
Cuarteron Reef	237	333	318	195	103
Malaysia					
Occupied					
Mariveles Reef	271	389	279	67	230
Ardasier Reef	310	429	310	29	249
Swallow Reef	338	456	339	-	249
Taiwan Occupied					
Itu Aba Island	-	119	138	338	330

Note: Reference features lie near the extremes of the Spratly group. Within each occupied group, the features are arranged north to south.

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¹ US Board on Geographic Names.

² C - China, M - Malaysia, P - Philippines, T - Taiwan, V - Vietnam.

³ See also Johnson Reef, South. Generic terms: **shoal** - ansha, shazhou, tan (Chinese); **reef** - beting, termubu (Malaysian); jiao (Chinese); **island** - dao (Chinese); dao (Vietnamese); **island group** - qundao (Chinese). Sources: Occupied features depicted on US National Technical Information Service (NTIS) *The Spratly Islands and Parcel Islands*, [Map] (NTIS pub. no. PB92-928343); place names and geographic coordinates from NTIS, *The Spratly Islands* [map]; US Board on Geographic Names, Gazetteer of the Parcel Islands and Spratly Islands (Washington, DC: Defense Mapping Agency, October 1987); Chigua Jiao from Shijie Diminglu [world gazetteer] (Beijing: Zhongguo Dabaikeshu Chubanshe).