

SOUTH CHINA SEA STUDIES IN CHINA: ACHIEVEMENTS, CONSTRAINTS AND PROSPECTS*

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The South China Sea studies in China have a relatively long history. This article analyses the issues which have been recently, and are currently, discussed and researched in China, including sovereignty and jurisdiction, the legal status of the U-shaped line, the debate on historic rights and historic waters, energy security and joint development. This article also introduces some of the key institutions in China which have a strong interest in the South China Sea studies, and the nature of the publications produced.

I. PARADIGMS OF THE SOUTH CHINA SEA STUDIES IN CHINA

The South China Sea is categorized as semi-enclosed sea under the general definition set down in the United Nations Convention on the Law of the Sea (the LOS Convention).¹ Article 122 of the Convention defines “enclosed or semi-enclosed sea” as “a gulf, basin, or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States”. The South China Sea suits this definition geographically because it is surrounded by six States—China (including Taiwan), Vietnam, Philippines, Brunei, Malaysia and Indonesia. It has an area of 648,000 square nautical miles, twice the area of the Sea of Japan.² There are hundreds of small islands in the South China Sea, namely uninhabited islets, shoals, reefs, banks, sands, cays and rocks.³ According to Workman, they mainly consist of coral reefs.⁴ They distribute widely in the South China Sea in the form of four groups of islands and underwater features, i.e., the Pratas Islands (*Dongsha Qundao*), the Paracel Islands (*Xisha Qundao*), the Macclesfield Bank (*Zhongsha Qundao*), and the Spratly Islands (*Nansha Qundao*).

The political situation in the South China Sea is complicated, as it contains potential of conflict with different national interests. In terms of the islands groups, because of their

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¹ The LOS Convention was adopted in the Third United Nations Conference on the Law of the Sea on 10 December 1982 and entered into force on 16 November 1994. Text is reprinted in 21 *International Legal Materials* (1982) 1261.

² J.R.V. Prescott, *The Maritime Political Boundaries of the World* (London: Methuen, 1985) at 209.

³ According to Hungdah Chiu, there are 127 islands in the South China Sea based upon a survey conducted during 1946-1947 sponsored by the then Chinese Ministry of Internal Affairs. Hungdah Chiu, “South China Sea Islands: Implications for Delimiting the Seabed and Future Shipping Routes” (1977) 72 *China Quarterly* at 756.

⁴ See D.R. Workman, “The South China Sea Basin, Its Mineral Resources and Their Exploitation”, in R.D. Hill, Norman G. Owen and E.V. Roberts eds., *Fishing in Troubled Waters, Proceedings of an Academic Conference on Territorial Claims in the South China Sea* (Hong Kong: Centre of Asian Studies, University of Hong Kong, 1991) at 9.

geographical differences, their political situations are accordingly different from each other. The Pratas Islands are under the firm control of the Taiwan Chinese. No competing claims exist there under the current conception of "one China". For the Macclesfield Bank, the only claimant is China including Taiwan.⁵ Nevertheless, if the Scarborough Reef is considered part of the Macclesfield, then the recent developments indicate that the Philippines has also lodged its territorial claim over the Reef, then over the Macclesfield if the former would be regarded as its part. The Paracel Islands are under the control of China, though contested by the Vietnamese. Because of the firm control by the Chinese, the political situation around the Paracels is relatively calm and stable in comparison with that around the Spratly Islands. The dispute over the Spratly Islands is most complicated since it has been lingering on for a long time and involves as many as five States, i.e., China including Taiwan, Malaysia, Vietnam, the Philippines, and Brunei. It is unusual in the history of international relations that so many countries make claims over the small islets, in whole or in part, of the Spratly Islands and their surrounding water areas. Many predict that if the issue of the Spratly Islands could not be well handled, it could produce danger or threat to the peace and security in the East Asian region and in the world. In China's view, dispute over the boundaries and sovereignty over areas of the South China Sea is one of the three main factors that might trigger military conflicts in the Asia-Pacific region.⁶

The South China Sea studies in China have a relatively long history. In the scientific field, there is a specialist research institute, the Institute for the South China Sea, under the Chinese Academy of Sciences, and located in Guangzhou. It is understandable that Chinese scientists are interested in conducting research on the South China Sea which is adjacent to China. Scientific values resulting from such research are significant for China's development in science and technology. Although politico-legal studies on the South China Sea also contain scientific values in a broader sense, they are more related to China's national interest and rights, i.e. to the field which matters to China's soft power. However, it is undeniable that studies on the South China Sea both in natural sciences and social sciences have academic values and become branches in the relevant academic disciplines in China.

In comparison with studies in the field of natural sciences, South China Sea studies in the legal and political field were belated and they have been greatly reinforced after China occupied six reefs of the Spratly Islands in 1988. Due to the characteristic of the South China Sea, its studies are within the research framework of Southeast Asian studies on the one hand, and the ocean studies on the other. Since the 1990s, there has been a specific institution for the South China Sea studies in China, which will be addressed in the following sections. As the academic interest in the South China Sea actually spreads over many disciplines, this paper focuses mainly on such studies in the legal-political field, in particular in the context of international law.

II. KEY ISSUES RELATED TO LAW AND POLITICS

The coverage of the South China Sea studies in China, even in the legal and political fields, is wide. This section selects several issues which have been recently, and are currently, discussed and researched in China.

⁵ A main reason that there is no other claimant for the Macclesfield Bank is that this Bank is permanently sub-merged under the water. Otherwise, Vietnam or the Philippines might have claimed it as well.

⁶ The other two factors are: military confrontation in the Korean Peninsular, and the controversial US-Japan military alliance and Taiwan's separatist activities. See Yan Xuetong, "Co-operation Key to Regional Peace" *China Daily* (27 March 1998) at 4.

A. *Sovereignty and Jurisdiction*

Any territorial and maritime dispute centers on the key question of who owns the disputed land and its surrounding seas. No exception exists in the South China Sea. As we observe, the most disputed area in the South China Sea is the Spratly Islands. In that sense, international law is indispensable to justify a country's sovereignty and jurisdiction over the disputed areas.

Traditional international law allows States to acquire territorial sovereignty through one of the five defined methods, including "accretion", "occupation", "prescription", "conquest", and "cession". However, after the World War II, the United Nations Charter prohibits the illegal use of force, thus forced cession and conquest are no longer valid methods of acquiring territorial sovereignty for a State. Chinese scholars like to cite three important cases concerning territory acquisition in international law and they are the Case of Palmas Island (between the United States and Holland) in 1924, the Case of Clipperton Island (between France and Mexico) in 1931, and the Case of Eastern Greenland (between Denmark and Norway) in 1933.⁷ These cases, in the eye of Chinese scholars, are significant in international law and also meaningful in the context of the territorial sovereignty over the South China Sea islands. It was claimed that China discovered the South China Sea islands as early as in the Han Dynasty. Such discovery is decisive for China to acquire the sovereignty over them since according to modern international law, only discovery can satisfy the conditions of territorial acquisition.⁸

On the other hand, Chinese scholars realize that it is not enough that the argument for China's sovereignty over the South China Sea islands only rests with China's discovery of these islands, as under modern international law, effective occupation is much more crucial and forceful to justify and/or defend territorial sovereignty. Attempts have been made to justify the effective occupation of ancient China over the South China Sea islands by listing Chinese activities in the sea, including economic development and operations, such as fishing, planting, house building, etc.; administrative jurisdiction; navy patrols; and astronomical surveys.⁹ However, the modern international law tends to recognize more the recent practice of effective occupation rather than earlier or ancient State practice.

In addition, a legal argument the Chinese scholars like to use is the concept of intertemporal law in international law. Intertemporal law refers to the collective response of international law to temporal disputes. Its rules and principles come from subsystems of international law such as the law of treaties and customary international law.¹⁰ In the Island of Palmas Case, Judge Huber considered that "the act creative of a right" has to be judged by the "law in force at the time the right arises".¹¹ In 1975, the Institut de droit international adopted a resolution on "the Intertemporal Problem in Public International Law" which calls on the States to apply the principle that "the temporal sphere of application of any norm of public international law shall be determined in accordance with the general principle of law by which any fact, action or situation must be assessed in the light of the rules of law that are contemporaneous with it".¹² In the context of the South China Sea islands, any rules in international law applicable to them must be those valid at the time when the rights of a State were created. This argument is favourable for China since it is the

⁷ For details, see Wang Liyu, "International Legal Norms Applicable to the Sovereignty Issue of the South China Sea Islands", in China Institute for Marine Development Strategy ed., *Selected Papers of the Workshop on the South China Sea Islands* (in Chinese), March 1992, 9-12.

⁸ *Ibid.* at 24.

⁹ *Ibid.* at 24-26.

¹⁰ For relevant account, see T.O. Elias, "The Doctrine of Intertemporal law" (1980) 74 A.J.I.L. at 285-307.

¹¹ Permanent Court of Arbitration. Sole Arbitrator: Huber. 2 R.I.A.A. 829 at 833.

¹² "The Intertemporal Problem in Public International Law", Session of Wiesbaden, 11 August 1975, available at http://www.idi-iil.org/idiE/resolutionsE/1975_wies_01_en.pdf (accessed 5 January 2006).

earliest country to have discovered these islands and conducted relevant human activities in the South China Sea.

Another argument which may not be purely legal is that of Vietnam's early recognition of China's sovereignty over the South China Sea islands. It was recorded that in the 1950s and 1960s Vietnam expressly rendered its recognition to China over several occasions. However, after 1975, Vietnam reversed its position and claimed the Paracel and Spratly Islands. The Chinese scholars criticized that such behavior is in violation of an international law principle called "estoppel" or principle of preclusion.¹³

B. *Legal Status of the U-shaped Line*

The U-shaped line is called a Chinese traditional maritime boundary line in China (hereinafter referred to as "the line") and refers to the line with nine segments off the Chinese coast on the South China Sea, as displayed in the Chinese map. Does China claim all within the line as its national territory, including the islands, underwater rocks, the seabed as well as the water columns?

The line first appeared in the map in December 1914, which was compiled by Hu Jinjie, a Chinese cartographer.¹⁴ The maps published during the 1920s and 1930s followed Hu's drawings.¹⁵ The line at that time was characterized to be the one that only included the Pratas and the Paracels. It began from the Sino-Vietnamese land boundary next to the Gulf of Tonkin, extending southeastwards along the offshore of the Vietnamese coast, then running eastwards to the west side of the Island of Luzon, then northeastwards along the east side of the Pratas, through the Taiwan Strait, and finally to meet the Chinese boundary line to the East China Sea and the Yellow Sea. The southernmost end of the demarcation was located at about 15° and 16° north latitude.¹⁶ However, no reasons were given why the line should be drawn like this, and for what purposes.

The year 1933 seems to be an important year for the modification and emphasis of the line in the Chinese maps. In July that year, France, the then protector of Vietnam, occupied nine small islands of the Spratly Islands. This action was strongly protested by China, and after that the line in the maps relating to the South China Sea extended further south to 7°-9° north latitude.¹⁷ The intention behind was clear, just to indicate that the Spratly Islands belonged to China. However, the James Shoal (Zengmu Ansha) was not included. While the line at that time on most of the maps were drawn between 7° and 9° north latitude, there was at least one atlas collection which included the James Shoal into the line, i.e. further extended to 4° north latitude. This is the *New China's Construction Atlas* edited by Bai Meichu and published in 1936. In 1935, the Committee of Examining the Water and Land Maps of the Republic of China published the names of 132 islets and reefs of the four South China Sea archipelagos. The publication had an annexed map which marked the James Shoal at the location of about 4° north latitude, 112° east longitude, though there

¹³ See Zhao Lihai, *Studies on the Law of the Sea Issues* (Beijing: Peking University Press, 1996) at 14-15.

¹⁴ The map was named as "the Chinese territorial map before the Qianglong-Jiaqing period" (AD 1736-1820) of the Qing Dynasty in his compilation—*New Geographical Atlas of the Republic of China*. See Han Zhenhua ed., *A Compilation of Historical Materials on China's South China Sea Islands* (Beijing: Oriental Press, 1988) at 355.

¹⁵ For example, "The Chinese map of boundary changes" in Tu Shichong ed., *The New Chinese Situation Atlas* (China: Published in 1927); and "The Chinese map of territorial changes" in Chen Duo ed., *China's Model Atlas* (China: Published in July 1933). Han, *ibid.* at 355-356.

¹⁶ See Zhang Haiwen, *The Legal System Applicable to the Islands in the South China Sea* (Ph.D. Dissertation (in Chinese), Peking University, 1995) [unpublished] at 43.

¹⁷ For example, Chen Duo ed., *Newly-Made Chinese Atlas* (China: Published in August 1934); Tan Lian & Chen Kaoji eds., *Civilised Geography of China* (China: Published in September 1936); Ge Shuichen ed., *Newly-Made Large Hanging Atlas* (China: Published in December 1939). See Han, *supra* note 14 at 356-359.

was no demarcation of the line on the map. It indicated that the then Chinese Government considered the southernmost territory of China at 4° north latitude.¹⁸ It is therefore clear that Bai took the above publication to be the basis for the line in his compilation.

It should be noted that all the collections of the above atlases including the line were compiled by individuals. They may, suffice to say, constitute indirect evidence to show the official position of the government. Only until 1947 after the World War II, was the line at last officially confirmed by the Chinese Government. On 1 December 1947, the Chinese Ministry of Interior renamed the islands in the South China Sea and thus formally incorporated them into the administration of the Chinese Hainan Special District.¹⁹ Meanwhile, the same ministry prepared a location map of the islands in the South China Sea, which was then first released for internal use. In February 1948, the Atlas of Administrative Areas of the Republic of China was officially published, in which the above map was included. This is the first official map with the line for the South China Sea and it has a substantial influence over the subsequent maps either published by the mainland or by Taiwan. It has two general characteristics: the southernmost end of the line was set at 4° north latitude including the James Shoal; and the eleven-segment line was drawn instead of the previous continuing line. According to the then official explanation, the basis for drawing the line was: “[t]he southernmost limit of the South China Sea territory should be at the James Shoal. This limit was followed by our governmental departments, schools and publishers before the anti-Japanese war, and it was also recorded on file in the Ministry of Interior. Accordingly it should remain unchanged”.²⁰ The explanation seems not very clear because one may query whether the explanation is referred to the line or to the southernmost territory of China, and before the Anti-Japanese War, there were a few atlases that marked the line at about 4° north latitude. The notable compilation was Bai Meichu’s edition. It is thus hard to say that southernmost limit was already consistently followed in practice. The situation remained unclear. On the other hand, the explanation did not give the reasons why the line was drawn this way. Doubts aside, the line on the map has been accepted ever since in Chinese practice.

Chinese scholars face a dilemma over defining this line in the legal and political context so as to defend China’s rights and interests in the South China Sea. The crucial question concerns the legal status of the line: is it a maritime boundary line like land border lines or a line that only indicates that the islands, not the waters, within the line belong to China? This question has been discussed on many academic occasions in China. For example, in 2002, the Hainan Research Institute for the South China Sea (now renamed as National Institute for the South China Sea Studies) held a special conference on the U-shaped line and there was a deep and thorough discussion about it. Though it is still debatable, the majority of the Chinese scholars tend to recognize that the line is the one which only defines the islands and other territories within the line.²¹ After China’s publicizing of its baselines encircling the Paracel Islands in 1996 and promulgation of the Law on the Exclusive Economic Zone and the Continental Shelf in 1998, there has been a decrease in the arguments that the line is a maritime boundary line between China and its neighboring countries. On the other hand, the Chinese Government never expressly states that this line has been abandoned as it still remains on the Chinese maps.

¹⁸ Zhang, *supra* note 16 at 46.

¹⁹ See Ministry of Interior, *An Outline of the Geography of the South China Sea Islands*, National Territory Series, 1947, fig 11, at 861; as cited in J.K.T. Chao, “South China Sea: Boundary Problems Relating to the Nansha and Hsisha Islands”, in R.D. Hill eds., *Fishing in Troubled Waters, Proceedings of an Academic Conference on Territorial Claims in the South China Sea* (Hong Kong: Centre of Asian Studies, University of Hong Kong, 1991) at 88.

²⁰ See Han, *supra* note 14 at 181-184.

²¹ For example, see Zhao Lihai, *supra* note 13 at 37-38.

C. *Debate on Historic Rights and Historic Waters*

Closely related to the U-shaped line is the debate in China on whether the waters within the line are China's historic waters. The concept of historic waters is not definitive in international law. A scholarly definition was offered by Bouchez: "Historic waters are waters over which the coastal State, contrary to the generally applicable rules of international law, clearly, effectively, continuously, and over a substantial period of time, exercises sovereign rights with the acquiescence of the community of States".²² It is not formally adopted in the recent LOS Convention. However, a variant term of historic bay and/or historic title is mentioned in the Convention relating to bays, delimitation of the territorial sea between States with opposite or adjacent coasts, and limitations and exceptions in the settlement of disputes.²³ According to O'Connell, there are three circumstances which could be considered as historic waters: (1) bays, claimed by States which are greater in extent, or less in configuration, than standard bays; (2) areas of claimed waters linked to a coast by offshore features but which are not enclosed under the standard rules; and (3) areas of claimed seas which would, but for the claim, be high seas because they are not covered by any rules specially concerned with bays or delimitation of coastal waters (*maria clausa*).²⁴ Thus, the concept is usually applicable to bays and gulfs. Once established as historic waters, then the waters in question are regarded as internal waters. There may be exceptions to this rule, i.e., some historic waters claimed by States are not bays or gulfs, but open seas, which therefore could be regarded as internal waters.

The International Law Commission of the United Nations discussed the concept of historic waters and in 1962 its report on the juridical regime of historic waters, including historic bays was released to the public. The report examined the elements of title to historic waters, the issues of burden of proof, the legal status of waters treated as historic waters, and the settlement of disputes. However, it did not give a conclusive concept of historic waters and the standard according to which this concept could be applied.²⁵ Thus the theoretical problem with regard to the concept of historic waters has yet been resolved. The Third U.N. Conference on the Law of the Sea simply dropped the issue for discussion and only left some wordings in the LOS Convention.²⁶ Generally there should be three conditions to be fulfilled to sustain a historic water claim. They are (1) the exercise of the authority over the area; (2) the continuity over time of this exercise of authority; and (3) the attitude of foreign States to the claim.²⁷

In State practice, the concept of historic waters has been established as a criterion to determine the jurisdictional waters of a coast State. According to Churchill and Lowe, there are about 20 claims in the world for historic bays.²⁸ For example, the former Soviet Union claimed the Peter the Great Bay as its "historic bay", and the length of closing line was 108 nautical miles.²⁹ It was opposed by the Western countries led by the United States.

²² Leo J. Bouchez, *The Regime of Bays in International Law* (Leyden: A.W. Sythoff, 1964) at 281.

²³ Articles 10 (6), 15, and 298 (1)(a)(i) of the LOS Convention.

²⁴ D.P. O'Connell, *The International Law of the Sea Vol 1* (Oxford: Clarendon Press, 1982) at 417.

²⁵ See "Juridical Regime of Historic Waters, Including Historic Bays" (UN Doc. A/CN.4/143) in *Yearbook of the International Law Commission 1962*, vol. 2 (New York: UN, 1989) at 6.

²⁶ Some scholars assume that there are two possible reasons for this. First, the twelve-mile territorial sea had generally been accepted by most coastal states, which made it possible to place the waters concerned under a state's sovereignty and jurisdiction. Second, the development of the legal regimes of the continental shelf, EEZ, and archipelagic waters may bring about a gradual phasing out and eventual elimination of the phenomenon of "historic" claims, See Yann-huei Song & Peter Kien-hong Yu, "China's 'Historic Waters' in the South China Sea: An Analysis from Taiwan, R.O.C." (1994) 12(4) *The American Asian Review* at 91.

²⁷ *Supra* note 25 at 13.

²⁸ R.R. Churchill & A.V. Lowe, *The Law of the Sea* (Manchester: Manchester University Press, 1983) at 37.

²⁹ As a general rule, an accepted length of the closing line is 24 nm (nautical miles).

However, China expressly recognized such claim.³⁰ The most controversial example was set by Libya who claimed the Gulf of Sidra in 1974 as its historic bay with 296 nautical miles of closing length. The claim was challenged by the Western countries as well as the former Soviet Union, and later caused a severe conflict between Libya and the United States. Tonga's claim over a rectangle of the water areas in the high seas with several groups of its islands inside as its "historic waters" since 1887 may have some analogous effect upon the line in the South China Sea.³¹ It is not clear whether Tonga's claim has ever been challenged since it is located in a relatively unnoticed area.

The issue whether the water areas within the line are Chinese historic waters has been discussed among the scholars in Taiwan. The Taiwan authorities gave the status of historic waters to the water areas within the U-shaped line in 1993 when it issued its South China Sea Policy Guidelines which stated that "the South China Sea area within the historic water limit is the maritime area under the jurisdiction of the Republic of China, in which the Republic of China possesses all rights and interests".³² However, such a claim could not get a unanimous support—even among the Taiwanese scholars. In 1993 a roundtable discussion was held at the National Chengchi University, Taipei. The participants were divided into two groups by their divergent views. One group supported the idea of historic waters and asserted that the water areas within the line were Chinese historic waters. The other group was rather cautious, taking the view that it was difficult to establish such a claim in international law.³³

Scholars in mainland China have also expressed their views upon the line. One scholar actively defended this line for his argument of historic waters,³⁴ and the other advocated claiming the waters in the South China Sea by its name.³⁵ A recent piece noted that the water within the U-shaped line was China's water of historic title, "China's special EEZ, or historic EEZ", and it should be given the same status as the EEZ prescribed in the LOS Convention.³⁶ Yet, the author did not explain why the water within the U-shaped line should be China's "historic EEZ". Perhaps he had based his arguments on Article 14 of the EEZ Law.

Generally speaking, whether a certain water area can be established as historic waters depends upon whether it can satisfy certain preconditions as described above. In the South China Sea, the line provides a basis for a claim of historic waters. However, the exercise of authority in it either by the mainland or Taiwan has been weak since the emergence of the line. Even these occasional exercises focused on the islands within the line rather than on the water areas. The freedom of navigation and freedom of fishery seem not to have been affected by these exercises. Thus a question is raised whether there is effective control over

³⁰ See *People's Daily* (in Chinese) (23 September 1957).

³¹ See O'Connell, *supra* note 24 at 418. (He seems to support Tonga's claim by saying that "History might validate the claim to the rectangle, as an exception to the law relating to the high seas, but only as broadening of the area which could be claimed under the standard rules".)

³² See Kuan-Ming Sun, "Policy of the Republic of China towards the South China Sea" (1995) 19 *Marine Policy* at 408. Partly due to the differences reflected in the above discussion and partly due to Taiwan's domestic politics, the later developments have indicated that Taiwan has retreated from its 1993 Guidelines position. This can be seen from its 1998 Law on the Territorial Sea and the Contiguous Zone in which an original provision on "historic waters" was dropped before its promulgation.

³³ For details, see "Legal Regime of China's Historic Waters in the South China Sea" (1993) 32 *Issues and Studies* (Chinese edition) at 1-12.

³⁴ Pan Shiyong, "South China Sea and the International Practice of the Historic Title" (Paper presented to the American Enterprise Institute Conference on the South China Sea, Washington, 7-9 September 1994) [unpublished] at 5.

³⁵ See Wu Fengbing, "Historical Evidence of China's Ownership of the Sovereignty over the Spratly Islands", in China Institute for Marine Development Strategy ed., *Selected Papers of the Conference on the South China Sea Islands* (Beijing: Ocean Press, 1992) (in Chinese) at 111.

³⁶ Jiao Yongke, "No Question of Re-demarcation in the South China Sea" (2000) 17(2) *Ocean Development and Management* (in Chinese) at 52.

the area within the line so as to establish it as historic waters. It may be argued that the relative frequency of the exercise of authority should be considered vis à vis other claimant countries. Yet there are still doubts how China could establish its claim of historic waters in the South China Sea.

As to historic rights, it is generally recognized that there are two types: one is exclusive with full sovereignty, such as historic waters and historic bays; and the other is non-exclusive without full sovereignty, such as historic fishing rights in the high seas. On 26 June 1998, China officially promulgated the Law on the Exclusive Economic Zone and the Continental Shelf in which Article 14 provides that “the provisions of this Law shall not affect the historic rights enjoyed by the People’s Republic of China”.³⁷ In this context, this provision seems to help the Chinese scholars end the debate on whether the waters within the U-shaped line are historic waters since China only mentions “historic rights” in its EEZ Law.

D. Energy Security and Joint Development

Recently, due to China’s rapid economic development, the demand of energy become ever high. Experts predicted that China would import more than 500 million tons of oil and over 100 billion cubic meters of natural gas in 2020 due to its rapid economic growth and demand for energy resources.³⁸ Energy security in the South China Sea has thus become a critical issue in the South China Sea studies. Oil is an essential factor in the Spratlys dispute. In the Spratly area, there are eight sedimentary basins with an area of 410,000 km², and 260,000 km² are within China’s unilaterally claimed U-shaped line. An incomplete figure from China shows that these eight sedimentary basins contain 34.97 billion tons of petroleum reserves, including the discovered 1.182 billion tons of oil and 8,000 billion m³ of gas. In addition, there is a large quantity of gas hydrate (also known as flammable ice) in the South China Sea.³⁹ Thus the South China Sea is sometimes called a second “Persian Gulf”.

Because of the disputes among the countries concerned, joint development becomes a most feasible option for them to cooperate in the exploration and exploitation of oil and gas in the South China Sea. “Joint development” refers to “an agreement between two States to develop so as to share jointly in agreed proportions by inter-State cooperation and national measures the offshore oil and gas in a designated zone of the seabed and subsoil of the continental shelf to which both or either of the participating States are entitled in international law”.⁴⁰ It contains several characteristics: (a) it is an arrangement between two countries; (b) it concerns an overlapping boundary maritime area; (c) it is a provisional arrangement pending the settlement of the boundary delimitation disputes between the countries concerned; (d) it is designed to jointly develop the mineral resources in the disputed area. In East Asia, joint development agreements include, *inter alia*, the Japan-South Korean arrangement in the Sea of Japan and the East China Sea in the 1970s, the Malaysia-Thailand joint development area in the Gulf of Thailand and the Australian-Indonesia joint development zone for the Timor Gap.

Encouraged or triggered by all these developments in East Asia, China also put forward the idea of joint development in the disputed sea areas. When Wu Bangguo, Chairman of the National People’s Congress, visited the Philippines in August 2003, he proposed to

³⁷ See *People’s Daily* (in Chinese) (30 June 1998).

³⁸ *CCH Asia China E-News Alert*, No.43, February 2004.

³⁹ See Wu Shicun and Hong Nong, “The Energy Security of China and the Oil and Gas Exploitation in the Disputed South China Sea Area”, in Myron H. Nordquist, John Norton Moore & Kuen-chen Fu eds., *Recent Developments in the Law of the Sea and China* (Leiden/Boston: Martinus Nijhoff, 2006) at 148.

⁴⁰ British Institute of International and Comparative Law, *Joint Development of Offshore Oil and Gas: A Model Agreement for States for Joint Development with Explanatory Commentary* (London: British Institute of International and Comparative Law, 1989) at 45.

his Philippine counterpart to jointly develop petroleum in the South China Sea.⁴¹ On 11 November 2003, the CNOOC and the Philippine National Oil Company agreed to jointly explore oil and gas in the South China Sea through the signing of a letter of intent between the two sides. A joint committee will be set up to help select exploring areas in the South China Sea. They also agreed to establish a programme to “review, assess and evaluate relevant geographical, geophysical and other technical data available to determine the oil and gas potential in the area”.⁴² Further developments took place when state-owned oil companies in China, the Philippines and Vietnam signed an unprecedented tripartite agreement on joint seismic surveying activities in the South China Sea on 14 March 2005. The size for cooperation is 143,000 km².⁴³ It is perceived that other ASEAN countries may join in this agreement as well.

In November 2004, the National Institute for the South China Sea Studies held a national symposium on “the South China Sea and China’s Energy Security” where participants from the academia and government departments attended and discussions were focused on three topics: China’s energy security; sea lanes security in the South China Sea; and development of oil and gas in the South China Sea.⁴⁴ As to joint development, the Institute also held a symposium in March 2002 discussing two specific themes: “joint development in the South China Sea” and “the legal status of the U-shaped line”. It is to be noted that while joint development is an old topic, sea lanes security becomes a new topic in China’s South China Sea studies. This reflects the concerns of the Chinese Government in securing the sea-borne transportation of petroleum resources, particularly from Middle East via the Malacca Straits and the South China Sea.

III. KEY INSTITUTIONS AND PUBLICATIONS

The South China Sea studies are certainly within the research interest of institutions that conduct Southeast Asian Studies. However, South China Sea studies are not regarded as a top priority in institutions which specialize in Southeast Asian studies. This section introduces some key institutions in China which have a strong interest in the South China Sea studies.

A. *National Institute for the South China Sea Studies*

Among all the institutions which are involved in the South China Sea studies, the most important and significant is the National Institute for the South China Sea Studies. It is the only institution in China that specializes in the South China Sea studies in social sciences, in particular in the legal and political fields. It is attached to Hainan Provincial Government and works under the guidance of the Chinese Foreign Ministry, and receives professional instructions from the State Oceanic Administration. Its predecessor, the Hainan Research Centre for the South China Sea was established in 1996 as a research base for South China Sea issues under the approval of the Hainan Province and the Foreign Ministry. In July 2004 the State Council approved the upgrade of the Centre to a national level institute renamed as “National Institute for the South China Sea Studies”.

⁴¹ “Wu Bangguo proposes a multiple cooperation for oil in the Spratly Islands” *Lianhe Zaobao* (1 September 2003).

⁴² “Chinese, Philippine firms join forces to look for oil in South China Sea”, Agence France Presse, 13 November 2003.

⁴³ See “China, Philippines and Vietnam sign agreement to explore oil in the South China Sea”, *Lianhe Zaobao*, 15 March 2005, available at http://www.zaobao.com/gj/yx501_150305.html (accessed 15 March 2005).

⁴⁴ The papers presented to the conference were later compiled into a book *Collected Papers of the Symposium on “the South China Sea and China’s Energy Security”* published in December 2004.

In terms of the organizational structure of the Institute, the departments include (1) **Research Department I** which focuses on the history and jurisprudence research of the South China Sea, situation and security of the South China Sea area, politics, economy, diplomacy, military, humanities and history of the neighboring countries in the South China Sea area; (2) **Research Department II** which focuses on the research of geography, geology, navigation, climate and disaster, environment and resources of the South China Sea, and its influence on the economic and social development; (3) **Liaison Department** which conducts cooperation and exchange with domestic and overseas academic institutes, organizes academic conferences, edits and publishes academic outcome, as well as, manages the library etc; and (4) **Secretariat** which is in charge of the administrative work of the institute including personnel, finance, services, etc.⁴⁵

The institute's research framework focuses on (1) the history and geography of the South China Sea; the sovereignty of the South China Sea islands; (2) the geopolitics of the South China Sea; South China Sea policies of neighbouring countries; (3) the applicability of the UN Convention on the Law of the Sea to the South China Sea area; (4) the strategic research on peaceful solution of the Spratly dispute; and (5) the resource exploitation and environmental protection of the South China Sea.⁴⁶ The current on-going research projects of the Institute include, *inter alia*, Sino-Vietnam "Two Corridor and One Circle" Economic Cooperation and Economic Development of Hainan (中越“两廊一圈”经济合作规划与海南的经济发展); Security Changes of the South China Sea Area and the Shifts of Foreign Policies of Adjacent Countries (南海地区安全变化与周边国家外交政策调整); Joint Development in the South China Sea and Relevant Maritime Boundary Delimitation (南海共同开发研究有关情况与海域划界); and Interactions between China and the Philippines on the South China Sea (中菲南沙交涉资料).⁴⁷ Since 1996, the Institute has published a number of books, papers, and research reports on the South China Sea (see Table 2). In late 2005 a quarterly journal—the *South China Sea Studies Quarterly* (南海研究) was launched, a significant academic move in the development of the South China Sea studies in China.

Apart from its regular research work, the Institute has also established its own independent academic web, and has developed an updated South China Sea Documentation Database. In June 2004 the Institute launched a mega database project "Digital South China Sea" (数字南海), which refers to a comprehensive information system on islands and ocean space of the South China Sea and the relevant historical, political and military information about the adjacent countries through VR (Virtual Reality).⁴⁸

The Institute has been making extensive domestic and overseas academic exchanges, and organizing academic symposiums on the South China Sea issue every year. In addition to conferences and symposiums within China, the Institute formulated in 2001, together with Academia Sinica in Taiwan, the "Cross-Strait South China Sea Forum" under which conferences attended by specialists from both sides have been held alternatively in Hainan or Taipei each year, discussing South China Sea issues of common concern and interest.⁴⁹ In December 2005, the Institute for the first time organized an international conference on "Maritime Security in the South China Sea" in which experts from 16 countries participated.

⁴⁵ Online: National Institute for the South China Sea Studies <<http://www.nanhai.org.cn/en/info/aboutus.asp>>. (accessed 14 December 2005).

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ The relevant information on "Digital South China Sea" was kindly provided by Ms Hong Nong, Assistant Research Fellow, National Institute for the South China Sea Studies.

⁴⁹ For relevant background information, see Yann-huei Song, "Cross-Strait Interactions on the South China Sea Issues: A Need for CBMs", *Marine Policy*, Vol.29, 2005, 265-280.

B. Other Important Institutions

Xiamen University has a very strong base for Southeast Asian studies in China and its Centre for Southeast Asian Studies has been designated by the Ministry of Education as a national base in this field. In addition to this Centre, there is another important centre, the Centre for Oceans Policy and Law, established in November 2003. The Ocean Center is part of the Xiamen University Law School and the College of Oceanography and Environment. Several experts from departments other than these two schools have also joined the Center. The Center's main tasks include (1) conducting research on various marine policies and/or legal issues pertaining to the sea, with an emphasis on policy and/or legal issues of marine environment and ocean resources preservation, utilization and management; (2) the teaching of marine policies and laws inside or outside the Xiamen University; and (3) the provision of assistance for governmental agencies, NGOs and other public or private individuals, particularly those in the Asia Pacific region, to resolve issues relating to marine policies or laws.⁵⁰ The South China Sea naturally comes within the research mandate of the Centre. In June 2004 it organized a workshop on "historic waters and archipelagic regime" specifically designed for the South China Sea studies. In March 2005, the Centre, in cooperation with the Centre of Oceans Law and Policy of Virginia University in the United States, held an international conference on "the law of the sea and China" in which there was a panel on "oil and gas development and environmental protection in the South China Sea". In addition, the Centre launched a journal, *China Oceans Law Review* (中国海洋法学评论) in 2005, which is the sole journal on the law of the sea in China.

The China Institute for Marine Development Strategy, established in November 1987, is a subordinate unit of the State Oceanic Administration. It has four research divisions, the law of the sea, marine economy, marine environmental protection and resources, and marine policy and management. Though not a specific institution for the South China Sea studies, some of its research projects touch on this sea area. For example, it has two on-going research projects on the South China Sea: "Maintaining Maritime Rights and Interests in the South China Sea" and "Attitudes of the Adjacent States to the South China Sea towards Joint Development".⁵¹ The natural advantage this institute possesses is its location in the capital city, and also that it is the secretariat site for the Chinese Society of the Law of the Sea which holds annual conferences on the law of the sea.

C. Related Literature

Publications relating to legal and political contexts of the South China Sea are scattered in various journals and books including those that focus on the Southeast Asian studies, law, particularly international law, international relations or history and geography. Some university journals (大学学报) in social sciences also occasionally publish papers addressing the South China Sea issues. However, the volume of such publications is not big and this may reflect the fact that South China Sea studies are not considered a popular study in China and there was no specific academic journal for these studies before the National Institute for the South China Sea Studies launched the *South China Sea Studies Quarterly* in 2005. There are few books and monographs in this field. Below is a list of the books published since the 1980s concerning the legal and political contexts of the South China Sea (see Table 1).

The National Institute for the South China Sea Studies has published books and collected papers in recent years (see Table 2).

⁵⁰ It is acknowledged that the relevant information is provided by Professor Kuen-chen Fu, Executive Deputy Director of the Center for Oceans Policy and Law.

⁵¹ See Online: The website of the China Institute for Marine Development Strategy <<http://www.cima.gov.cn/yanjiuchengguo.htm>> (accessed 7 January 2006).

Table 1.
Recent books on the legal and political contexts of the South China Sea

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- Li Jinming (李金明), *Spratly Dispute and International Law of the Sea* (南沙争端与国际海洋法), Ocean Press (海洋出版社), 2003
- Studies on China's South China Sea Border Areas* (中国南海疆域研究), Fujian People's Press (福建人民出版社), 1999
- Fu Kuen-chen (傅崐成), *Studies on the Legal Status of the South China Sea* (南(中国)海法律地位的研究), Taipei: 123 Information Publisher (台北: 123资讯), 1995
- Fu Kuen-chen (傅崐成) and Shui Bing-he (水秉和) eds., *China and the South China Sea Issues* (中国与南中国海问题), Taipei: Wenjintang Publisher (台北: 文津堂), 2007
- Wu Shicun (吴士存), *A Study on the South China Sea Dispute* (纵论南沙争端), Hainan Publisher (海南出版社), 2005
- Origin and Development of the Nansha Disputes* (南沙争端的由来与发展), Ocean Press (海洋出版社), 1999
- Li Guoqiang (李国强), *South China Sea: History and Reality* (南中国海: 历史与现状), Heilongjiang Education Press (黑龙江教育出版社), 2003
- Lü Yiran (吕一然) ed., *South China Sea Islands: History, Geography and Sovereignty* (南海诸岛历史、地理、主权), Heilongjiang Education Press (黑龙江教育出版社), 1992
- Han Zhenhua and Lin Jingzhi (韩振华 林金枝) eds., *Collected Historical Materials on the South China Sea Islands* (我国南海诸岛史料汇编), Dongfang Publisher (东方出版社), 1988
- Han Zhenhua (韩振华), *Collection of Essays on the History and Geography of the South China Sea Islands* (南海诸岛史地考证论集), Zhonghua Publisher (中华书局), 1981
- Xisha Islands and Nansha Islands Are Chinese Territory since Ancient Times* (西沙群岛和南沙群岛自古以来就是中国的领土), People's Publisher (人民出版社), 1981
- Study on the History and Geography of the South China Sea Islands* (南海诸岛史地研究), Social Science Documentation Publisher (社会科学文献出版社), 1996
- Pan Shiyong (潘石英), *Spratly Islands, Oil Politics and International Law* (南沙群岛·石油政治·国际法), Hong Kong (香港经济导报社), 1996
- Spratly Comprehensive Scientific Investigation Team (中国科学院南沙综合科学考察队), *Special Collections on the History and Geography of the Spratly Islands* (南沙群岛历史地理研究专集), Zhongshan University Press (中山大学出版社), 1991
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Source: prepared by the author.

Besides written literature, soft copy materials are also available in China. The most popular website is <http://www.nansha.org.cn>, which was created in May 2004. However, e-sources regarding the South China Sea in China are not well-developed due to various reasons, such as restrictions imposed by the government, or lack of sufficient website technicians and programmers. As for the website of the National Institute for the South China Sea Studies, there have been a lot of complaints about its insufficient information, slow update and other problems.

IV. CONCLUSION

The South China Sea studies in the legal and political fields have recently been fast developing and strengthened. It was reported that the Hainan Government has allocated a large piece of land for the National Institute for the South China Sea Studies to build its new headquarters.

Table 2.
Main Publications of the National Institute for the South China Sea Studies

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- Collected Conference Papers on Maritime Security in the South China Sea
(南海海上安全国际研讨会论文集), National Institute for the South China Sea Studies
(中国南海研究院), 2006
- Collected Conference Papers on the South China Sea and China's Energy Security
(南海与中国的能源安全研讨会论文集), National Institute for the South China Sea Studies
(中国南海研究院), 2005
- Study on Archipelagic Issues (群岛问题研究), National Institute for the South China Sea Studies
(中国南海研究院), 2004
- Study on Historic Rights and Historic Waters (历史性权利与历史性水域研究), National
Institute for the South China Sea Studies (中国南海研究院), 2004
- Selected Materials on Joint Development (有关共同开发的资料选编), National Institute for the
South China Sea Studies (中国南海研究院), 2004
- Collected Conference Papers on the South China Sea Resources and Cross-Strait Cooperation
(南海资源与两岸合作研讨会论文集), National Institute for the South China Sea Studies
(中国南海研究院), 2004
- Guide to the Materials on the South China Sea (南海资料索引), Hainan Publisher (海南出版社),
1998
- Collection of Documents on the South China Sea Issue (南海问题文献汇编), Hainan Publisher
(海南出版社), 2001
- Report on the Assessment of the Situation in the South China Sea Area in 2005 (2005
年南海地区形势评估报告), National Institute for the South China Sea Studies
(中国南海研究院), 2006
- Report on the Assessment of the Situation in the South China Sea Area in 2004 (2004
年南海地区形势评估报告), National Institute for the South China Sea Studies
(中国南海研究院), 2005
- Report on the Assessment of the Situation in the South China Sea Area in 2003 (2003
年南海地区形势评估报告), Hainan Research Centre for the South China Sea
(海南南海研究中心), 2003
- Report on the Assessment of the Situation in the South China Sea Area in 2002 (2002
年南海地区形势评估报告), Hainan Research Centre for the South China Sea
(海南南海研究中心), 2002
- Origin and Development of the Nansha Disputes (南沙争端的由来与发展), Ocean Press
(海洋出版社), 1999
- Collected Conference Papers on the South China Sea in 2002 (南海问题研讨会论文集 2002),
Hainan Research Centre for the South China Sea (海南南海研究中心)
- Collected Conference Papers on the South China Sea in 2001 (南海问题研讨会论文集 2001),
Hainan Research Centre for the South China Sea (海南南海研究中心)
- Jurisprudence and Practice on Joint Development in the South China Sea
(关于南海共同开发的法理与实践), Hainan Research Centre for the South China Sea
(海南南海研究中心)
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Source: adapted from http://www.nanhai.org.cn/news/news_info_more.asp?classid=7 (accessed 15 July 2007).

In that sense, the development in the South China Sea studies is remarkable in comparison with other areas of Southeast Asian studies in China.

Second, the South China Sea studies in China mainly provide services for the defence of the national interests as well as China's foreign policy. Institutes, whether associated with universities or governments, have a function of providing the government with proposals and suggestions on how to deal with South China Sea issues vis à vis other countries adjacent to the South China Sea. For example, the National Institute for the South China Sea Studies regularly provides relevant information as well as research reports for the Hainan Government and the Foreign Ministry.

Third, it is to be noted that the South China Sea studies also suffer from various constraints, at both the ideological level and the quality level. Since the studies are related to China's foreign policy and external relations, they become a sensitive field. For example, publication of the books relating to the South China Sea is subject to the approval of the relevant department of the Ministry of Foreign Affairs. Without such express approval, these books can only be published internally (内部发行) as publishers take a cautious approach to the publication to avoid any potential troubles. On the other hand, no dissenting views are allowed in the South China Sea studies, thus hampering any independent research and scholarship.

At the quality level, there are two dilemmas facing China's South China Sea studies. There are queries whether these publications, like those in the other Southeast Asian studies, reach international standards. The other is related to human resources. Since the South China Sea studies, like the other Southeast Asian studies, are not "hot" school of research, not many young graduates prefer to devote themselves to such studies. There is thus a shortage of research personnel. Although the South China Sea studies are relatively young in comparison with other areas of the Southeast Asian studies in China, they have endeavored to catch up, particularly in recent years and some of their research findings are above the level of the scholarship in the overall Southeast Asian studies in China.