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*Research on Southeast Asia
in the Nordic Countries*

Special Focus Editor
Eldar Bråten

B R I L L

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From the Editorial Board

v

List of Contributors

vii

Articles

Research on Southeast Asia in the Nordic Countries

471

ELDAR BRÅTEN

Being Special for Somebody: Urban Sexualities in Contemporary Vietnam

476

TINE GAMMELTOFT

Ngadha Relationship Terms in Context: Description, Analysis, and Implications

493

OLAF H. SMEDAL

'Reason' and 'Power' in Territorial Disputes: The South China Sea

525

TIMO KIVIMÄKI

What's Wrong with Indonesia's Democratization?

547

OLLE TÖRNQVIST

Why are the Disputes in the South China Sea So Intractable? A Historical Approach

570

STEIN TÖNNESSEN

Trends in the Social Sciences

Alternative Theories of Southeast Asian Development: A Japanese Perspective

602

YASUKICHI YASUBA

General Articles

The Opium Trade and Opium Policies in India, China, Britain, and the United States: Historical Comparisons and Theoretical Interpretations

624

RICHARD HARVEY BROWN

- Coping with Work Stress, Work Satisfaction, and Social Support: An Interpretive Study of Life Insurance Agents*
CHAN KWOK BUN 657

Book Reviews

- Hyangjin Lee
Contemporary Korean Cinema
DOOBO SHIM 685
- Filomeno V. Aguilar, Jr.
Clash of Spirits: The History of Power and Sugar Planter Hegemony on a Visayan Island
AILEEN TOOHEY 688
- Amartjit Kaur
Historical Dictionary of Malaysia
TIMOTHY P. BARNARD 693
- Hugh Stevens & Caroline Howlett (eds)
Modernist Sexualities
LYONS LENORE 694
- Zawawi Ibrahim
The Malay Labourer: By the Window of Capitalism
SURIANI SURATMAN 697

Book Received

700

From the Editorial Board

This issue of the journal is indeed unique in highlighting, for the first time, a group of scholars from the Nordic countries who are engaged in research on Southeast Asia. The special focus editor is Eldar Bråten, whose efforts have made it possible to document works on Southeast Asia from Iceland, Norway, Denmark, Sweden and Finland. Nordic research on Southeast Asia is diverse and multifaceted as reflected in the articles in this collection. There is clear Nordic interest in the countries and regions of Southeast Asia — such as Vietnam, Japan, the South China Sea and Indonesia — from a variety of disciplinary perspectives; the volume sees contributions from social anthropologists, political scientists and historians. This is a timely collection that serves to showcase research on Southeast Asia from a region far removed — the far north of Europe. This issue is a significant contribution in its own right but its focus also offers an opportunity for comparative and collaborative initiatives in the future.

The *Trends in the Social Sciences* section of the Journal continues to receive exciting contributions. In this issue, we have included a thought-provoking piece by Professor Yasukichi Yasuba on a subject that is neither recent nor settled, entitled "Alternative Theories of Southeast Asian Development: A Japanese Perspective". We anticipate that the arguments presented therein will continue to spark the complex debates about theorizing development in Southeast Asia. We invite commentaries on the papers we publish in the *Trends* section, and these will be published in the Journal.

The Asian Social Science Series will see a fruitful 2002 in terms of titles published. We can expect to see two manuscripts bearing a 2002 imprint: *The Making of Singapore Sociology* edited by Tong Chee Kiong and Lian Kwen Fee, and *Critical Reflections on Cities in Southeast Asia* edited by Tim Bunnell, Ho Kong Chong and Lisa Drummond. Next year is expected to be even busier, with several manuscripts lined up for publication. These include: *Science and Technology in the Asia-Pacific Region*, *Ethnic Identities in Southeast Asia and Reconceptualising Southeast Asia*. Inquiries, suggestions and submissions are welcome, both for the Journal and the Series.

Why are the Disputes in the South China Sea So Intractable? A Historical Approach

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Introduction¹

There are at least three ways of writing the history of a sovereignty dispute. The first applies a national perspective, goes as far back in history as possible in order to find evidence that the territory in question is an inviolable part of the national patrimony, and demonstrates how sovereignty has been continuously upheld through prescription, occupation and utilization. The second composes a non-partisan legal treatise, presents the chronology of conflicting claims to sovereignty, and evaluates their relative merits on the basis of international law (cf. Austin, 1998; Valencia, Dyke, and Ludwig, 1997). The third makes the dispute a part of general international history, analysing events and trends on the basis of changes in the international system and in the balance of power (cf. Renouvin, 1946; Joyaux, 1985, 1988; Yahuda, 1996). In this article, we shall follow the third approach and let changes in international power relations underpin the structure of the analysis. Each section starts with a characterization of the international system and power relations within the period under scrutiny, and then examines the territorial disputes within this context.

The historical record has a major role to play in any resolution of a sovereignty dispute. It is normal practice to select some critical dates when treaties, decrees or other actions provided all interested parties a chance to present and sustain their claims. For the dispute over sovereignty to islands in the South China Sea (the Spratlys and the Paracels), the candidates that may serve as critical dates are 1877, 1909, 1933, 1946–1947, 1951–1952, 1956, 1971, 1974, 1982–1983 and 1988. No attempt will be made in the analysis below to point out the dates that ought to underpin the resolution of the sovereignty disputes, but this paper will describe what happened in those years.

Since the history of the dispute in the South China Sea is itself a part of the dispute, it is difficult for the historian to be impartial. The text below has, no doubt, been coloured by the fact that only French and British archives have been consulted while information from other countries is

derived from secondary sources. The analysis may also have been affected by the author's attitude, which tends to deny that any of the claimants has a superior right to the reefs and islets in the Spratly area. The area's main value is to serve as a natural habitat for a variety of fish, birds and other organisms.² Therefore, if the following analysis is impartial in its treatment of the sovereignty disputes, this may result from a less than impartial passion for defending the environment — and human peace — against destructive human behaviour.

It may be useful to remind the reader that sovereignty disputes to small, uninhabitable islands and the delimitation of continental shelves are fairly recent human innovations. The mapping and demarcation of land borders between the states in Southeast Asia has been going on since the mid 19th century, but maritime delimitation is far more recent. Although the principle of coastal state sovereignty to a narrow belt of territorial waters along coasts was discussed by European legal scholars as early as the 17th century and later upheld by many states, it was only codified in international law at the 1930 Hague Conference, with a limit of three nautical miles. The principle of attributing an extensive continental shelf to coastal nations was introduced by US President Harry S. Truman only in 1945, and the principle of a 200 nautical mile Exclusive Economic Zone was first seriously proposed as an international norm as late as 1971 (Sanger, 1987; Churchill and Lowe, 1999:74, 143–144, 160).

Almost twenty years have passed since the United Nations' Convention on the Law of the Sea (LOS Convention) was signed in 1982. It has been ratified by most of the states around the South China Sea. Still, there are no recognized maritime boundaries in most of the South China Sea. Indonesia and Malaysia agreed as early as 1969 on the delimitation of the continental shelf in the area between East and West Malaysia (north of Natuna Island). Malaysia and Thailand, Malaysia and Vietnam, and Thailand and Vietnam have made bilateral agreements on boundaries and joint development zones in the Gulf of Thailand, and in December 2000, China and Vietnam reached agreement on a treaty on the demarcation of the Gulf of Tonkin, and also an agreement on fishery cooperation in the Gulf.³ However, in the central part of the South China Sea, there have not been any negotiations. The surrounding states have not even made known their precise zone claims.

Why has there been so little progress towards maritime delimitation in the South China Sea? Why are they so intractable? In order to explain this we must look into the respective roles of land and sea borders historically, and analyse how the disputes over sovereignty to the Paracel and Spratly islands have been related to changes in power relations.

Before National Sovereignty

The history of sovereignty disputes in the South China Sea only really starts in the 19th century, with the introduction of the European practice of dividing all above-water territories between states that enjoy full sovereignty. However, since the parties to the present dispute often use arguments based on ancient artefacts and documents, it is also necessary to say a few words about earlier periods.

The main function of the South China Sea, historically, has been to serve as a means of communication. Small and large ships have sailed along its coasts for more than two thousand years. The ships have originated in a great many countries, and have called on ports controlled by a variety of states and dynasties. For long periods, trade through the South China Sea seems to have been dominated by junks from port cities in the Middle Kingdom. This was apparently the case during the Han dynasty, and also under the successive dynasties (Wang, 1998). In other periods, when Chinese merchants mainly used the Central Asian 'silk route', when China was engulfed in war, or when the Emperor banned long distance trade, merchants from other countries were free to dominate the trade in the South China Sea. Income from long distance trade contributed to sustaining a range of powerful states, such as Funan, Angkor, Sri Vijaya, Ayutthaya, Champa and the Melaka Sultanate.

The degree to which some of the mainland Southeast Asian states depended financially on maritime trade is disputable. What is certain is that the main trading route along the coast of China past Taiwan and Hainan, down the coast of the Indochinese peninsula, then across the Gulf of Thailand to the Malacca Straits, was of tremendous economic importance to rulers, who were able to tax the ships that passed by.

From the 8th to the 12th century, traders from Sri Vijaya, a state controlling both sides of the Malacca Straits, dominated trade in the area. Chinese commercial and naval shipping went through new periods of expansion in the 12th to early 15th century, ending in the famous expeditions of the eunuch Admiral Zheng He (Levathes, 1994). Then, suddenly, the Emperor ordered an end to the building of ocean-going ships. His decision provided welcome opportunities for other maritime nations, such as the Ryukyus, Japan, Korea and the countries around the Indian Ocean. Persians and Arabs brought Islam to the area, and made the Malay language a *lingua franca* in long distance trade. Chinese silk and ceramics were exchanged for Southeast Asian spices or Arab frankincense (Samuels, 1982:14). From the 16th century, new trading ships arrived from the Far West, coming all the way around Africa. Portuguese, Spanish, Dutch, British, French and other European merchant companies capitalized on their naval and maritime skills to tap into the regional trade, and profit from it. They also brought local products, such as spices and ceramics,

back to Europe. The Europeans took over the role of the Arabs and physically took control of several ports and cities. The Portuguese took Melaka in 1511 and established a permanent presence in Macao from 1557. In 1571, the Spanish took Manila. The Dutch took over Melaka in 1612 and dominated the lucrative spice trade during the 17th century. For a limited period, they even occupied Taiwan (Formosa). The 18th and 19th centuries saw a decline of European shipping and a temporary resurgence of Chinese shipping (Blussé, 1996, 1999), but then the British and French arrived with new fearsome canon-boats. This tipped the power balance in favour of the Europeans, who then established a colonial system and introduced the 'modern' concept of sovereignty.

Some present-day governments maintain that their claims to sovereignty over islands and reefs, sometimes even the sea as such, have a legal origin extending back into the classic or pre-modern era. They sustain their claims by referring to archaeological finds and ancient documents. Chinese archaeologists have discovered 'Chinese' objects on the islands of the South China Sea dating from more than 2000 years ago. Vietnamese archaeologists claim to have found 'Vietnamese' objects. However, it seems doubtful that these objects may at all be considered 'Chinese' or 'Vietnamese'. Although an object may be Chinese in style or originate in a place that today is a part of China, the one who brought it to the island might not necessarily represent China as a state. Moreover, for almost a thousand years until the 10th century, the northern part of today's Vietnam was part of the Middle Kingdom. After that, the Viet dynasties retained a tributary relationship to the northern neighbour.⁴ This lasted until the French conquest and the Franco-Chinese treaty of 1884. In the pre-modern period, the distinction between Chinese and Vietnamese sovereignty does not, therefore, make much sense.

Since China has the richest historical literature, it is in Chinese written sources that scholars have found the oldest and most frequent mentioning of the South China Sea and its islands and reefs. These were visited by collectors of feathers and tortoise shells, later also by fishermen. However, when Chinese authors named the islands in the South China Sea and charted or described their location, the main purpose was not to claim them or their resources for China or the Emperor, but to warn against them. Since the main function of the sea was to serve as a means of communication, the reefs and islands were primarily seen as a danger to shipping. Some 16th century books even state that there were howling demons there (Ptak, 1997:173).

The South China Sea had two ancient sailing routes. Both went in a north-south direction. The main one, as mentioned, went along the western side of the sea. The other crossed over from Taiwan to Luzon and followed Luzon down to Palawan, the Sulu Sea and Borneo.⁵ For captains navigating these routes, it was essential to stay clear of the reefs we now

refer to in English as 'the Spratlys' and 'the Paracels', and which in the old days seem to have been perceived as one continuous danger zone in the middle of the sea. Ships avoided the central area and sailed along the inhabited coasts — at some distance in order to avoid the coastal reefs and rocks. The ancient map makers did not, apparently, know the broad passage between the Paracels and Spratlys, which is now the main route for ships passing from the Indian to the Pacific Ocean. Maps from the 16th to early 19th century feature a long string of reefs or islands southwards from the Paracel Islands.

In the old days, when heavy winds blew ships off course, they would sometimes endow the reefs with an added value in the form of wrecks filled with merchandise. There were instances when emperors or kings claimed a monopoly to issue concessions for the plunder of these shipwrecks. Such claims have since been used as arguments in the quest for national sovereignty. This seems a dubious enterprise since modern international law requires not only discovery or economic exploitation but also a continuous exercise of sovereignty in order to establish a legitimate claim.

The main points made here about the 'pre-modern' period are: first, maritime power was volatile. The hegemony in the South China Sea shifted between several states. Second, the Spratly and Paracel Islands were mainly seen as a source of danger. And third, there was not at the time any concept of national sovereignty. Islands were discovered, described, and to some extent exploited, but they were not claimed or disputed over in a legal sense. An exception is the claim that the Vietnamese Nguyen regime made to the Paracels a few years after its establishment in 1802. Reportedly, Emperor Gia Long claimed the Paracels in 1816, and his successor Minh Mang sent an expedition there to set up official markers in 1835 (Samuels, 1982:61; Nguyen Hong Thao, 1998:602ff.). The interest of the Nguyen emperors was probably based on a false belief, inspired by the standard Western maps of the South China Sea at the time, that the Paracels made up a much larger group of islands than it is in reality. When the Europeans started to systematically survey the South China Sea islands from the 1840s onwards, it became clear that the Paracels was a small and insignificant island group, and that there was a huge area of open sea between the Paracels and the Spratlys. In the second half of the 19th century, the Nguyen dynasty seems to have lost interest in the islands it had claimed.

The Colonial Condominium, 1842–1941

The period when Portuguese, Spanish and Dutch trade thrived in the South China Sea is best understood as a continuation of the pre-modern pattern. Only in the 19th century, when the British and French became the leading European colonizers, was there really fundamental change. New

colonial states were constructed, based on the concept of territorial sovereignty. The British constructed Singapore as a port city, took Melaka from the Dutch in 1795 (permanently in 1824), launched the Opium War against China 1839–1842, acquired Hong Kong as a colony and established protectorates in Malaya and northern Borneo. This prompted the Dutch to consolidate and merge their many possessions into a larger state called 'The Netherlands Indies', later 'Indonesia', and the Spanish to strengthen their hold on the Philippines. Great Britain was the leading merchant power in the era. France, motivated by a quest for global power, a dedication to protect Christians, and an ambition to compete with Britain for the China trade, colonized Indochina between 1863 and 1884, and leased a territory on the Liaozhou peninsula (north of Hainan) from the 1890s to the 1940s. Towards the end of the 19th century, two additional powers established colonies around the South China Sea, both through victory in war. Japan won the Sino-Japanese War in 1895, thus preventing a Chinese attempt to re-establish itself as a naval power. In the peace settlement, Japan acquired Taiwan. The USA won the Spanish-American War of 1898 and took over the Philippines. This paved the way for a naval condominium in the South China Sea of five external powers: Britain, France, the Netherlands, Japan and the USA.

Japan's power was enhanced by its 1902 alliance with Britain, its victory over the Russian navy in 1905, and by a judicious choice of allies during the European War of 1914–1918. In the 1920s, however, the power relations within the five-power condominium were regulated at naval conferences, dominated by the four Western nations. Japan came out as the diplomatic loser, was forced to give up its newly won possessions in China and subjected to restrictions on the number of ships it could build. The result was resentment and the emergence of an Asianist ideology in Japan, with itself in the forefront of a struggle against Western domination. At first, Japan tried to improve on its position mainly through production and commerce, a strategy that in the South China Sea took the form of projects to exploit guano (bird dung used as fertilizer and for producing soap) from reefs and islands. After the world crisis of 1929–1930, which hit Japan hard, it entered a new period of military expansion, with the occupation of Manchuria in 1932, and war with China from 1937. This entailed a crisis in the South China Sea. France, Britain, the Netherlands and the United States sought for ways to bolster their positions and stem the tide of Japanese expansionism.

The colonial powers had not only brought the concept of 'territorial sovereignty' to the region, but also the related — although in content quite opposite — concept of 'freedom of navigation'. On the basis of a legal tradition dating back to the Dutch scholar Hugo Grotius (1583–1645) and his work *Mare Liberum* (1609), the naval powers made a crucial distinction between land and sea. Land was to be divided into territories with mapped

and demarcated borders (Winichakul, 1994). The sea was to be open for all, except a belt of territorial waters along the coasts, which should be no broader than the range of a canon shot. This did not, of course, suit the continental states of China and Thailand who were concerned with defending their coasts against foreign ships. The King in Bangkok and Emperor in Beijing were, however, compelled to open up their countries to European trade and influence, while also being invited to join the international society, which the Europeans had defined (Churchill and Lowe, 1999). Thus, they would have the right to sign treaties of their own and act as sovereign states. Asian governments had to learn European ways, to map and demarcate borders, delineate territorial waters, and plant flags or erect stone markers on islands.

At first, the Europeans and Americans, just as the Chinese and other powers in the past, did not show much interest in the tiny islets in the central part of the South China Sea, except as a source of danger. New and more accurate maps were drawn in Europe, Japan, Korea and America, showing the Paracels and Spratlys as two distinct archipelagos. With motorized ships it was safe to sail between them, although not yet through them. The eastern half of the Spratly area was continuously marked off on British charts as "Dangerous Ground" (Hancox and Prescott, 1997). While both commercial and naval ships continued to shun the two archipelagos, oceanographic expeditions were sent to survey them. They found that the islands were inhabited during parts of the year by nomadic fishermen, most of whom, it seems, spoke Hainanese dialects and lived in Hainan during parts of the year.⁶ British ship captains gave the islands British names; captain 'Spratly' even gave an island his own name (Spratly Island was also for a long time known as Storm Island).

In the 1870s, a group of merchants in northern Borneo obtained a concession from the British governor of Labuan (an island north of Borneo) to exploit guano on Spratly and Amboyna Cay, two of the larger islands in the Spratly area. By consequence, the two islands were claimed formally by the British crown in 1877. This was probably the first time that any state made a modern legal claim to any of the Paracel or Spratly Islands. From 1891 to 1933, Spratly Island and Amboyna Cay were mentioned by name in every annual edition of the British Colonial Office list, but little was done to exploit them or exercise British sovereignty.⁷

Although the Paracels were larger and better known than the Spratlys, and occupied a strategic position along the shipping route from Singapore to Hong Kong, no European power took any steps to formally claim the archipelago before the 1930s. In the first decades of the 20th century, only China displayed an interest in the Paracels, notably by sending a mission there in 1909, two years before the Qing dynasty succumbed to the Chinese Revolution.⁸ In the next three decades, China fell apart and was in no position to uphold its claim to these or other insignificant islands (such as

Pratas Island and Reef, southwest of Taiwan and southeast of Hong Kong) through effective occupation or utilization.

The factor that would generate a much keener interest in the Paracels and Spratlys was the growing strength of Japan, notably after the invasion of Manchuria in 1932, which put Japan on a collision course with the four Western members of the naval condominium. Japanese merchant companies had for a long time competed with the Europeans and Americans in the China trade, and in the 1920s, Japanese companies in Taiwan were systematically exploiting guano both in the Paracels and Spratlys, although the Japanese government did not legally claim them.⁹ The motivation behind the guano production was not just commercial. The Japanese navy expected the islands to provide useful support points for an eventual southward drive.

It was the fear of Japanese expansion that led France to claim the Spratlys and the Paracels. Since the 1890s, some Frenchmen had tried to mobilize funds for the erection of lighthouses and for claiming the islands either in the name of France or the French-protected 'Annam', but the French government had not found it worth the cost. Later, however, France wanted to forestall a Japanese move. Between 1930 and 1933, France formally claimed the Spratlys on behalf of itself, and also occupied some of them. The Paracels were also now claimed, on behalf of Annam. In 1938, after the outbreak of the Sino-Japanese War, France established a permanent presence in the Paracels, alongside the Japanese, who were already there.¹⁰ Britain chose not to oppose these French actions, although it did not officially abandon its own claim to Spratly Island and Amboyna Cay. Japan, however, protested. In 1939, after having occupied Hainan, Japan established a military presence in the Spratlys. To the dismay of the British government, which had relied on France to defend the Western position, the French did not offer active resistance. Japan also officially claimed the Spratlys as a part of the Japanese empire, placing it under the Governor General of Taiwan. France and other Western powers, including the United States, delivered protests in Tokyo, but the USA did not protest on anyone else's behalf, just against the unilateral Japanese action. In 1940, the Japanese forced the French to leave Itu Aba (the largest of the Spratly islands, which the Chinese call *Taijiao Dao*) and started the construction of a submarine base. The island was used as one of the vantage points for the invasion of the Philippines in 1942.¹¹

What we have seen here is that for most of the colonial period, there was no dispute concerning ownership to the Paracel or Spratly islands. They continued to be seen mainly as a danger to shipping. The British claim of 1877 to Spratly Island and Amboyna Cay was not followed up through effective occupation or utilization. The Chinese claim to the Paracels in 1909 suffered the same fate. When France formally claimed a number of Spratly Islands in 1933, Britain decided not to protest, and also silently

dropped Spratly Island and Amboyna Cay from the Colonial Office list. What triggered the dispute in the 1930s was Japan's military expansion. This led France to claim the Spratlys and the Paracels, and brought rivalry between French and Japanese occupants in both island groups between 1938 and 1941.

Decolonisation and Cold War, 1942–1968

The period from 1942 to 1968 saw a complete change of the international system in the countries around the South China Sea. The colonial order was replaced by a system of new, independent states, which posed themselves against one another on the basis of colliding ideologies and Cold War alliances. The period started with the British failure to defend Singapore against Japan, and ended with the British decision to withdraw from the east of Suez. At the end of the period, the United States stood out as the only real naval power in the region.

During 1942 to 1945, the South China Sea was a 'Japanese lake'. It is the only period in history when one power has controlled all the countries around the South China Sea. In 1941, Japan had entered into a treaty of co-operation with the French (Vichy) regime in Indochina. This allowed Japan to use Indochina's ports and airfields as stepping stones for the 1942 invasion of the British and Dutch colonies. During much of the Second World War, French (in fact Vietnamese) and Japanese (in fact Taiwanese) troops lived side by side in the Paracels. Only in 1945, after the Japanese had eliminated French power in Indochina, did the French-Vietnamese troops pull out. By then, the United States had already established itself as the dominant naval power in the Pacific. A large US fleet launched devastating strikes against the coasts of Indochina, Hainan and Taiwan in January 1945 (Tønnesson, 1991:190–195).

The main effect of the Japanese War was the destruction of the colonial system, and paving of the way for a new international system of independent states. Japan held out the promise of formal independence to the Philippines, Indonesia, Vietnam, Cambodia and Laos, and granted it — on paper — towards the end of the war. The USA reconquered the Philippines between 1944 and 1945, and in 1946, fulfilled a pre-war promise to give the country independence, keeping only military bases. In the wake of the Japanese surrender, nationalist movements proclaimed independent republics in Indonesia and Vietnam. Soon, however, Britain, the Netherlands and France returned to their colonies. To re-establish their claim to sovereignty, they had to fight against the ragtag armies of the newly founded republics. Due to US pressure, the Netherlands was forced to give up in 1949, and grant sovereignty to the Indonesian Republic. Britain won its war ('emergency') in Malaya, and supervised the establishment of a pro-British, decolonized

Malaya in 1957. The result of the French Indochina War was the creation in the years 1950 to 1954 of no less than four independent states: Laos, Cambodia and two rival regimes in the northern and southern halves of Vietnam. Civil war resumed in South Vietnam in 1959 and 1960, leading the USA to intervene militarily with the aim of preventing all of Indochina from 'falling' to communism. The main motivating force behind the intervention was the 'domino theory', which stated that if one state (Laos or South Vietnam) was allowed to fall, others (Cambodia, Thailand, Malaysia, Indonesia, perhaps India) would fall as well. While the USA became embroiled in the Vietnam War, Britain oversaw the establishment of an anti-communist Malaysian Federation, consisting of Malaya, Sabah and Sarawak and, for a period of two years, even Singapore. The creation of Malaysia in 1963 provoked a low-scale military confrontation with Indonesia, which ended when the anti-communist faction of the Indonesian army seized power in Jakarta in 1965. This provided the political basis for the foundation of a non-communist Association of Southeast Asian Nations (ASEAN) in 1967, consisting of Indonesia, Malaysia, the Philippines, Singapore and Thailand. Thus, a new international system had been created in the region comprising, on the one hand, five non-communist states with various kinds of ties to the Western powers and, on the other, an embattled Indochina. The successful British decolonization, and a US commitment to defend the non-communist states in the region, made it possible for Britain to take the financially necessary decision in early 1968 to end its military presence in Asia.

From 1948 to 1949, the process of decolonization was intertwined with Cold War considerations. What brought the Cold War to Asia was the victory of the communists in the Chinese civil war and the establishment of the People's Republic of China (PRC) in October 1949, under Chairman Mao Zedong. In February 1950, he signed a treaty of alliance with the Soviet Union, the principal adversary of the US-led Western alliance on the global scale. Mao's victory and the Sino-Soviet alliance sparked fears that communism would spread to other Asian countries, and gave rise to the 'domino theory'. In our context, it is important to note that the communist challenge at the time was not naval. It was a threat of popular insurrections, sustained by shipments of arms and equipment from China and the Soviet Union. The main maritime aspect of the Cold War in Southeast Asia was an ongoing battle over the traffic of arms. Weapons, medicines and other provisions were brought to the insurgency movements from China and other places. The British, French and American navies monitored communications at sea and patrolled the sailing routes, to prevent the provisioning of the guerrillas. During the whole period from the Japanese surrender in 1945 to the end of the Vietnam War in 1975, the US had by far the strongest naval force in the area. The French naval presence ended in 1956 and 1957, the British in 1968 (Pickering, 1998;

Murfett, Miksic, Farrell and Chiang, 1999). Thereafter, the US navy reigned supreme. China did not, in this period, develop a capacity to project naval power beyond its coastal waters, and despite the Sino-Soviet alliance, the Soviet navy did not establish bases on Chinese soil. The US enemy in the Vietnam War was a land-based peasant army. The USA was always in command of the sea and the air, although it happened that its airplanes were shot down when entering the air space of North Vietnam.

The processes of decolonization and the Cold War were accompanied by the imagining of a new region called 'Southeast Asia'. In the aftermath of their 1945 Revolution, the Vietnamese communists tried first to forge a regional anti-colonial solidarity and establish a Southeast Asian League. When this faltered, the Viet Minh instead came to depend on China (Goscha, 2000). The region was divided by the Cold War, and anti-communist regimes took over the 'Southeast Asian mantle'. This became manifest with the foundation of ASEAN in 1967.

To understand what happened in the South China Sea during the 1940s to 1960s, it is important to have the twin processes of decolonization and Cold War in mind. Both China and Vietnam had rival communist and anti-communist regimes, and the main concern of the United States, as the leading naval power, was to prevent the spread of communism. If the USA had taken an active interest in the Spratlys and the Paracels in the same way that Japan had done in 1939 and 1940, it could perhaps have imposed a resolution of the sovereignty disputes. The United States, however, was not interested in these tiny islets, except as occasional targets for artillery exercises. Just as before the Pacific War, the United States declined to support anyone's claim to the islands. The main, if not only, US concern was the freedom of navigation. This was now even more important for Japan, whose economic resurgence required increasing quantities of Middle Eastern oil shipped through the South China Sea. In the aftermath of its 1945 defeat, Japan turned from America's greatest enemy to a faithful ally. Tokyo resumed the 1920s strategy of commercial expansion, and profited enormously from the booms caused by the Korean and Vietnam Wars.

The most active claimant to the islands in the immediate aftermath of the Second World War was the Republic of China (the government of Chiang Kai-shek), which sent naval expeditions both to the Paracels and the Spratlys between 1946 and 1947, set up sovereignty markers, and established a permanent presence on Itu Aba and Woody Island, the largest feature in each group (Chen, 1993:34). In 1948, the government in Nanjing published a map with a dotted U-shaped line encompassing virtually all of the South China Sea. This map would later become a standard both in Taiwan and the People's Republic, although its legal status was never clarified. It remains unclear if it was meant as a claim only to the islands within the line, or if it was also meant as a claim to the sea and seabed as Chinese 'historical waters' (Zou, 1999).

France also sent expeditions to the Spratlys and the Paracels in 1946 and 1947, while reiterating its French claim to the Spratlys and its 'Annamese' (Vietnamese) claim to the Paracels. France also made an unsuccessful attempt to force a Chinese garrison to leave Woody Island in the eastern Paracels. When the Chinese refused, France chose instead to establish a permanent presence, on behalf of Vietnam, on Pattle Island in the western Paracels.¹² In 1949, after Chiang Kai-shek's government had fled to Taiwan, his forces were chased from the mainland and, in April 1950, from Hainan as well. Shortly afterwards, the Chinese troops in the Spratlys and Paracels withdrew to Taiwan. This gave France an opportunity to take over the Chinese possessions. Paris decided *not* to use the opportunity. It prepared itself for defending Pattle Island, but not the islands that had been held by Chiang Kai-shek.¹³ Thus, Itu Aba and Woody Island remained unoccupied for a period of six years.

After its establishment in 1946, the independent Philippine government wanted to claim a major part of the Spratlys, but seemed to have been discouraged by American advice. The Spanish-American treaty of 1898 made it clear that the western limit of the Philippine islands did not include the Spratlys, and the United States was not keen on carrying the cost of an irredentist adventure that might provoke conflict with Chiang Kai-shek's China, and France.¹⁴ Thus, Philippine action was delayed. The first decolonized state to take action was the new State of Vietnam. In 1950, when Vietnam was recognized internationally as a sovereign state, it had two rival regimes. The Democratic Republic of Vietnam (under president Ho Chi Minh) was recognized by China, the Soviet Union and the East European states. The State of Vietnam (under former emperor Bao Dai) was recognized by Britain and the United States, although for most practical purposes, it remained under French control. Ho Chi Minh depended on Chinese support and was not in a position to oppose the socialist camp's view that the Paracels and Spratlys belonged to the PRC. Hence, some leading officials of the DRV made statements in support of the PRC's claim. The leaders of Bao Dai's State of Vietnam were not similarly inhibited. Although France did not support its efforts, the Saigon government actively claimed both the Paracels and Spratlys and wanted to take responsibility for occupying them. France agreed that the whole of the Paracels were Vietnamese, but claimed that the Spratlys were French, not Vietnamese.¹⁵

At the San Francisco Peace Conference of 1951, Japan formally abandoned its claims to Hainan, Taiwan and all other islands in the South China Sea, but the peace treaty did not state to whom the other islands were ceded to, although it was clear that Taiwan and Hainan would be Chinese. None of the two Chinese regimes were present in San Francisco. The whole socialist camp supported the PRC's claim, but France and the State of Vietnam, which were both represented at San Francisco, maintained their own rival claims to the two island groups. The USA and

Britain preferred to let the matter remain unsettled. Washington had to take into consideration the interests of no less than four friendly governments: France, Vietnam, Taiwan, and the Philippines. Britain still had its own dormant claim to Spratly Island and Amboyna Cay, and had to take the interests of North Borneo, Brunei and Sarawak into account. Britain did little, though, to push the territorial interests of its possessions in Borneo. In 1950, at the instigation of Australia, the British government examined the strategic importance of the Spratlys and the Paracels in order to decide if anything ought to be done to prevent them from coming under communist rule. The conclusion was that the islands were of little economic or strategic value and that the Commonwealth could safely continue its passive stance: "So long as the Allies have peaceful relations with China, little strategic harm could come from a Communist occupation of the Spratlys, although strategic facilities in the islands could then be developed unchecked. In war, however, we feel that, with our superior naval strength, it would be a fairly simple matter to evict the Chinese from the islands and to destroy any installations there."¹⁶ It seems very likely that the Americans held the same opinion.

To compensate for its absence in San Francisco, the Republic of China in Taiwan negotiated its own peace treaty with Japan in 1952, and persuaded Japan to accept a phrase about the Paracels and Spratlys that differed from the one in San Francisco, in that Japan "renounced all right, title and claim to Taiwan (Formosa) and Penghu (Pescadores) as well as the Spratly and the Paracel Islands." The fact that the Spratlys and Paracels were mentioned along with Taiwan and the Penghu gave the impression that they all formed a Chinese whole. However, to nullify the Taiwanese diplomatic gain, France secretly exchanged letters with Japan to the effect that the new treaty had not, in the view of Japan, entailed any change in relation to the San Francisco Treaty.¹⁷

The French defeat at Dien Bien Phu in 1954 and the division of Vietnam at the Geneva conference along the 17th parallel did not change the fact that the two Vietnamese regimes pursued different maritime policies. North Vietnam's harbour was Haiphong, in the Gulf of Tonkin, and North Vietnam did not control any coastline except in the Gulf of Tonkin. South Vietnam controlled most of the coast, with significant harbours in Saigon and Da Nang, one of the world's best naturally protected naval bases in Cam Ranh Bay, and a direct interest in the Paracels and the Spratlys. Thus, it is not surprising that it was South, and not North, Vietnam that pursued the Vietnamese national interest in the South China Sea. When China in 1956 issued a declaration on its territorial waters, and explicitly mentioned the Paracels and Spratlys as Chinese territory, the prime minister of the DRV expressed himself in support of the Chinese declaration, without mentioning the two island groups. This is considered by some to have established a legal *estoppel* of earlier Vietnamese claims (Austin, 1998).

1956 was a decisive year not only in Suez and Budapest, but also in the South China Sea. A group of Philippine maritime activists, led by the brothers Tomas and Filemon Cloma, had grown tired of their government's passivity concerning the western islands. With encouragement from the Philippine vice-president, and claiming that these islands had become *res nullius* after Japan had abandoned them, they sent an expedition to occupy a number of islands and proclaimed a new *Kalayaan* (Freedom land) in the 'Dangerous Ground' area (Samuels, 1982:81–86). This triggered a 'diplomatic shootout' with protests, claims and counter-claims. Taiwan sent a force to expel the Filipinos, but when the Taiwanese arrived, the Cloma party had gone. Taiwan then reoccupied Itu Aba (which it had abandoned in 1950) and has since retained a regular presence and from 1971, a permanent occupation (*ibid.*: 86; Austin *op. cit.*: 149). The PRC also restated its claim to the Spratlys. Its navy could not yet project power thus far, but the PRC established a permanent presence in Woody Island in the eastern Paracels, which had only been seasonally inhabited by Hainanese fishermen since Chiang's troops left in 1950.¹⁸ The Vietnamese garrison in Pattle Island in the western Paracels was then relieved of its French command and received US logistics support. South Vietnam also pronounced its own claim to the Spratlys, issued a protest against the Cloma action, and sent an expedition to erect Vietnamese markers. France did not support the Vietnamese protest, but delivered a protest in Manila, in defence of its own French claim. Britain, Japan and the USA did not take any official position. In 1957, after France had been expelled from South Vietnam, the French government decided to do the same with its Spratly claim as Britain had done in the 1930s: neither officially abandon nor actively defend it.¹⁹ In September of the following year, the PRC restated its claim to all the islands, and also to submerged features in the South China Sea in connection with the Second United Nations Conference on the Law of the Sea in Geneva. China also declared 12 nautical miles as its territorial waters.

The 1960s, a decade marked by the Vietnam War, brought few new developments in the South China Sea. The US navy, with its bases in Okinawa, Subic Bay and Cam Ranh Bay, reigned supreme in the sea, and the local states had little reason to pay attention to the Spratlys or Paracels.

To conclude this section on the period of decolonization and the Cold War, suffice it to say that it was marked by two short phases of active maritime and diplomatic confrontation. The first was in 1946 and 1947, when the Republic of China and France rivalled each other in occupying and setting up markers in the Paracels and Spratlys. The second was in 1956, when a private initiative from two Filipino brothers sparked off a round of protests, claims and counter-claims, and the return of Taiwanese forces to the Spratlys. In both periods, the disputes were made possible by the passivity and lack of interest of the dominant regional powers, the United States and Great Britain.

Sino-American Rapprochement and Cooperation, 1969–1989

The Sino-Soviet Alliance, which had been established in February 1950, entered a period of crisis during the 1960s. The two socialist powers rivalled each other in sustaining national liberation struggles against Western imperialism and blamed each other for deviating from the correct understanding of Marxism-Leninism. The Sino-Soviet split, which in 1969 led to clashes at the border and a nuclear war scare in Beijing (Yang, 2000), removed the foundation for the 'domino theory'. This contributed to the decisions of President Lyndon B. Johnson and Richard Nixon to scale down the American commitment to South Vietnam, and seek a negotiated solution with Hanoi. The crisis in Sino-Soviet relations also led Beijing to reconsider its hostile relationship with the United States. In 1972, Mao Zedong received Nixon in Beijing. This established a *de facto* alliance between the United States and China, and pushed North Vietnam into the arms of the Soviet Union.

The new pattern of international relations became clear not long after the end of the Vietnam War and the establishment of Democratic Kampuchea and the Socialist Republic of Vietnam between 1975 and 1976, when the former sought support from China while the latter relied on the Soviet Union. In 1978, Vietnam invaded Cambodia, and China responded by briefly invading the northernmost Vietnamese provinces. Vietnam then invited the Soviet navy, which in the meantime had gone through an ambitious programme of expansion and modernization, to take over the former French, Japanese and US facilities in Cam Ranh Bay. Thus, the South China Sea became embroiled in the rivalry between the Soviet and American navies, with China on the same side as the United States. This in turn allowed China to launch its own programme of naval expansion without running the risk of hostile reactions from either the United States or Japan (Garver, 1992; You and You, 1991; You, 1999; Lewis and Xue, 1994). With the Chinese programme of naval modernization that started in 1982, China established itself, for the first time since 1895, as a naval player in the region. This only really caught public attention towards the end of the 1980s, when Mikhail Gorbachev scaled down the Soviet Union's naval commitments and foreign aid programmes, and China lost international goodwill through its repression of the demonstration on Tiananmen Square. At the same time, a popular movement arose in the Philippines to throw out the US navy from Subic Bay. Thus, the spectre of a possible Chinese naval hegemony appeared.

During the period of China's *de facto* alliance with the United States (1971–1989) which was also a period of unprecedented Chinese economic growth, two new factors contributed to raise the stakes in the South China Sea: Oil and the 3rd United Nations Conference on the Law of the Sea

(UNCLOS 3). Already by the mid 1950s, British and US oil companies had started to show interest in the possibility of discovering oil in the Spratly area, as an extension of their activities in northern Borneo. Yet oil only really became a factor in the sovereignty dispute with the publication of a new geological survey in 1969, just as the USA began its negotiations with North Vietnam to gain a 'peace with honour'. The prospect of finding oil provided a new motive for the local states to push their sovereignty claims, and made it more acceptable to spend resources on keeping troops and other personnel in such unfriendly places as the Spratlys.

The other factor that worked in the same direction was new developments in the law of the sea. In 1967, an initiative was taken on the global level to open negotiations about the fate of those parts of the world's continental shelf that lie beyond national jurisdiction, and in 1969, the International Court of Justice in the Hague decided the North Sea Continental Shelf cases by enunciating the natural prolongation principle, i.e., that national jurisdiction of the continental shelf can go beyond the territorial waters limit. This led to the opening of UNCLOS 3, which lasted from 1973 to 1982. Thus, there was renewed attention all over the world to the question of how far national jurisdiction of the continental shelf can extend from the shore of a coastal state. It now seemed increasingly important to possess islands, almost regardless of their size and habitation, since they could serve as arguments for claiming an extensive continental shelf.

The temptation to be more aggressive in pursuing claims in the Spratlys was further reinforced when the coastal states participating in UNCLOS 3 started to push for the creation of so-called Exclusive Economic Zones (EEZs), which gave them sovereign rights to exploit fish and other marine resources in vast parts of the seas and oceans. Kenya had already proposed a 200 nautical mile EEZ in 1972. Although this was first seen as highly excessive, the proposal won out in the end and became part of the LOS Convention of 1982. The 200 nautical mile limit was not only constructed to apply to the sea, but to the seabed as well. The LOS Convention established that every coastal state could claim a continental shelf out to the same limit as the EEZ, regardless of the depth of the sea (and to a maximum of 350 nautical miles if the shelf was naturally prolonged that far). The states around the South China Sea supported these principles, and started to position themselves in order to benefit as much as possible from the new legal regime.²⁰

The possibility of extending continental shelf claims and the new expectations of finding offshore oil entered the agenda of the governments around the South China Sea in the 1969 to 1972 period, and became more important on the agenda after the oil crisis of 1973. A scramble ensued for issuing concessions to explore for oil, and for claiming and occupying islands. The Philippines was the first out. In 1971, it officially declared the *Kalayaan* (in the western half of the Spratlys, which Manila holds to be distinct from

the Spratlys) to be part of the Philippines, and in 1974, while awarding a concession to a consortium of companies to explore for oil, the Philippines occupied five islets in the Reed Bank area. The claim to *Kalayaan* was reiterated in 1978, when the Philippines occupied two additional features. The next one out was South Vietnam. In 1973, it awarded a number of oil exploration contracts to US companies in the area west of the Spratlys, and at the same time, took steps to include the Spratlys under the administration of a South Vietnamese province. Brunei was the first offshore oil producer in the area, with oilfields close to its coast, and the area north of Borneo has remained the main oil province of the South China Sea. After Sabah and Sarawak left British rule to become part of the Malaysian Federation in 1963, Kuala Lumpur started to prepare to make claims. Malaysia passed a continental shelf act in 1966, amended it in 1969, and in 1979, published a map with an extensive continental shelf claim north of Borneo. It also claimed a number of islands and reefs within the area of the continental shelf claim, and sent troops to permanently occupy one of them in 1983, and another in 1986. These actions were probably partly meant to forestall a rival move by Brunei, which became independent of the British in 1984, and soon claimed a vast fishing zone, encompassing some of the reefs claimed by Malaysia.

Thus, the Philippines moved in from the east, South Vietnam from the west, Malaysia and Brunei from the south, while Taiwan continued to occupy Itu Aba. By the mid-1980s these states had occupied virtually all features in the Spratly area that were above sea level at high tide (this is the legal requirement for being an 'island'). None of the states tried to drive other countries' troops off islands that were already occupied, but were satisfied to settle on new features. After Taiwan lost China's seat in the United Nations in 1971 and Japan and the USA switched their recognition to the PRC in 1979, Taiwan, at least in principle, continued to occupy Itu Aba on behalf of China as a whole, not on behalf of a separate Taiwan (Chen, 1993). The problem was the growing power of the PRC, which since its inception had claimed all of the Spratlys, but came too late for the better pieces. The PRC was last out in the scramble for occupation of the Spratlys (Sheng, 1995).

A new factor would gradually increase China's leverage — the regional isolation of Vietnam after 1975. Since the socialist camp recognized it in 1950, the DRV (North Vietnam) had more or less supported the Chinese claims in the South China Sea, not through official declarations, but through the publication of maps and statements and letters by Vietnamese leaders to their Chinese comrades. During the last years of the Vietnam War, the relationship between China and North Vietnam deteriorated, and Hanoi switched to the South Vietnamese stance in maritime affairs. The South China Sea policy pursued by the unified Socialist Republic of Vietnam (SRV) since its founding in 1976 was a continuation of South Vietnam's

policy, not North Vietnam's. A main reason for Hanoi's switch was a move made by China in January 1974, shortly after the Paris peace accords, which provided for US withdrawal from Vietnam. Without consulting Hanoi, China attacked and drove out the South Vietnamese troops from the western Paracels (Samuels, *op. cit.*: 98–117; Lo 1989:53–83). The United States chose not to intervene. Thus, China put an end to the equivocal situation that had lasted since 1947, with Chinese troops occupying the eastern Paracels and Vietnamese troops the western (until 1956 under French command).

Since 1974, China has been in full control of the Paracels. There can be little doubt that the Chinese action in 1974 did much to arouse Hanoi's animosity towards Beijing, and to isolate the pro-Chinese faction in the Hanoi leadership. South Vietnam's response to the loss of the western Paracels was a rush to permanently occupy several Spratly islands, using the same troops that had been driven out of the Paracels. This shows how Saigon's action was not only motivated by the drive for oil, but also by an urge to defend national interests against China. Hanoi is likely to have looked favourably upon South Vietnam's occupation of the Spratlys. In 1975, even before the final conquest of Saigon, a North Vietnamese task force arrived in the Spratlys and took command of the Vietnamese garrisons there. Since then, Vietnam has gradually expanded its garrisons in the Spratlys and has always occupied more reefs and islands than any other power (this must have been costly).

After the end of the Vietnam War, Indochina had three communist states, but no further dominoes fell. Instead, contest among the communist governments in Cambodia, Vietnam and China took centre stage. Vietnam and China rivalled each other for normalizing their relations with the member states of ASEAN. China won the contest and, thus, improved its standing in the region, while Vietnam was isolated. The Vietnamese invasion of Cambodia in 1978 contributed further to the isolation. Vietnam came to depend on Soviet aid, and on protection from the Soviet navy (da China, 1990). The Russians built new, advanced base facilities in Cam Ranh Bay, and a joint venture of Soviet and Vietnamese oil companies (Vietsovetpetro) took over the oilfields that American companies had explored on the continental shelf of South Vietnam. In 1982, when the LOS Convention was signed, Vietnam drew a system of straight baselines along most of its coast, in clear violation of the Convention's rules. The leading maritime nations issued protests, but other countries, such as the PRC and Taiwan, would later apply similarly radical baseline systems (Nguyen Hong Thao, 1998; Nossun, 2000).²¹

Vietnam, presumably, intended to use its radical baselines to claim a vast continental shelf and EEZ. This was confirmed by the publication of a system of Vietnamese oil blocs, incorporating the major part of the South China Sea. China issued protests against Vietnam's issue of oil concessions

in parts of the South China Sea that were within the Chinese U-shaped line. China's problem, however, was that under the new developments in the law of the sea, the only way that China could lay claim to the continental shelf in the central part of the South China Sea was to base the claim on possession of the Spratlys. In the Spratly area, the PRC and Brunei were the only claimant states that did not occupy any features. Thus, Beijing prepared itself for entering the scramble for the Spratlys. The occasion came when Mikhail Gorbachev scaled down the costly Soviet deployments abroad and signalled reductions in Soviet support to Vietnam. Hanoi was now without powerful friends, and China took the chance to move into the Spratlys. A Chinese scientific expedition surveyed the area in 1987, and in the following year, China occupied several reefs. One such reef was close to an island held by Vietnamese forces. The circumstances are disputed, but a battle took place in March 1988 where three Vietnamese ships were sunk and more than 70 troops either murdered or drowned. China refrained, however, from ousting the Vietnamese forces from any of the islands they were occupying (Chang, 1990; Sheng, 1995:26; Chen 2000:100–102).

This was later regretted in some Chinese naval circles that thought a good chance had been lost (Sheng, *op. cit.*: 33–34). As long as Vietnam occupied Cambodia, it was unlikely that anyone would support Vietnam against China. By 1989, however, Vietnam withdrew its troops from Cambodia, thus paving the way for a Cambodian settlement and a new regional power constellation.

We have now seen how stakes were raised in the South China Sea by international legal developments and expectations of finding oil. This prompted the Philippines, Malaysia and Vietnam to occupy a number of islands in the Spratly area. The section has also shown how China was able to expand its navy and increase its regional influence during the period when the Soviet Union challenged US naval supremacy. China's leverage was used, before the Soviets arrived, to take full control of the Paracels (1974) and, after the Soviets had scaled down their naval commitment, to establish a presence in the Spratlys (1987–1988).

The 'China Threat' and the ASEAN, 1989–2001

The 1990s fall naturally in two parts — before and after the Taiwan Straits crisis of 1996. Before the crisis, there was a sense that the USA might have been preparing to withdraw from the region. Commentators spoke of a 'power vacuum' and an emerging 'arms race' between the Southeast Asian states and China to fill the vacuum left by the departing Russians and Americans. The Russian naval presence at Cam Ranh Bay was reduced to almost nothing, and in 1992, the US navy was obliged to leave Subic

Bay. National sentiments in the Philippines led it to deliberately deprive itself of US naval protection. Talk of a 'Chinese threat' or 'creeping Chinese assertiveness' became a dominant theme in debates about regional security (Storey, 1999). The fear of a resurgent China reached its climax in 1995, when it was discovered that the Chinese navy had built an artificial island on Mischief Reef in the Spratlys, close to the Philippines,²² and in 1996, when China launched missile exercises in the Taiwan Straits during the run-up to the first free presidential elections in Taiwan.²³ The tide turned when President William J. Clinton decided to meet the Chinese challenge and send a US carrier force into the Taiwan Straits. This demonstrated that the US navy was not on its way out. The United States had also responded to the Mischief Reef crisis by stating, in May 1995, that it would not tolerate any interference with shipping and would view 'with serious concern any restriction on maritime activity in the South China Sea that was not consistent with international law'.²⁴ Ironically, the Sino-American relationship, which had been tense since 1989, improved after the Taiwan Straits crisis. China needed a strategic partnership with the USA, and also strove to further improve its relations with its former foes in Southeast Asia. Singapore did not meet Chinese criticism when it offered new base facilities to the US navy at Changi. Nor did China protest when the Philippines signed and ratified a new Visiting Forces Agreement with the United States in 1998 and 1999. Meanwhile the US Commander-in-Chief Pacific (CINCPAC) managed a discreet but persistent, effort to demonstrate US technological supremacy and foster confidence building measures. The main aim was to discourage 'rogue states' and 'engage' China. Still Washington maintained its neutrality in the disputes over the Spratly and Paracel Islands.

Throughout the 1990s, the main dividing line, as far as the territorial disputes were concerned, was between ASEAN and China. This put Taiwan in a difficult position. On the one hand, it maintained the same Chinese claims as the PRC, and Beijing made it clear to Taipei that it appreciated the Taiwanese occupation of Itu Aba. On the other hand, Taiwan's security policy brought it close to the Southeast Asian countries, which were all apprehensive of the growing strength of the PRC. Taiwan fell between two stools, and also could not make its voice heard at any formal meetings, since it did not enjoy international recognition.

The conflict between the PRC and the ROC changed character in the period after 1988, when Lee Teng-hui, a native Taiwanese, acceded to the leadership of the Kuomintang party and the presidency of the ROC. Taipei gave up Chiang Kai-shek's and his son Chiang Ching-kuo's goal of winning back the mainland from the communists, and no longer considered their government to represent all of China in international society. Instead, Lee Teng-hui made a series of attempts to gain international support for independent Taiwanese statehood and membership in international

organizations. These attempts were strongly opposed by the PRC, which insisted that the government in Taipei ("Chinese Taipei") must continue to adhere to the 'One China' principle, as a precondition for negotiations to improve cross-strait relations. From 1984, the PRC proposal was a 'one country two systems' formula, similar to that applied to Hong Kong when it was incorporated in the PRC in 1997. This was not acceptable to the leading politicians in Taiwan, who aired several other possible formulas, including one with two states on an equal level within a confederation.

While Lee Teng-hui tried to establish Taiwan as an independent actor internationally, he also managed a transition to electoral democracy. While it was the National Assembly that elected him president in 1990, he faced open, contested presidential elections with universal suffrage in 1996. In the first part of the 1990s, the relationship between Taiwan and the PRC seemed to improve. In this period, both governments prepared new legislation for the South China Sea and strongly asserted the Chinese claims, and South China Sea specialists from Taiwan, Hong Kong and the PRC met at conferences in Haikou (the capital of Hainan) in 1991 and Taipei in 1993 (Gao 1994:351; cf. Nordhaug, forthcoming). In 1995, after Lee Teng-hui had obtained a visa to visit the United States, the PRC launched a forceful campaign against him, including missile exercises in the Taiwan Straits both in 1995 and 1996, but failed to prevent his re-election. This also interrupted the process towards cooperation in the South China Sea, and a political compromise in Taiwan between Lee Teng-hui's faction of the Kuomintang and the pro-independence Democratic Progress Party allowed the government to adopt a less assertive South China Sea policy. A construction project on a reef near Itu Aba seems to have been abandoned, and likewise, a plan to build a major naval base at Itu Aba. In 1999, Taiwan even transferred the responsibility for garrisoning Pratas and Itu Aba from the military to the coast guard, which is under the Ministry of the Interior. Meanwhile, however, inter-Chinese meetings on the scholarly level resumed, with conferences being held in Hainan with Taiwanese participation, both in 1999 and 2001. In the new presidential elections in Taiwan in March 2000, Chen Shui-bian, leader of the Democratic Progress Party, was elected, although he did not get the majority of the votes. For several reasons, he could not take active steps in the direction of independence. Firstly, he did not control the National Assembly, which continued to be dominated by the Kuomintang. Secondly, he could not get international support for a policy aimed at independence. No important state, either in the region or elsewhere, would set its relations with the PRC at stake by supporting an independent Taiwan. Thirdly, Beijing made clear that a declaration of independence would lead to a military response. And fourthly, he could not be sure of the loyalty of the armed forces, whose officers remained attached to the ideal of a non-communist one-China. All of this created an awkward situation in Taipei, where a presi-

dent who personally favoured independence had to maintain the formal appearance of representing an all-Chinese republic while manoeuvring in the direction of a deal with Beijing. The option of accepting autonomous status within the PRC was not seen as acceptable in Taipei as long as there was not more confidence across the strait. Such confidence could only be achieved, some Taiwanese politicians stated, if the PRC joined Taiwan on the road to democracy.

To understand how China's South China Sea policy developed in the 1990s, it is necessary to keep both Chinese governments in mind. Taiwan continued to occupy two small islands on the mainland side of the Taiwan Strait (Jinmen and Matsu), the Penghu (Pescadores) islands in the Strait, Pratas Island midway between Taiwan, Hong Kong and Luzon, and notably Itu Aba, the largest of the tiny Spratlys. Beijing had a desire to co-ordinate its South China Sea policy with Taiwan. Plans were made to co-operate in the oil sector, to channel Taiwanese investments to Hainan, and to establish scientific, and perhaps eventually also naval, co-operation in the South China Sea. Beijing had several reasons for wanting to work with Taiwan. The most important was a desire to associate Taiwan with the overall Chinese national interest in the South China Sea, so as to put brakes on Taiwan's quest for independence. The second was Taiwan's financial and technological strength, which could be used for good Chinese purposes. The third was Taiwan's long-term occupation of Itu Aba, which Beijing saw as a major Chinese asset. Taiwan was reluctant, however, to accept bilateral co-operation with the PRC in the South China Sea, as long as there was not more confidence in the relationship. Taiwan preferred a larger, regional co-operation. Beijing would not of course allow Taiwan to take part in any formal international meetings. The solution, therefore, was to have informal multilateral talks around the South China Sea, with Taiwanese participation.

In July 1992, the foreign ministers of ASEAN agreed on a joint declaration on the South China Sea, with the aim of precluding the use of violence. Still, it remained an open question if the Southeast Asian countries would be able to speak with one voice. Among the ASEAN members, Malaysia, Brunei and the Philippines had overlapping claims in the Spratly area. Vietnam's 1995 membership in ASEAN meant that one more claimant joined the fray. Yet, during the Mischief Reef crisis of 1995, ASEAN did come out in a unanimous and strong support of the Philippines. Mischief Reef remained a bone of contention between China and the Philippines throughout the decade, with a second crisis when China renewed its construction work there in 1998. ASEAN's unity, however, did not remain as firm as in 1995. In effect of the dramatic political events resulting from the Asian Crisis of 1997 to 1998, Malaysia's relations with the other ASEAN countries worsened. In 1999, Malaysia pursued its own course in the Spratlys, occupying additional reefs and moving closer to

China. This provoked renewed efforts to reinforce ASEAN unity, with Thailand taking over some of Indonesia's former roles in brokering between the member states.

In the first half of the 1990s, China refused to discuss the dispute in the South China Sea formally with ASEAN, and said it would only discuss the problem bilaterally with each of the states concerned. China later softened this attitude and allowed the matter to be raised in the ASEAN Regional Forum (ARF), which was established in 1993. After the Mischief Reef crisis, the Philippines successfully negotiated with China (and also with Vietnam) for the signing of a bilateral 'code-of-conduct' forbidding the use of force in the disputed areas. In 1999, at the initiative of the Philippines, the ASEAN also agreed on a draft regional 'code-of-conduct' which aimed not only at precluding the use of violence, but also at putting a hold on any further occupation of reefs. China agreed to negotiate with ASEAN about such a 'code-of-conduct', but came up with its own proposal, emphasizing joint co-operation schemes rather than conflict prevention. ASEAN and China held several rounds of negotiations between 2000 and 2001, but by August 2001, it had not yet arrived at an agreed text (Wain, 2000a, 2000b; Kittichaisaree, 2001; Nguyen Hong Thao, 2001; Chen, 2000).

The formal talks between ASEAN and China complemented informal 'track 2' diplomacy. Throughout the 1990s, Indonesian Ambassador Hasjim Djalal, an expert in the law of the sea, organized annual 'Managing Potential Conflicts in the South China Sea workshops' in co-operation with Canadian law professor Ian Townsends-Gault (Djalal, 1990, 2001; Townsends-Gault, 1998; Song, 1999; Lec, 1999). Indonesia hosted the workshops, and Canada funded them. The 11th workshop was organized in March 2001. All the states around the South China Sea participated (including Taiwan), both in the annual workshops themselves and in a number of Technical Working Groups. Djalal failed, however, to gain support from China for establishing a joint zone of management in the central part of the South China Sea. In principle, China was in favour of joint co-operation schemes, but never came up with — or endorsed — concrete proposals. The main effect of the workshops was to pave the way for multilateral talks within the ARF and other ASEAN forums. In addition, the legal, environmental and maritime experts in the region came to know one another better, and identify some shared concerns. They also improved their understanding of the law of the sea (Nass, 2000). One of the most impressive achievements of the workshops was to make Taiwanese and mainland Chinese representatives participate together. Although giving up its former hopes of regaining control of the mainland, the Taiwanese government continued to defend the same claims on behalf of 'China' as the PRC. However, in 1999 Taiwan changed the formal status of its garrison in Itu Aba from military to coast guard. This was criticized by Beijing.

In the first half of the decade, oil remained a serious issue of conflict. In 1992, the same year the PRC adopted a new law on the territorial sea and the contiguous zone, it awarded a concession for oil exploration to the small US company Crestone within an area that Vietnam considered part of its continental shelf. Vietnamese naval vessels disturbed Sino-American exploration activities, and in 1996 the Vietnamese government awarded a concession to another US firm (Conoco) in the same area. However, none of the American companies seemed eager to drill for oil. Disappointing results from oil exploration in other parts of the South China Sea reduced the oil industry's expectations of finding significant quantities of oil and gas in the Spratly area.²⁵

The most dangerous incidents in the 1990s were related to fishing activities. Philippine patrol boats would regularly intervene to prevent 'illegal' Chinese fishing, and on several occasions they shot at Chinese vessels, in 2000 killing a captain. China protested vehemently. In 1999, there were also Sino-Philippine incidents around Scarborough Reef, a disputed feature that is not part of either the Paracels or the Spratlys, but situated between Luzon and the Paracels, not far from the former US naval base at Subic Bay. These incidents reflected a growing fishery crisis, with reduced fish stocks and increasingly desperate fishermen. They were tempted to enter dangerous areas in the hope of catching more, and more valuable, fish.

A new aspect of the dispute in the 1990s was an increasing awareness of dangers to the marine environment. This was reflected at the 'track 2' workshops in Indonesia, since the environment was something everyone could agree to discuss. The participating countries agreed to co-operate in scientific research and the monitoring of biological diversity. The United Nations Environment Programme (UNEP) also drafted and negotiated a new Strategic Action Plan for protecting the marine environment, but had to spend a long time convincing China to participate. Beijing was sceptical about allowing the United Nations a role in the area. China was itself concerned, however, by diminishing fish stocks, and launched a temporary, unilateral ban on fishing. The overall impression was, at the end of the decade, that the countries of ASEAN were ready to enter a process of conflict resolution, despite some internal disagreements. China, however, remained reluctant, and had its main priorities elsewhere: reunify with Taiwan, obtain membership in the World Trade Organization, and prevent a US-dominated reunified Korea.²⁶

The main features of the 1990s were a continued growth in Chinese regional influence and naval strength, a reaffirmation of US naval pre-eminence, the introduction of informal multilateral diplomacy among all the South China Sea states, and a growing awareness of threats to fish stocks and the marine environment. Bilateral agreements were reached on maritime delimitation and oil or fishery co-operation in the Gulf of Thailand and the Gulf of Tonkin. However, not even in the post Cold War Period

was there any attempt to enter into formal negotiations about maritime delimitation in the central part of the South China Sea, or about the fate of the Spratlys.

Conclusion

For the European colonial powers, the South China Sea was primarily a sailing route from the Straits of Malacca to China, Korea and Japan. They saw it as a 'Far Eastern' thoroughfare. With the Japanese occupation of Taiwan in 1895 and the US annexation of the Philippines in 1898, the South China Sea became a contested area among British, French, American and Japanese navies. France's prime purpose when claiming the Paracels and Spratlys in the 1930s was to keep them out of Japanese hands. Exploitation of guano was a means towards strategic ends for Japan. In 1942, a submarine base in Itu Aba supported the Japanese invasion of the Philippines. For three years from 1942 to 1944, the South China Sea was a 'Japanese lake'. When the naval powers displayed an interest in the Paracels and the Spratlys, the main purpose was strategic, and related to their rivalry with one other. However, Britain concluded in 1950, after thorough discussions in London and Canberra, that the Spratlys were of little strategic value. This seems always to have been the view of the United States. None of the naval powers thought of establishing extensive maritime zones during the colonial period, only three to six nautical mile territorial waters along the coasts. The maritime delimitation of the South China Sea only became a concern in the post-colonial era, with the emergence, in the 1970s, of the principle of 200 nautical mile Exclusive Economic Zones.

The defeat of Japan in the Second World War paved the way for decolonization and multiple claims to sovereignty in the Spratly islands. The US navy gained a naval hegemony, but never developed an interest in maritime delimitation or possession of islands. It had its bases in Okinawa and Subic Bay (during the Vietnam War even Cam Ranh Bay) and was itself both a decolonized and decolonizing power. Thus, it left the rivalry for islands and 'maritime territory' to the local states. In the post-war period, all the new states surrounding the sea made conflicting claims to sovereignty and took measures to sustain them: the Republic of China, the People's Republic of China, Vietnam, the Philippines, Malaysia and Brunei. Decolonization, national unification, oil discoveries and the principle of a 200 nautical mile EEZ provided the impetus for a scramble to occupy reefs and islands. A nationalist rhetoric was developed to mobilize support for maritime irredentism. In the Chinese rhetoric, the South China Sea had always been Chinese 'maritime territory' (Stenseth, 1998), for the Vietnamese it was their Eastern Sea (*Biển Đông*), while the Filipinos claimed the bulk of the Spratly islands had been a 'no man's land' (*terra nullius*) until they made it their 'freedom land' (*Kalayaan*).

From the mid 20th century, the European concept of 'the Far East' gave way to the new concept 'Southeast Asia', which transformed the South China Sea from a thoroughfare within the Far Eastern region (or the Chinese and Japanese 'Southern Ocean', *Nanyang*) to a crossroads of two distinct regions: Southeast and Northeast Asia. During the period when the Soviet navy made its presence felt (1979–1986), Vietnam, Cambodia and Laos formed a closed, hostile buffer zone between the two regions. In the second half of the 1990s, with the inclusion of the three Indochinese states and Burma (Myanmar) in ASEAN, Indochina instead became a link, both in economic and political terms. Economically, of course, the South China Sea, with its major shipping lanes, had always been a link between China and the Southeast Asian countries, as well as between the Indian and Pacific Oceans. Politically, however, the dispute over maritime delimitation and sovereignty to islands continued to form an obstacle to regional integration. Southeast Asians tended to see the Chinese U-shaped line as a thorn in their flesh, and a challenge to the whole idea of a Southeast Asian region. If a 'Chinese' sea were allowed in the middle of the region, then China would itself be a Southeast Asian power. The continuing, at times intensifying, dispute over 'maritime territory' also made it difficult for the countries around the South China Sea to address the increasingly serious challenges from over-fishing and threats to the environment.

We started by asking why there has been so little progress towards maritime delimitation in the South China Sea. A first answer is the mere complexity of the dispute. When many states share an enclosed sea that includes a number of disputed islands, its delimitation cannot be undertaken merely through bilateral negotiations, but must be resolved multilaterally. This is difficult. A second answer is that the oil factor and the introduction of the 200 nautical mile EEZ raised the stakes so much in the 1970s and 1980s that no government would take responsibility for abandoning any of their national interests. When stating claims, they either made them deliberately vague or maximized them beyond all reason. There was no room for compromise. A third answer can be found in the Taiwan issue. Since the 1950s, there has been rivalry between the Republic of China on Taiwan and the People's Republic of China for defending the Chinese national interest in the South China Sea. Because of the rivalry, it has been difficult for any of the two to reach for a compromise. A resolution of the disputes in the South China Sea would probably depend on co-operation among the authorities in Taipei, Beijing and Haikou (the capital of Hainan Province, which is administratively responsible for the Paracel and Spratly Islands within the PRC). Cross-strait relations have never been close enough to allow such cooperation. Beijing also seems to have decided that it wants to resolve the Taiwan issue before that of the dispute in the South China Sea. The fourth and last answer is that throughout the whole of the 20th century, the strongest navies in the area belonged to external

states. This means that no local navy has been strong enough to take control of the sea and its islands. Moreover, the USA, whose naval pre-eminence characterizes the whole period since 1945, has never been interested in the disputes over maritime delimitation and sovereignty to islands. As long as sealanes were kept open and the local states did not go to war against one another, the US national interest was not seen to be at stake. And when the dominant power stays out of a dispute, the prospect of resolving it is normally reduced.

Notes

1. A preliminary version of this article was published as *East Asian Institute Working Paper* no. 71, 2001, which in turn was based on one of the author's chapters in Timo Kivimäki, forthcoming.
2. The author agrees with those politicians and commentators who have suggested shelving the dispute over the Spratlys. The claimant states could jointly delimit a 12 nautical-mile zone around each of the disputed islands, and shelve the dispute to those zones. This would make it possible to divide the rest of the South China Sea in an equitable way, based on distance from the shores of the surrounding countries. This might also give the region an opportunity to develop a capacity for managing resources and protecting the marine environment. See Stein Tønnesson, 2000a, 2000b.
3. *Xinhua* 4 January 2001.
4. Tributary relationships were no doubt perceived differently in the Middle Kingdom and the tributary states in Southeast Asia. The latter did not necessarily see themselves as subservient. The Vietnamese conception of the tributary relationship was, however, probably closer to that of the Middle Kingdom than that of other Southeast Asian states. For the Vietnamese perception of the Middle Kingdom, see Woodside, 1971.
5. A good map can be found in Anthony Reid, 1993:60.
6. In 1957, the British government studied Admiralty records and found that Chinese junks regularly visited the Paracels and that "fishermen from Hainan usually visit the [Tizard Bank in the Spratly] islands in December and January and leave again at the commencement of the South-West monsoon". P.D. Nairne (Military Branch, Admiralty) to D.C. Symon (Foreign Office), M/NID. 216/6042/56, 14.2.57, Foreign Office File FO 371/127311, Public Record Office, London (PRO).
7. In July 1932, the British Law Officers of the Crown estimated that the British claim to Spratly Island and Amboyna Cay "was of so doubtful a nature that it could only be laid before the Permanent Court of International Justice with a faint prospect of success". On this basis the British government decided not to pursue its claim and not to protest a rival French claim; and from 1934, the two islands were no longer explicitly mentioned in the Colonial Office list. Law Officers to Sir John Simon, W 8733/178/17, 29.7.32, T 161/622, PRO. See also Geoffrey Marston 1986:349.
8. France did not protest the Chinese claim, apparently because it did not want

to stir up more anti-Western nationalism in China: "M. Beauvais estime que la France aurait autant de droits sur ces îles que la Chine et qu'il nous serait facile de trouver des arguments à l'appui de nos prétentions. Mais si la chose n'en vaut pas la peine, il serait préférable, d'après lui, de fermer les yeux sur les faits actuels, car une intervention de notre part pourrait faire surgir parmi la population un nouveau mouvement de chauvinisme qui nous serait plus nuisible que la possession des îles Paracels ne nous serait utile." Beauvais (Canton) à Ministère des Affaires Étrangères, no. 92, 4 mai 1909, dossier 312, sous-série Chine, série Asie 1918-1929, Ministère des Affaires Étrangères, Paris (MAE).

9. The Japanese companies sounded out authorities both in French Indochina and southern China concerning the legal status of the islands, apparently without getting clear answers. One China-based company, whose capital was Japanese, started operations in the Paracels in 1921-22 with a concession from the local government in Guangzhou. Note no. 12 du Dep. Asie-Océanie concernant "Nationalité des îles Pratas et Paracels", 14.1.21; Le Ministre des Colonies à Président du Conseil, 10.2.21; Beauvais (Canton) à Fleuriau (Pékin) no. 78, 25.5.22, p. 77, tous dans dos. 312, sous-série Chine, série Asie 1918-1929, MAE.

10. In July 1938, France informed China that it was sending a detachment to the Paracels, adding that this was not meant to affect the legal position of the islands or prejudice the resolution of the question. Ministre des Affaires Étrangères (signé Chauvel) à Meyrier, Ambassade Nankin, no. 87 à 90, 24.1.47, marqué PB/LD, dossier 214, sous-série Chine, fonds Asie-Océanie 1944-1955, MAE.
11. According to a later French source, the Japanese never managed to establish a naval or air base in the Paracels. Fiche particulière "Les Paracels", 2ème Bureau, 9.5.50, dos. Îles Paracels, 10 H 913, Service Historique de l'Armée de Terre, Paris (SHAT).
12. Note au sujet des Îles Paracels, Cabinet du Ministre de la France d'Outre-Mer, Bureau Technique de Liaison et de Coordination, 24.1.47, Service de Liaison avec les Originaux des Territoires Français d'Outre-Mer (SLOTFOM), série 14, Carton 12, dossier 5, Centre des Archives d'Outre-Mer, Aix-en-Provence (CAOM).
13. Hausnaire (signé Torel) à Général Charpentier, No. 69 Cab/35, 10.5.50, dossier "Îles Paracels", 10 H 913, SHAT.
14. M.G. Willoquet, Consul Général Manille à Ministre des Affaires Étrangères, no. 217 AS, 18.7.46; Chauvel (Secrétaire général du Ministère) au Secrétaire général du Comité Interministériel de l'Indochine, no. 628 AS, 21.9.46, dossier 213, sous-série Chine, série Asie-Océanie 1944-1955, MAE.
15. A note written in the French Foreign Ministry as late as February 1957 made clear that France claimed the Spratlys for itself, not Vietnam: "Le gouvernement français considère que les îles Spratly, dont la prise de possession officielle a fait l'objet d'un avis publié au *Journal Officiel* du 26 juillet 1933, sont françaises. La souveraineté de ces îles est également revendiquée par les gouvernements de Pékin, de Taïpei et de Saïgon. Celui de Manille vient d'appuyer une revendication formulée, l'an dernier, à titre privé, par un de ses ressortissants." Note pour le Secrétaire Général a.s. des Îles Spratly, Ministère des Affaires Étrangères, Asie-Océanie, No. 20, JMB/GM, 20.2.57, pp. 389-392, dos. 522, Chine 1956-67, série Asie-Océanie, MAE.

16. Excerpts from J.P. (50) 104 (Final), entitled "Strategic Importance of the Spratly Islands", 25.8.50, Colonial Office File CO 537/5723, PRO.
 17. Ambassadeur Tokio à Ministre des Affaires Étrangères, no. 1007/1009, 21.5.52, Ministère des Affaires Étrangères à Ambassadeur Tokio, no. 807, 26.5.52, Ambassadeur Tokio à Ministre des Affaires Étrangères, no. 1071, 30.5.52 (with copy of letter in Japanese), dossier 213, sous-série Chine, série Asie-Océanie 1944-1955, MAE.
 18. On 21 February 1956, the French warship *François Garnier* went near Woody Island and spotted the presence of "elements" hoisting the PRC flag, around thirty people, four engines, three barracks under construction and, north of the island, a small ship with the PRC flag: Le Vice-Amiral Jozan, Commandant les Forces Maritimes d'Extrême-Orient au Commandant en Chef en Indochine (with reports from *François Garnier*), No. 94 EM/3, Saigon 23.2.56, dossier "Activités des forces maritimes...", UU-Sup. 32, Service Historique de la Marine, Paris (SHM).
 19. Note a/s des Spratly, Ministère des Affaires Étrangères, Direction Générale des Affaires Politiques, Asie-Océanie, 15.3.57, pages 412-413, dos. 522, sous-série Chine 1956-1967, série Asie-Océanie 1944-1955, MAE.
 20. The LOS Convention entered into force in November 1994, when the 60th state had deposited its instrument of ratification. It has now been ratified by all states with claims in the Spratly area (except of course Taiwan, who is not a UN member). The Convention has not been ratified by Thailand, Great Britain or the USA.
 21. As so-called 'archipelagic states' Indonesia and the Philippines can use a system of straight baselines around their archipelago, but the LOS Convention gives other states the right to use straight baselines only where their coasts are fringed with islands or deeply cut into.
 22. Since Mischief Reef is below the water level at high tide, it is not an island and cannot be claimed by any state. The reef is simply a part of the seabed (continental shelf). The Chinese edifice on the reef should therefore probably, from a legal perspective, be considered an 'artificial island'. For an account of the Mischief Reef crisis between the PRC and the Philippines, see Chen 2000: 105-113.
 23. Two books and one film speculated about a world war breaking out in the South China Sea, with China in the role as aggressor (Hawkesley and Holberton, 1997; Huntington, 1996:313-316). In the film, the outbreak of war was prevented by James Bond.
 24. Bruce and Jean Blanche in *Jane's Intelligence Review*, Vol. 7, Nr 11, November 1995.
 25. Clive Schofield: "A Code of Conduct for the South China Sea?" *Jane's Intelligence Review*, Vol. 12, Nr 11, November 2000.
 26. It has been argued, however, that the seeds of a regional order in the South China Sea, based partly on US naval supremacy, and partly on regional co-operation, have started to grow (Odgaard, 1999).
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