Chapter 6

The Disputes over the Spratly Islands

6.1 History of Disputes

In the South China Sea, China is also embroiled in both territorial and boundary disputes with its neighbouring States. But the key question is the territorial disputes over the Spratly Islands. Without settlement of the disputes over the sovereignty of the Spratly Islands, logically, it would be impossible to delimitate the maritime area around the Spratlys. It would be much easier for the disputing States to settle their maritime boundary disputes if the sovereignty disputes would be resolved, because all the disputing States have acceded to the 1982 UNCLOS, which provides the rules for maritime delimitation. This chapter focuses on the settlement of disputes over the sovereignty of the Spratly Islands.

The sovereignty disputes over the Spratly Islands are extremely complicated and intricate. Mainland China, Taiwan, Malaysia, Vietnam, the Philippines and Brunei all make claims either in whole or in part to the small islets of the Spratly Islands and their surrounding water areas. The issue of sovereignty in the South China Sea is regarded as one of the three major factors that might trigger military conflicts in the Asia-Pacific region. The disputes over the sovereignty of the Spratly Islands could flare up into further armed conflict because of the prospect of rich oil and gas deposits around the Islands and the strategic location of the area and the limitations of the Law of the Sea and international law, which fail to provide an effective mechanism and framework for resolving the disputes.

It should be pointed out at first that both the PRC and Taiwan respectively regard themselves as the representative government of China to claim the Spratly Islands. That is to say, the claims of Mainland China and Taiwan to the Islands are all built

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1 Different countries refer to the islands by different names. Vietnam named the islands the Truong Sa Islands, China named them the Nansha Islands, and the Philippines calls some of them the Kalayaan Islands. See L. G. Gordner. 'The Spratly Island Dispute and the Law of the Sea' 25 Ocean Dev. & Int'l L. (1994), pp. 61, 64, 66.
2 The other two factors are the military confrontation in the Korean Peninsula and Taiwan's separatist activities. See X. Yan 'Co-operation Key to Regional Peace' China Daily (Beijing 27 Mar. 1998), p. 4.
up on the “one China policy.” So in this chapter, Taiwan’s claim shall not be treated separately. Actually, no competing claims exist there under the current conception of “one China.” Additionally, any recommendation to resolve the dispute over the Spratly Islands, if it were based on separating Beijing and Taiwan’s claims to the Islands, would become meaningless in practice because such a recommendation would be unacceptable to Beijing whose position in the disputes will be determinative due to its growing economy and military strength.

The Spratly Islands consist of more than 100 small islands, islets, coral reefs, sands and cays scattering over an area of nearly 410,000 sq km of the central South China Sea. There are only 11 islands, 5 sand cays and 20 reefs rising above sea level. In general, the Spratly Islands are too small and barren to support permanent human settlement independently, and few have fresh water or any significant land-based resources. The largest islet in the area, Taiping Island (also named as Itu Aba Island), at approximately 0.43 square kilometers in area is not large enough “to sustain permanent, independent settlement.” The Spratly Islands are located in the South China Sea, 900 miles south of the Chinese island of Hainan, 230 miles east of Vietnam, 120 miles west of the Philippine island of Palawan, and 150 miles northwest of the Malaysian state of Sabah.

The dispute over the Spratly Islands did not come into existence until 1933 when the French Foreign Ministry suddenly declared that France had occupied the

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5 The South China Sea is categorised as a semi-enclosed sea under the general definition set down in the 1982 UNCLOS. Hundreds of uninhabited islets, shoals, reefs, banks, sands, cays and rocks are distributed in the form of four groups of islands and underwater features, i.e. the Pratas Islands (Dongsha Islands), the Paracel Islands (Xiasha Islands), the Macclesfield Bank (Zhongsha Islands) and the Spratly Islands (Nansha Islands). See K. Zou. “The Chinese Traditional Maritime Boundary Line in the South China Sea and Its Legal Consequences for the Resolution of the Dispute over the Spratly Islands’ 14 Int’l J. Marine & Coastal L. (1999), p. 28. See also the Spratly Islands at <https://www.cia.gov/cia/publications/factbook/print/pg.html> [17 Mar. 2008].


7 See generally D. Hancox and V. Prescott. ‘A Geographical Description of the Spratly Islands and an Account of Hydrographic Surveys Amongst Those Islands’ in Maritime Briefing (International Boundaries Research Unit, special issue, 1995).
