They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.” This provision is at Japan’s disadvantage in claiming a 200-n.m. EEZ or a continental shelf for Okinotorishima. Recently, Japan has taken a series of actions to support its claim that Okinotorishima is capable of sustaining economic life of its own, which include: constructing power facilities by utilizing the difference in temperatures between warm waters near the sea surface and cold waters deep down to generate electricity, finding or developing new fishing grounds, building a light house, and breeding coral reefs and sand by various ways such as planting glauconite and foraminifera (hard-shelled microscopic organisms whose bodies become sand as they die). The possibility cannot be ruled out that Japan might learn from the experience of Malaysia in building a five-star scuba diving resort on the disputed island called Layang-Layang (Swallow Reef) in the southern part of the South China Sea and perhaps Japan may someday build a scuba diving or snorkelling sites on Northern Exposed Rock or Eastern Exposed Rock of Okinotorishima. In addition, it would also be possible for Japan to discover important seabed oil, gas, or other mineral resources, develop deepsea mineral waters, discover large pods of whales, or develop ecological tourism in the area surrounding Okinotorishima. Under such hypothetical circumstances, the legality of claiming the right to have a 200-n.m. EEZ or a continental shelf for Okinotorishima could possibly be enhanced. However, based on current situation, Okinotorishima still falls under the definition of a “rock” according to Article 121 paragraph 3 of the Law of the Sea Convention, and it is therefore unable to generate an EEZ or a continental shelf.

VIII. Conclusion

Based on the above analysis, the following conclusion can be drawn: (1) Japan’s statement that Okinotorishima is an island as defined in Article 121 Paragraph 1 of the Law of the Sea Convention is not in violation of the provision of the treaty; (2) Japan is entitled in accordance with international law to claim a 12-n.m. territorial sea and 24-n.m. contiguous zone for Okinotorishima; however, (3) Japan’s actions in drawing a 200-n.m. EEZ for Okinotorishima are not consistent with the regulations provided in Article 121 paragraph 3 of the Law of the Sea Convention. Accordingly, Japan’s arrest of the Taiwanese fishing vessel, Long Zong No. 2, at 22 degrees 30.3 minutes N, and 136 degrees 14.9 minute E, in the surrounding waters of Okinotorishima in accordance of the Japanese domestic EEZ law, was in violation of international law.
Chapter IX

Canada-U.S. International Ocean Law Relations in the North Pacific: Disputes, Agreements and Cooperation*

Ted L. McDorman

I. Introduction

Canada and the United States are geographic “salt water neighbors” in the North Pacific, with the Canadian 200 nautical mile (n.m.) zone adjacent to British Columbia “interrupting” the U.S. Pacific coast 200-n.m. zone from southern California to Alaska. As with all neighborly ocean relations, there are a wide variety of marine issues and disputes that arise between the participants. The focus of this paper is on the disputes and the cooperative ocean relationships and agreements between Canada and the United States that directly involve or arise from issues of international ocean law in the North Pacific.

II. The Context of Canada-U.S. International Ocean Law Relations

1. The Law of the Sea Convention

The 1982 United Nations Convention on the Law of the Sea1 is the foundational document of modern international ocean law and the Canada-United States ocean relationship. Referred to as the “constitution of the oceans,” the Law of the Sea Convention, amongst other things, sets out legal regimes for the 12-n.m. territorial

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