

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/333865399>

Spratly Island Dispute in the South China Sea: Potential Solutions

Article in *Journal of East Asia and International Law* · May 2019

CITATIONS

0

READS

11,574

2 authors, including:



[Md. Monjur Hasan](#)

7 PUBLICATIONS 37 CITATIONS

[SEE PROFILE](#)

Some of the authors of this publication are also working on these related projects:



Doctor of Philosophy [View project](#)



Climate Change, Marine Pollution, Renewable Energy and Blue Economy [View project](#)

Spratly Islands Dispute in the South China Sea: Potential Solutions

Md. Monjur Hasan* & He Jian**

The Spratly Islands dispute is an ongoing territorial dispute between China, Taiwan, Malaysia, the Philippines, Vietnam and Brunei, concerning territorial sovereignty over the Spratly Islands. This conflicting territorial claim between these coastal parties is raising tensions in Asia, so the settlement of this dispute is of key importance for a peaceful atmosphere in the area. The dispute is also significant in respect of being an international geo-strategic, economic, political and legal matter. After a 1988 armed conflict between Vietnamese and Chinese forces, the claimants have looked for approaches to solve the conflict peacefully through different informal endeavors, but due to the complexity of the dispute there are a number of barriers to reaching a permanent settlement. This study puts forward some potential approaches for resolving the dispute, considering its complex nature, by evaluating the six parties' competing claims and analyzing the legal soundness of their claims.

Keywords

Spratly Island, South China Sea, Territorial Dispute, Maritime Claims

* Ph.D. Fellow at the Ocean University of China School of Law. LL.B. (Honors) & LL.M. (Univ. of Rajshahi, Bangladesh). ORCID: <http://orcid.org/0000-0003-1367-6213>. This research was supported by China Scholarship Council (CSC) (Grant number 2016GXY055). Much gratitude is extended to the China Scholarship Council for offering such an opportunity to conduct this research. The author may be contacted at: monju.law10@gmail.com/Address: School of Law, Ocean University of China, 238 Songling Road, Laoshan, Qingdao 266100, Shandong, P.R China.

** Senior Fellow at The Marine Development Studies Institute of the Ocean University of China; Professor, School of Law at the Ocean University of China. Ph.D. (Xiangtan Univ., China). The author may be contacted at: hj1975xtu@126.com/Address: School of Law, Ocean University of China, 238 Songling Road, Laoshan, Qingdao 266100, Shandong, P.R China.

I. Introduction

The dispute of the Spratly Island features is a longstanding issue among the six littoral coastal parties (China, Taiwan, Vietnam, The Philippines, Malaysia and Brunei) around the South China Sea. Due to its complex nature, the dispute has been unresolved for a great many years. The Spratly features are a group of islands, islets and cays, including more than 100 reefs and sometimes classified in submerged old atolls, in the South China Sea.¹ The archipelago is located off the coasts of the Philippines, Malaysia, and southern Vietnam. It was named after British whaling captain Richard Spratly, who sighted Spratly Island in 1843.² The islands contain less than 2 km² (490 acres) of naturally occurring land, spreading over an area of more than 425,000 km² (164,000 sq mi). According to the provision of the United Nations Convention on the Law of the Sea (“UNCLOS”), only forty of the Spratly features are considered islands, while the remaining features of the archipelago are either submerged under water or are above water only during low tide.³

The Spratly features are the most important archipelagos in the South China Sea, which make their governance difficult in this part of Southeast Asia due to their location on strategic shipping routes. The islands have no indigenous inhabitants, but offer rich fishing grounds and may contain significant oil and natural gas reserves.⁴ These Island features are thus very important to the claimants in their attempts to establish international maritime boundaries in the South China Sea because sovereignty over these features will entitle the adjacent countries to an extended continental shelf. Although some of the islands have civilian settlements, most of the Spratly features are used for military purposes by China, Malaysia, the Philippines, Taiwan, and Vietnam. Brunei has only claimed an exclusive economic zone in the south eastern part of the Spratly features, Louisa Reef, which is uninhabited. No feature of the Spratly is used for military purpose by Brunei.

China, Taiwan, and Vietnam all claim the whole of the Spratly island group. The Philippines claims a number of the features that are included under its *Kalayaan*

¹ See South China Sea, between the Philippines, Borneo, Vietnam, and China, WWF, available at <https://www.worldwildlife.org/ecoregions/im0148> (last visited on Mar. 4, 2019).

² See *Malaysia's Claim in the Spratlys*, BORNEO POST (Sabah), Aug. 23, 2015, available at <https://www.pressreader.com/malaysia/the-borneo-post-sabah/20150823/281835757446751> (last visited on Mar. 4, 2019).

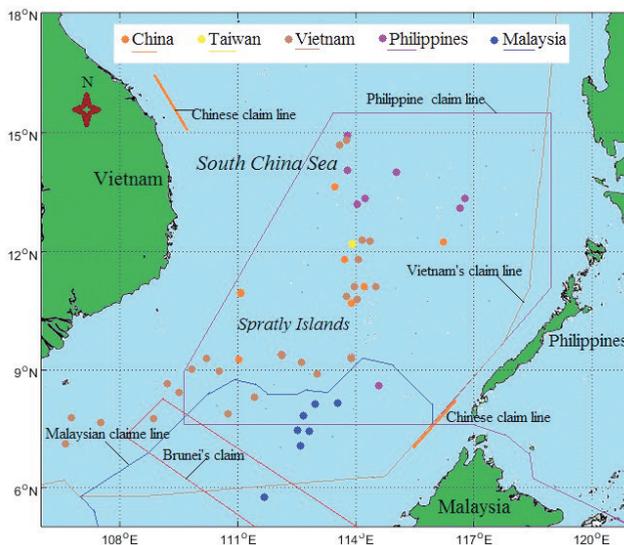
³ United Nations Convention on the Law of the Sea (Signed on 10 December 1982; entered into force on 16 November 1994).

⁴ N. Owen & C. Schofield, *Disputed South China Sea hydrocarbons in perspective*, 36 MARINE POL'Y. 809-22 (2012).

Island Group. Malaysia claims some features and Brunei claims one reef according to the UNCLOS. Over sixty of the Spratly features are occupied by claimant countries.⁵ (Figure 1) Vietnam reportedly occupies twenty-six, the Philippines occupies nine, China occupies seven, Malaysia occupies five, and Taiwan occupies one. (Annex) The contesting parties have sought the settlement of the dispute through bilateral agreement under the UNCLOS, but all efforts ended without permanent solution due to the unique complexity of the dispute.

This study suggests some potential ways for the parties to resolve the dispute in a peaceful manner, through evaluating their competing claims. This paper is composed of six parts including Introduction and Conclusion. Part two will discuss strategic importance of the Spratly Island dispute. Part three will examine disputed claims over Spratly Archipelagos. Part four will check justifications of the conflicting claims of the parties. Part five will explore potential means of dispute resolution.

Figure 1: Occupation of Spratly Archipelagos⁶



⁵ J. Burgess, *Territorial Claims in South China Sea*, N.Y. TIMES, May 30, 2012, available at http://www.nytimes.com/interactive/2012/05/31/world/asia/Territorial-Claims-in-South-China-Sea.html?_r=0 (last visited on Mar. 4, 2019).

⁶ Compiled by the author under the auspices of oceanographer referring to J. Burgess, *Territorial Claims in South China Sea*, N.Y. TIMES, May 30, 2012, available at http://www.nytimes.com/interactive/2012/05/31/world/asia/Territorial-Claims-in-South-China-Sea.html?_r=0 (last visited on Mar. 4, 2019).

II. Strategic Importance of the Spratly Islands Dispute

The Spratly Islands dispute can be considered from a different point of view. In respect of national security, these islands are important due to their location in the South China Sea, where many merchant ships pass through to deliver goods, people, and energy products to Asian-Pacific countries.⁷ As Spratly Island is located in one of the busiest shipping itineraries in the world, control over these island features entails control over trade in this area. It is estimated that around 25 percent of the world's crude oil passes through the South China Sea.⁸

In terms of energy security, the Spratly Islands are considered indispensable to countries in the region due to the potential sources of natural gas and oil found under the islands' seabed. The estimates are based on the mineral wealth of neighboring areas. The Chinese estimate that the Spratly area holds oil and natural gas reserves of 17.7 billion tons, currently considered the largest reserve in the world.⁹ The winning party of the conflict would thus have the freedom to investigate and build up these assets for their own use. This would help enhance its vitality portfolio while making it less powerless against outside oil and gas markets. The measure of recoverable oil and gas that these islands contain, however, has not yet been completely demonstrated.¹⁰ Sovereignty over these islands is also a matter of pride, because the islands are of particular importance in respect of historical claims by the disputed sides. Although these parties have a long sea-faring history, it has been difficult to say which country first inhabited or used these islands.

The claim over these islands does not only have a territorial aspect, but also security competition between the US and China in this region. Today, China may not measure up to the US as regards world military reach, but the US would never be unchallenged in Asia. Although the US does not have a substantial claim in this dispute, it is generally concerned about maintaining global hegemony all over the world. Its interests therefore do not merely lie in dispute resolution, but keen to maintaining the balance of power in the region. The Spratly dispute is therefore not merely limited to territorial claims, but it also involves considerable geo-strategic,

⁷ D. Ngo, *The Spratly Islands Dispute: Why is this important?*, Energy in Asia, Oct. 13, 2011, available at <https://energyinasiablog.com/2011/10/the-spratly-islands-dispute-defining-sea-lane-security> (last visited on Mar. 4, 2019).

⁸ J. Aliyas, *What is the strategic significance of the Spratly Islands?*, Quora, Oct. 28, 2015, available at <https://www.quora.com/What-is-the-strategic-significance-of-the-Spratly-Islands> (last visited on Mar. 4, 2019).

⁹ See ICE case studies, available at <https://mandalaprojects.com/ice/ice-cases/spratly.htm> (last visited on Mar. 4, 2019).

¹⁰ Ngo, *supra* note 7.

economic, political and legal challenges.¹¹ Although most of the features of the Spratly archipelago are unproductive, uninhabitable and hold few land resources, it is strategically, politically and economically important due to its legal status, through which the disputed parties can claim jurisdiction over water and resources in the South China Sea under international law.¹²

The Spratly archipelago also has importance in respect of global maritime and military navigation. No global maritime power can overlook the South China Sea because all maritime traffic passes through it, specifically through this archipelago.¹³ To the south-west, the South China Sea connects with the Indian Ocean through the Straits of Malacca and Singapore. To the north-east, it connects to the East China Sea, which in turn connects to Japan and Korea.¹⁴

III. Disputed Claims over Spratly Archipelagos

The six claims can be looked at from two different angles. China, Taiwan and Vietnam support their respective claims based on occupation and historic rights over the Spratly archipelago. The Philippines, Malaysia and Brunei base their respective claims on geographic proximity provisions under the UNCLOS. China, Taiwan and Vietnam claim the whole archipelago, while the Philippines, Malaysia and Brunei only claim certain islands or features in the archipelago.¹⁵ (Figure 2) The multilateral conflicting territorial claim over these features makes it one of the most complex maritime disputes in the world.¹⁶

¹¹ L. Cordner, *The Spratly Islands Dispute and the Law of the Sea*, 25 OCEAN DEV. & INT'L L. 69 (1994).

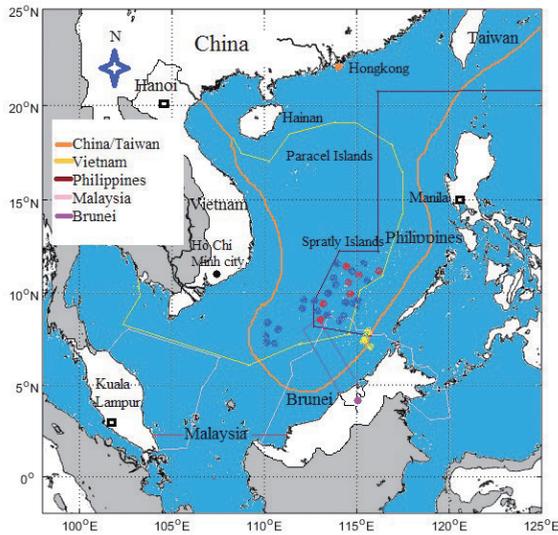
¹² C. Joyner, *The Spratly Islands Dispute: Rethinking the Interplay of Law, Diplomacy, and Geo-politics in the South China Sea*, 13 INT'L J. MARINE & COASTAL L. 197 (1998).

¹³ M. CHEMILLIER-GENDREAU, SOVEREIGNTY OVER THE PARACEL AND SPRATLY ISLANDS 264 (2000).

¹⁴ *Id.*

¹⁵ Burgess, *supra* note 5.

¹⁶ See Challenging Beijing in the South China Sea, VOA, July 31, 2012, available at <https://blogs.voanews.com/state-department-news/2012/07/31/challenging-beijing-in-the-south-china-sea> (last visited on Mar. 5, 2019).

Figure 2: Overlapping claim on Spratly features¹⁷

A. China

China claims ownership over Spratly Island on the basis of historical sovereignty and occupation in the South China Sea.¹⁸ Beijing claimed it during the Xia and Han dynasties, the Chinese were the first to discover and name islands in the South China Sea about 2000 years ago, and have held continued sovereign powers over them. Chinese maps, texts and reports of commercial and naval activity in the area from ancient time¹⁹ refer to China as the first to discover and occupy these islands and its surrounding area.²⁰ China also asserts that the Spratly Islands had been *terra nullius* before their discovery and occupation of the archipelago.²¹ China called Spratly Island *Nansha* Island.

China's claims are also represented by a so-called nine-dash line²² that was drawn

¹⁷ Compiled by the author under the auspices of oceanographer. For details, see *id.*

¹⁸ D. Dzurek, *The Spratly Islands Dispute: Who's On First?*, 2 MARITIME BRIEFING (International Boundaries Research Unit) 7 (1996), available at <https://www.dur.ac.uk/ibru/publications/view/?id=232> (last visited on Mar. 5, 2019).

¹⁹ X. Furtado, *International Law and the Dispute over the Spratly Islands: Whiter UNCLOS?*, 21 CONTEMP. S.E. ASIA 389 (1999), available at https://www.jstor.org/stable/25798466?seq=1#page_scan_tab_contents (last visited on Mar. 5, 2019).

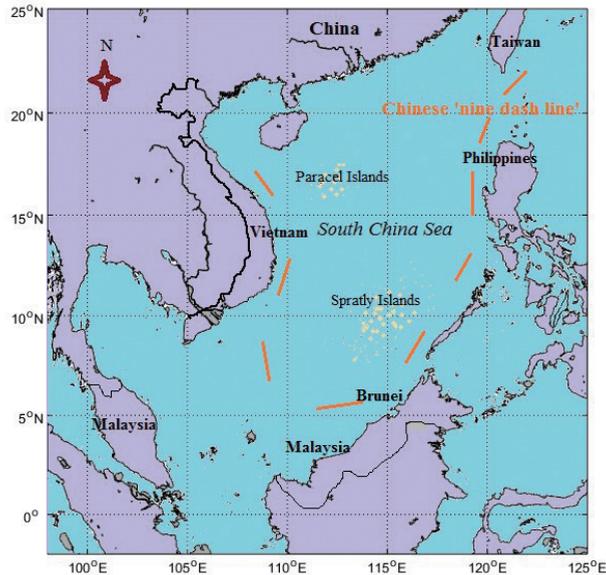
²⁰ *Id.*

²¹ Cordner, *supra* note 11, at 62.

²² W. Lohman, *Clarity and instability in the South China Sea*, GiS, Aug. 22, 2016, available at <https://www.gisreportsonline.com/clarity-and-instability-in-the-south-china-sea,defense,1958.html> (last visited on Mar. 5, 2019).

in an official Chinese map in 1947 after Japan's defeat in the Second World War and the withdrawal of Japanese troops from islands in the South China Sea. (Figure 3) The nine-dash demarcation line extends China's territory in the South China Sea hundreds of miles south and east from its southern most Hainan Province, and close to the shorelines of the Philippines, Vietnam, Brunei and Malaysia.²³

Figure 3: China's Nine-dash Line in the South China Sea²⁴



China incorporated the Spratly archipelago into Guangdong province between 1946 and 1947, publishing official names of the islands and features. China has since included the Spratly archipelago in the province of Hainan, which was established in July 1987.²⁵ Of the more than 200 hundred maritime features in the *Nansha/Spratly* Islands, China currently occupies seven (Annex).

²³ See What China, Philippines, Vietnam and others say about South China Sea arbitration, GB TIMES, May 26, 2016, available at <https://gbtimes.com/what-china-philippines-vietnam-and-others-say-about-south-china-sea-arbitration> (last visited on Mar. 5, 2019).

²⁴ Compiled by the author under the auspices of oceanographer. For details, see Lohman, *supra* note 22.

²⁵ Dzurek, *supra* note 18, at 18.

B. Taiwan

Taiwan's claim is almost the same as that of China, based on historical discovery and occupation. China and Taiwan have both claimed the Spratly archipelago, with other islands in the South China Sea, as their territory since ancient times. The islands in the South China Sea are seen as undividable from China, known collectively as the "Tongue of the Dragon."²⁶ Since 1949, both sides have attempted to occupy the archipelago separately.

Taiwan makes an effort to legalize its claim over the Spratly features through physical presence and ensuring effective control and authority in these island areas.²⁷ After the end of World War II, Taiwan took possession of the largest Itu Aba island by deploying troops there.²⁸ (Annex) In 1948, Taiwanese forces were withdrawn due to the Chinese civil war, but were redeployed in 1956 after the 1952 San Francisco Peace Conference between the then Republic of China and Japan, which was negotiated by Taiwan in the absence of the People's Republic of China in the conference.²⁹ Since no Chinese delegation participated in the 1951 San Francisco Treaty and the United States and its allies could not agree on which government represented China, Taiwan (The then Republic of China) negotiated a separate peace treaty with Japan. Through this treaty, Japan renounced all right, title, and claim to Taiwan (Formosa) and Penghu (the Pescadores), as well as the Spratly Islands and the Paracel Islands.³⁰

C. Vietnam

Vietnam declared its sovereignty claim to the South China Sea islands for the first time by publishing a White Paper circulated by the Ministry of Foreign Affairs in 1974. Like China and Taiwan, Vietnam claims sovereignty over all of the Spratly archipelagoes based on historical evidence, economic development, effective administration, and international recognition, as well as colonial inheritance from France.³¹ Through the white papers, Vietnam declared and supported its historical claims by including maps and records of activities in the Spratly islands and features

²⁶ Burgess, *supra* note 5.

²⁷ Furtado, *supra* note 19, at 390.

²⁸ Dzurek, *supra* note 18, at 15-16.

²⁹ *Id.*

³⁰ Treaty of Peace between the Republic of China and Japan (Signed on 28 April 1952; entered into force on 5 August 1952).

³¹ R. Pedrozo, *China versus Vietnam: An Analysis of the Competing Claims in the South China Sea*, A CNA Occasional Paper (Aug. 2014), available at https://www.cna.org/cna_files/pdf/iop-2014-u-008433.pdf (last visited on Mar. 6, 2019).

dating back to the 17th century.³² It claims that Vietnamese emperors administered the archipelago since the Nguyen dynasty in the 17th-19th centuries.³³ In the 1975 white paper, Vietnam affirmed its sovereignty over the Hoang Sa (Paracel Islands) and Truong Sa (Spratly Islands) archipelagos, emphasizing that Vietnam [fulfils] all the conditions required by international law to prove its claim to possession of these islands.³⁴ The Vietnamese gradually consolidated their rights over the Hoang Sa Islands throughout the course of history. The Truong Sa Islands, known and exploited by Vietnamese fishermen and laborers for many centuries, were formally incorporated into Vietnamese territory by France on behalf of Vietnam.³⁵

Vietnam also claims, due to the Chinese invasion, it lost the effective administration of the archipelago which it had gained during independence from France.³⁶ It also claims the right of cession from a French claim to the archipelago which dates back to 1933.³⁷ Vietnam secured its claim by occupying thirteen islands of the Spratly features between 1973 and 1975. In 1989, Vietnam occupied three more features and has since taken more features,³⁸ deployed troops on several Spratly formations and incorporated the Spratly archipelago into Vietnamese territory in their official maps.³⁹ Vietnam currently occupies the largest number (26) of Spratly features in the South China Sea. (Annex)

D. The Philippines

The Philippines' official position regarding its claims to the Spratly Islands has been declared on the basis of discovery and subsequent annexation, as well as geographic proximity. The Philippines raised its claim based on *res nullius*, as there was no effective sovereignty of any state over the islands until the 1930s when France and then Japan possessed the islands. According to the San Francisco Treaty, no states would have the right to the islands after Japan's renouncement.⁴⁰ The Philippines

³² Joyner, *supra* note 12, at 60.

³³ Dzurek, *supra* note 18, at 8.

³⁴ White Paper on the Hoang Sa (Paracel) and Truong Sa (Spratly) Islands, Republic of Vietnam Ministry of Foreign Affairs, Saigon, 1975, at 1, available at http://nghiencuubiendong.vn/download/doc_download/132-white-paper-on-the-hoang-sa-paracel-and-truong-sa-spratly-islands-part-1 (last visited on Mar. 6, 2019).

³⁵ Hong Thao Nguyen, *Vietnam's Position on the Sovereignty over the Paracels & the Spratlys: Its Maritime Claims*, 5 J. EAST ASIA & INT'L L. 165-84 (2012).

³⁶ Furtado, *supra* note 19, at 391.

³⁷ Joyner, *supra* note 12, at 61.

³⁸ *Id.*

³⁹ Dzurek, *supra* note 18, at 8.

⁴⁰ The San Francisco Treaty (Treaty of Peace 1951), art. 2, available at <https://www.documentcloud.org/documents/>

claims that these islands thus became *res nullius* and available for annexation.⁴¹

Tomas Cloma, a Philippine citizen, claimed the discovery of a group of islands in the South China Sea, declaring a new island state called ‘*Kalayaan*,’ or Freedom Land, in 1956.⁴² Before the “Deed of Assignment and Waiver of Rights” which was signed in order to transfer the ownership of the islands to the Philippine government, Cloma continued to claim these islands until 1974. When Cloma claimed the islands no state had sovereign control over the Islands; he finally acquired ownership of the islands under international law.⁴³ In 1968, the Philippines occupied eight of the islands claimed by Cloma due to threats of occupation by other countries. In 1971, Vietnamese troops on Itu Aba fired upon a Philippine fishing vessel.⁴⁴ In response to this incident, the Philippine government lodged official protests against Vietnam and moved to lay official claims to the islands. In 1978, the then Philippine President Ferdinand Marcos issued Decree 1596⁴⁵ and annexed the islands by incorporating them into the Palawan province. The Philippines also argue that the *Kalayaan* group of islands falls within its legitimate 200nm Exclusive Economic Zone (“EEZ”) under Articles 55-75 of the UNCLOS. The Philippines currently occupies nine features of the Spratly archipelago. (Annex)

E. Malaysia

Malaysia first claimed their rights over the Spratly Islands by publishing an official map showing the country’s continental shelf and EEZ extending into the southernmost part of the Spratly archipelago in 1979.⁴⁶ Malaysia’s claims are based on geographic proximity, specifically the continental shelf provisions (Articles 76-85) of the UNCLOS. Malaysia emphasizes that the island features were *terra nullius* before its claim. Malaysia claimed sovereign control over all the islands and features within

1338718-san-francisco-peace-treaty-1951.html (last visited on Mar. 7, 2019).

⁴¹ Territorial Dispute in the West Philippine Sea Flashcards Preview, BRAINSCAPE, available at <https://www.brainscape.com/flashcards/territorial-disputes-in-the-west-philippi-5771983/packs/8786809> (last visited on Mar. 7, 2019).

⁴² B. Murphy, *Dangerous Ground: The Spratly Islands and International Law*, 1 Ocean & Coastal L.J. 193 (1994), available at <http://digitalcommons.maine.edu/oelj/vol1/iss2/3> (last visited on Mar. 7, 2019).

⁴³ Tiglao, *The Spratlys: Marcos’ legacy, or curse?*, PHIL. DAILY INQUIRER, June 22, 2011, available at <https://attylulao.com/2011/06/23/historical-bits-on-the-spartlys/> (last visited on Mar. 7, 2019).

⁴⁴ Joyner, *supra* note 12, at 62.

⁴⁵ Tiglao, *supra* note 36.

⁴⁶ J. Roach, *Malaysia and Brunei: An Analysis of their Claims in the South China Sea*, A CNA Occasional Paper, Aug. 2014, available at https://www.cna.org/cna_files/pdf/IOP-2014-U-008434.pdf (last visited on Mar. 7, 2019).

its continental shelf under the UNCLOS.⁴⁷ In 1984, Malaysia enacted an Exclusive Economic Zone Act, including the features of Spratly Islands within its EEZ, which is the latest claimant to the archipelago. Claiming its sovereignty over twelve islands, Malaysia deployed troops to Swallow Reef in 1977 and has since stationed more on some of the features.⁴⁸

F. Brunei

Brunei, like Malaysia, claims the features of Spratly Island on the basis of geographic proximity and provisions under the UNCLOS. Brunei asserts its claim only over Louisa Reef which is a naturally submerged formation in the archipelago. Its claim is only to establish maritime jurisdiction under the UNCLOS provision around the Louisa Reef, rather than contesting sovereignty over it or any other Spratly features.⁴⁹ Brunei claims the exclusive right to exploit the resources of the reef on the continental shelf under the UNCLOS.⁵⁰ Its claim is legally subject to an extension of its continental shelf, which originated from the continental shelf delimitation first established by the United Kingdom in 1954. Although there have been a series of negotiations, Malaysia and Brunei continue to have incompatible delimitations between their adjacent maritime boundaries around Louisa Reef.⁵¹ Brunei is one of the most recent claimants. It is the only claimant without a military or physical presence in the Spratly archipelago.

IV. Justifications of the Conflicting Claims of the Parties

The ancient records of China do not show convincing evidence of continuous occupation or sovereign control over the Spratly archipelago.⁵² China's claim of sovereignty over the whole Spratly archipelago is vague and incomplete, because they frequently changed the name of the island. In 1934, China began to use the name 'Nansha Islands' to identify the Spratly archipelago. China's claim of historical

⁴⁷ *Id.*

⁴⁸ Joyner, *supra* note 12, at 63.

⁴⁹ Dzurek, *supra* note 18, at 20.

⁵⁰ G. Sands, *Brunei, Silent Claimant in the South China Sea*, Foreign Policy Association, Apr. 28, 2016, available at <https://foreignpolicyblogs.com/2016/04/28/brunei-silent-claimant-south-china-sea> (last visited on Mar. 7, 2019).

⁵¹ Roach, *supra* note 46.

⁵² Cordner, *supra* note 11, at 65.

discovery is not well supported by international law because mere discovery of an archipelago does not allow immediate sovereignty unless it is substantiated by “continuous acts of occupations.”⁵³ China issued legal declarations in 1958 and 1992 in order to support their ancient and historic sovereignty over the Spratly features and each time protest the activities of other states in the area. China’s effective control over some features of Spratly Island is only evident from 1988 onwards.⁵⁴ Although China satisfied the concept of effective control over some of the islands from 1988, this does not mean that it has possession and sovereignty over the majority of the islands or features of the Spratly island group. Its so-called Nine-dash line is also against the general principles of international law. China’s claim to the whole archipelago emerges from an affirmation of historical sovereignty which is legally weak and incomplete.

Taiwan controlled and administered *Itu Aba*, the largest island in the archipelago since 1956 effectively.⁵⁵ Its claim over *Itu Aba* island may be justified under international law but it does not extend to other islands occupied by other states. Taiwan’s claim to the whole archipelago is also inconsistent with the general principle of international law such like China’s one.

Vietnam has also tried to establish its claim, showing the disputed island in their ancient maps based on historic occupation. However, most of the ancient maps and records refer specifically to the Paracel archipelago, without the reference to the Spratly islands features; even the authenticity and accuracy of these documents are dubious.⁵⁶ In addition, international law does not usually support mere historical claims without evident occupation and permanent settlement over territory in the oceans.⁵⁷ The right of Vietnam after cession from the French is not supported either because France itself was not entitled to a legitimate claim over the archipelago. Actually, France did not have colonial control, a lawful title or a claim to the Spratly archipelago.⁵⁸ Vietnam has controlled the largest number of islands compared to any other occupiers of the Spratly archipelago since 1973. (Annex) As in the cases of China and Taiwan, Vietnam’s claim does not extend to all the Spratly features.

Vietnam may have a strong continental shelf claim to the western part of the Spratly archipelago. The continental shelf extending from the south and east part

⁵³ Joyner, *supra* note 12, at 59.

⁵⁴ Cordner, *supra* note 11, at 69.

⁵⁵ Cheng-yi Lin, *Taiwan’s Spratly Initiative in the South China Sea*, Association for Asian Research, Jan. 4, 2008, available at <http://www.asianresearch.org/articles/3120.html> (last visited on Mar. 7, 2019).

⁵⁶ Dzurek, *supra* note 18, at 8.

⁵⁷ Joyner, *supra* note 12, at 61.

⁵⁸ Furtado, *supra* note 19, at 391-2.

of the Mekong delta is relatively shallow. As prescribed at Article 76(1) of the UNCLOS, therefore, the area seems to be a natural prolongation of the land territory. A continental shelf that extends to 350nm could be justified under Article 76(5) of the UNCLOS.⁵⁹

The Philippines' claim over Spratly archipelago was based on *terra nullius* and more specifically over the *Kalayaan* group of islands, which was not part of, or under, the control of any other parties.⁶⁰ Cloma obtained sovereignty over these island features through discovery, although this claim was weak in nature under international law. No government recognized the legality of Cloma's new state and international law places little value on the independent movements of individuals. China, Vietnam and Taiwan refused the *terra nullius* status of the Spratly archipelago based on the authority of each party. The Philippines has also sustained and continuously occupied the *Kalayaan* group since 1971 and effectively administered it since 1978, announcing it as a part of its *Palawan* province. As per Article 48 of the UNCLOS, the *Kalayaan* group falls within the Philippines legitimate EEZ, but other parties question this interpretation because the UNCLOS arrangements with respect to EEZ apply only to areas or zones that have previously been a part of the high seas. China, Taiwan and Vietnam have consistently contended that these islands were not a part of the high seas and were a part of their sovereign control.⁶¹

Malaysia's continental shelf claims under the UNCLOS may be legitimate, but this provision only allows states with established sovereignty over islands to control living and non-living resources within its continental shelves, and it has no provisions for granting sovereignty over islands within the continental shelves if these islands already fall within the jurisdiction of another state.⁶² According to Article 76(3) of the UNCLOS, a continental shelf is the submerged prolongation of the land mass of the coastal state which consists of the sea-bed and subsoil of the shelf, the slope and the rise.⁶³ Although Malaysia has used this provision to claim the Spratly features, there are no arrangements in the UNCLOS that refer to islands, rocks or other features of the continental shelf rising above sea-level. Malaysia's claim to have acquired sovereignty over island shapes in this respect is therefore not maintained by the UNCLOS. Malaysia has effectively controlled one feature of Spratly islands since 1983, and two others since 1986. Only Swallow Reef, which is one of the features

⁵⁹ UNCLOS, art. 76(5).

⁶⁰ Furtado, *supra* note 19, at 392.

⁶¹ *Id.*

⁶² Joyner, *supra* note 12, at 63.

⁶³ UNCLOS, art. 76(3).

under its control, is also claimed as an island. The two other features are claimed as “low tide elevations” but are beyond the territorial sea of the mainland. Under Article 13 of the UNCLOS, this cannot form the basis for an extension of the territorial sea.⁶⁴ Swallow Reef seems to satisfy the “Regime of Islands” under Article 121 of the UNCLOS.⁶⁵ Although the military garrisons reinforce Malaysia’s claims of effective control, it cannot legitimate ‘permanent occupation’ in the Spratly features because it is the most recent country to occupy features in the Spratly group.⁶⁶ Of course, Malaysia does not claim an extension of the continental shelf or EEZ based on this feature. Amboyna Cay, the other feature for which Malaysia claims a 12nm territorial sea, raises questions of the effective control between Vietnam and Malaysia because the Vietnamese garrison was established on the feature several years earlier than Malaysia’s claims and continues to be there.

Similar to Malaysia’s claim over the Spratly features, Brunei claims Louisa Reef which is naturally submerged, but falls within its legitimate continental shelf under the UNCLOS. A natural prolongation seaward from the coastal territory of Brunei would fall within its maritime jurisdiction under the UNCLOS.⁶⁷ Brunei has strong legal claim over Louisa, but the settlement of Louisa Reef dispute suffers from practical limitations.⁶⁸ It is not necessary for Brunei to establish continuous and effective control over Louisa Reef because permanent occupation is impossible in submerged formations. Although Brunei has a legitimate claim to Louisa Reef, Malaysia has been in control of Louisa Reef since 1984 (Annex), which demonstrates their conflicting claim over Louisa Reef. When Brunei has expressed readiness to call upon the principles of the UNCLOS⁶⁹ to carry out the unsuccessful bilateral negotiations with the International Court of Justice (“ICJ”) to bring a permanent solution to Malaysia and Brunei’s disputes, the multilateral nature of this dispute made this solution impractical.⁷⁰

In a nutshell, no claim of any party is fully justified by *ex aequo et bono* and general principles of international law in respect of all the Spratly islands features, although there is considerable basis for each conflicting claim. Consequently, the sovereignty claim over whole Spratly archipelago by its littoral parties is neither fully legitimate,

⁶⁴ *Id.* art. 13

⁶⁵ *Id.* art. 121.

⁶⁶ Cordner, *supra* note 11, at 70.

⁶⁷ UNCLOS, art. 76.

⁶⁸ A. Vuving, *South China Sea: Who Occupies What in the Spratlys*, DIPLOMAT, May 6, 2016, available at <https://thediplomat.com/2016/05/south-china-sea-who-claims-what-in-the-spratlys> (last visited on Mar. 8, 2019).

⁶⁹ UNCLOS, art. 83.

⁷⁰ Cordner, *supra* note 11, at 68.

nor illegitimate. This dispute is thus characterized as unique, which makes it multifarious in nature. In this regard, the disputing parties should be more active in handling the dispute and exploring possible methods to resolve their dispute within the earliest possible time.

V. Potential Means of Dispute Resolution

The historical claims of China, Taiwan and Vietnam are not completely unsound under contemporary international law, because of their maps, records and antiquated evidence of control at some point in time, or over some part of the geography of the Spratly feature. On the other hand, the Philippines, Malaysia and Brunei depend heavily on the UNCLOS provisions to ascertain their claims, which has also substantial basis. These contradictory claims have made this dispute unique and complicated. Because the UNCLOS does not have clear guidelines about how to resolve these conflicting claims, each party would selectively invoke the provisions of the Convention to move its claim forward, which makes the situation more complicated. This is thus not an easy task to solve the dispute based on the UNCLOS. The disputing parties should continue their bilateral talks until they arrive at a unanimous procedure to be used in resolving their longstanding dispute. In this connection, the authors have tried to present the underlying potential methods to settle the Spratly islands disputes.

A. Multilateral Diplomatic Initiatives

Except Taiwan, rest of the parties to the Spratly dispute are the UN members and thus *de facto* members of the ICJ. They can bring the Spratly island dispute before the ICJ, but it is dependent on the consent of the parties.⁷¹ Due to the complexity of the claims and the number of countries involved, it is not an easy undertaking for the parties to reach a unanimous agreement to accept the jurisdiction of the ICJ in order to resolve their dispute through it. As the litigation procedure of the ICJ is well established and rigid, it takes a long time to resolve any international dispute in the Court. China is also capable of denying or blocking any decision declared by the ICJ, contrary to its desire, through using its veto power as one of the permanent members of the Security Council. The same problems arise with the International Tribunal for

⁷¹ I.C.J. Statute art. 36.

the Law of the Sea (ITLOS). Arbitration is a default procedure under the UNCLOS for dispute settlement, which is less formal, less rigid and more expeditious than any other means of settlement.⁷² However, it has also limited potential to resolve the Spratly dispute due to its complexity. *Arbitration of South China Sea* between the Philippines and China has already failed to resolve the dispute because China refused to consent to the arbitration.⁷³ Even if China participated in arbitration, accepting its jurisdiction, the bilateral resolution would not solve the multilateral dispute over the Spratly archipelago. None of the means of settlement prescribed in Article 287 of the UNCLOS are likely to resolve this complex dispute.

In 2002, the Association of South East Asian Nations (“ASEAN”) and China signed a declaration of conduct in the South China Sea and committed to exploring efforts to resolve their territorial and jurisdictional disputes by peaceful means.⁷⁴ This declaration would oblige them to resolve their dispute peacefully through friendly consultations and negotiations under Article 33 (1) of the UN Charter.⁷⁵ Multilateral diplomatic initiatives under such a declaration may be one of the potential means to resolve the Spratly islands dispute. The disputing parties can explore a common method of settlement through continuous diplomatic negotiation.

B. International Joint Commission Approach

The creation of an International Joint Commission through the participation of an equal number of representatives from each disputed party may be one important means to settle Spratly dispute. The creation of the commission will institutionalize the negotiation process through continuous supervision because the Spratly dispute situation is continuously problematic. This commission may be given the responsibility to deal with the disputed issues and explore the settlement method for an indefinite period of time, independently.

In 1909, the US and Canada created a joint commission to deal with a large number of issues concerning industrial development, air pollution and boundary waters because they recognized that each country was affected by the other’s actions

⁷² UNCLOS art. 287 & Annex VII.

⁷³ South China Sea Arbitration (Phil. v. P.R.C.) (Perm. Ct. Arb. 2016), available at <https://pca-cpa.org/en/news/pca-press-release-the-south-china-sea-arbitration-the-republic-of-the-philippines-v-the-peoples-republic-of-china> (last visited on Mar. 8, 2019).

⁷⁴ ASEAN, Declaration on the Conduct of Parties in the South China Sea, available at <http://www.asean.org/asean/externalrelations/china/item/declaration-on-the-conduct-of-parties-in-the-south-china-sea> (last visited on Mar. 8, 2019).

⁷⁵ *Id.* art. 4.

in lake and river systems along the border.⁷⁶ The two countries cooperate to manage these waters and to protect them for the benefit of today's citizens and future generations. This commission was established as a six-member quasi-judicial body to find a permanent mechanism to resolve the problem along the Canada-US border, with equal treatment for both sides, appointing three commissioners each.⁷⁷ It has become a globally perceived effective structure to manage changing bilateral issues as well as a creative model for dispute resolution. This commission was fruitful due to its unprejudiced nature and authenticity on the grounds that its members were the same in number from every state.⁷⁸

The joint commission between Canada and US may be an example for use within the Spratly dispute. The participation of equal members from each of the six claimants means that an international joint commission may be created to seek a unanimously accepted method of settlement. Settlement through a joint commission has more advantages than simple arbitration, because contentious questions of sovereignty can be decided all at once. The decisions made by an independent regional commission that equally represents all the disputing parties, may have more legitimacy and weight than an international arbitration. In the case of Spratly Island, however, the main challenge may be the creation of a joint commission with the participation of six claimants, because sovereignty over the whole Spratly archipelago is not claimed by all parties. It is also challenging to reach a unanimous consensus by a number of representatives of the six countries. In this respect, all the parties to the dispute should be active and sincere to bring their dispute in a settlement process.

C. Mutual Development Scheme

A mutual development scheme may be an effective means of resolution of the Spratly dispute, by declaring the South China Sea a semi-enclosed sea. Article 123 of the UNCLOS supports coastal states in a "semi-enclosed sea" to cooperate in the coordination of resource management, environmental preservation and scientific research.⁷⁹ The disputing parties may leave their sovereignty claims and declare it a "semi-enclosed sea" in order to mutually benefit through the joint exploitation of resources.

The Timor Gap Treaty between Australia and Indonesia may be the best example

⁷⁶ L. David, International Joint Commission and Changing Canada-United States Boundary Relations, 33 *NATURAL RESOURCES J.* 65-6 (1993).

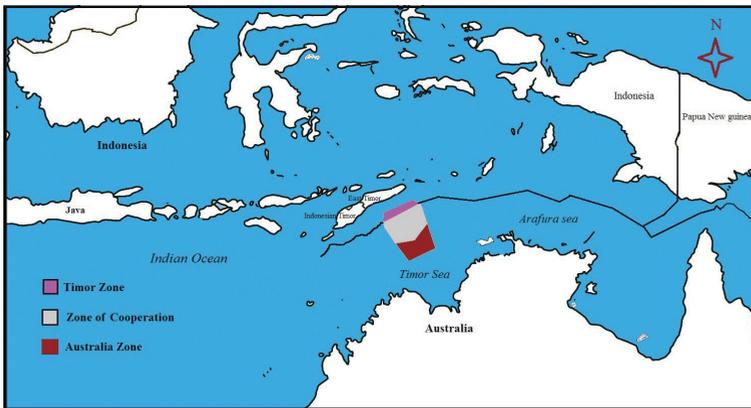
⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ UNCLOS art. 123(a), (b) & (c).

of a successful mutual development area.⁸⁰ (Figure 4) In 1989, the Timor Gap Treaty settled a seventeen-year conflict regarding seabed boundary delimitation by building up a “zone of cooperation” for exploring further potential outcomes and exploiting natural resources between Australia and Indonesia.⁸¹ It provided for the joint exploitation of petroleum resources in a part of the Timor Sea seabed which was claimed by both Australia and Indonesia.⁸²

Figure 4: Zone of Co-operation between Australia and Indonesia⁸³



Although it is highly debatable whether the South China Sea is a semi-enclosed sea or not, for the sake of greater interest, it could be accomplished anyway without the official designation of a semi-enclosed sea. The problem among the Spratly claimants is similar to that of Australia and Indonesia. The Timor Gap Treaty worked as an alternative between Australia and Indonesia due to an unwillingness to compromise their territorial claims over the Timor gap. In this connection, China is interested in discussing joint development ventures, but other countries are not flexible about

⁸⁰ 1989 Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia (Signed on December 11, 1989; entered into force on 9 February 1999), available at <https://cil.nus.edu.sg/wp-content/uploads/formidable/14/1989-Australia-Indonesia-Timor-Gap-Treaty.pdf> (last visited on Mar. 8, 2019).

⁸¹ *Id.* art. 2(1).

⁸² *Id.* art. 2(2).

⁸³ Compiled by the author under the auspices of oceanographer. For details, see K. Shain & published in ‘atns’ (agreements, treaties and negotiated settlements project) on 15 December 2004, available at <https://www.atns.net.au/agreement.asp?EntityID=710> (last visited on Mar. 8, 2019).

their sovereignty claims.⁸⁴ The joint improvement activities between Australia and Indonesia may have been effective, while a joint advancement technique between six parties may cause problems in both the association and the board. If the disputing parties come forward with sincerity and generosity regarding resolving their conflict, the joint development approach may be a means of solution for the Spratly disputes.

D. Multilateral Marine Peace Park

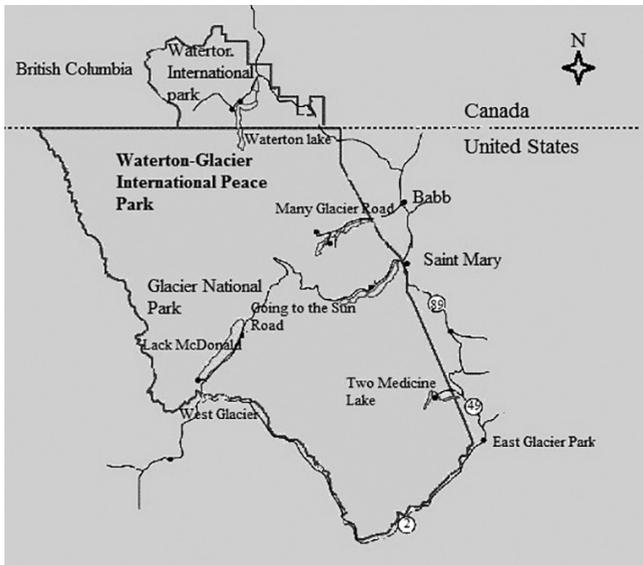
A Multilateral Marine Peace Park (“MMPP”) is another initiative to resolve the Spratly dispute through the temporal suspension of territorial claims over the disputed islands. The International Union for the Conservation of Nature has defined peace parks as “transboundary protected areas that are formally dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and to the promotion of peace and cooperation.”⁸⁵ Canada and the US created the Waterton-Glacier International Peace Park in 1932, which was the first international peace park.⁸⁶ The previously isolated Waterton Lakes National Park in the US and Glacier National Park in Canada were designated as units of a single international peace park⁸⁷ (Figure 5) because they needed to cooperate for improved research on natural resources.

⁸⁴ See *China Willing to Pursue Joint Development in Disputed Waters*, VOA, July 31, 2013, available at <https://www.voanews.com/a/china-willing-to-pursue-joint-development-in-disputed-waters/1713906.html> (last visited on Mar. 9, 2019).

⁸⁵ J. McManus, Kwang-Tsao Shao & Szu-Yin Lin, *Toward Establishing a Spratly Islands International Marine Peace Park*, 41 OCEAN DEV. & INT’L L. 275 (2010).

⁸⁶ UNESCO, World Heritage List, available at <http://whc.unesco.org/en/list/354rev> (last visited on Mar. 9, 2019).

⁸⁷ 2018 Peace Park Assembly-Hands across the Border Conference, available at <http://www.watertonglacierpeacepark.org/2018-peace-park-assemblyconference.html> (last visited on Mar. 9, 2019).

Figure 5: Waterton-Glacier International Peace Park⁸⁸

Another Marine Peace Park was created between Israel and Jordan in 1994, in the northern Gulf of Aqaba of the Red Sea to normalize the relationship between the two countries.⁸⁹ (Figure 6) It includes Jordan's Aqaba Marine Peace Park and Israel's Coral Reef. This peace park represents full partnerships between resource management agencies and marine research institutions in Jordan and Israel. The 1959 Antarctic Treaty⁹⁰ also created another important Multilateral Peace Park ("MPP") in the Antarctic.⁹¹ Its main purpose is to use Antarctica exclusively for the interest of all mankind in a peaceful manner and not to make the region the scene or object of

⁸⁸ Compiled by the author under the auspices of oceanographer, referring to 2018 Peace Park Assembly of Waterton-Glacier International Peace Park Association, available at <http://www.watertonglacierpeacepark.org/2018-peace-park-assemblyconference.html> (last visited on Mar. 9, 2019).

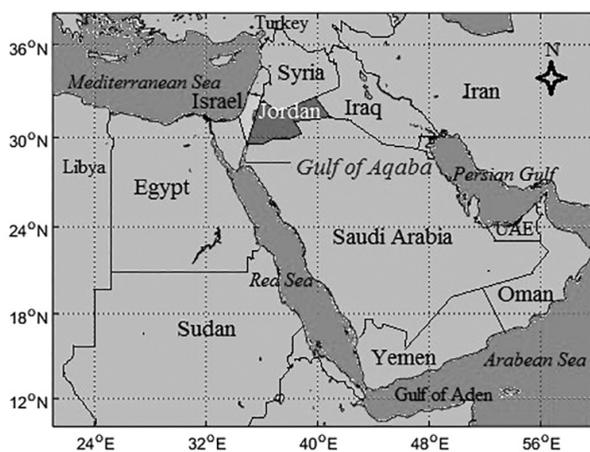
⁸⁹ See NOAA Celebrates 200 years of science, service and stewardship: Middle East Peace Park, available at https://celebrating200years.noaa.gov/magazine/mideast_peace_park/welcome.html (last visited on Mar. 9, 2019).

⁹⁰ The Antarctic Treaty and related agreements, collectively known as the Antarctic Treaty System (ATS), regulate international relations with respect to Antarctica, Earth's only continent without a native human population (Signed on 1 December 1959; entered into force on 23 June 1961). The treaty currently has 53 parties. The original signatories were 12 countries (Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom, and the United States), available at <https://www.gc.noaa.gov/documents/1959-Antarctic-treaty.pdf> (last visited on Mar. 9, 2019).

⁹¹ *Id.*

international discord.⁹² This MPP may serve as an example of a successful peace park for the Spratly dispute which was primarily a multilateral peace park between twelve states.⁹³ The Antarctic Treaty was adopted on multilateral cooperation in scientific research and conservation activities, as well as de-escalation of conflict at the same time. The six claimants in the Spratly disputes could also step forward to create a MMPP through a regional treaty like the Antarctic Treaty.

Figure 6: Israel-Jordan Marine Peace Park⁹⁴



These initiatives may all be applied in resolving the Spratly dispute with regard to the complexity of the dispute. Considering well-established precedents for different alternatives to settle such types of disputes globally, these proposals could accelerate the settlement process of the Spratly disputes. Peaceful settlement of the Spratly disputes is of vital importance in order for its claimants to maintain peace and security in the region, as well as using the marine resources in this area.

⁹² *Id.* pmb1.

⁹³ *Id.*

⁹⁴ Compiled by the author under the auspices of oceanographer referring to official website of NOAA in their 200 years celebration occasion, available at https://celebrating200years.noaa.gov/magazine/mideast_peace_park/Saudi_Arabia_map.html (last visited on Mar. 9, 2019).

VI. Conclusion

The territorial dispute in the Spratly islands is one of the most important disputes in the maritime world, due to the number of parties and complexities. The dispute over the Spratly archipelago is strategically very important, because it has geopolitical, economic and legal effects. This feature of islands is located in one of the busiest and most important shipping routes in the world. It has potentially the largest reserves of oil and natural gas. There has been continuous instability in this region from ancient times due to the conflicting sovereignty claims over Spratly by surrounding countries. Claims on different bases have made this dispute unique and more complicated, as well as unending. International law offers different means and methods to resolve territorial disputes. In the case of the Spratly island disputes, there are extensive challenges to well-established methods based on the international law of conflict resolution. The successful application of international law relies on agreement between the disputing parties in order to take advantages of it. As there are numerous conflicting parties and conflicting claims in this dispute, it is not easy to reach agreement over a specific means for resolving their disputes. An arbitration case instituted by the Philippines against China under the UNCLOS actually failed for the absence of China in the proceedings, although the award was declared by the Arbitral Tribunal under Annex VII of the UNCLOS in 2016.⁹⁵ The disputing parties may explore other potential means to resolve their dispute. This paper has tried to offer some specific potential means to resolve the dispute, considering the complex nature of that dispute. The successful use of any dispute settlement method depends on the mutual consent of the parties. So, the parties to the dispute should continue their efforts to identify a uniform procedure which can solve the disputes peacefully and open the way to using disputed resources for mutual interest in this region.

⁹⁵ South China Sea Arbitration, *supra* note 73.

Annex: Spratly features and its occupants

Sr. no	Features	Location (Approximate) ⁹⁶	Legal status ⁹⁷	Area ^{98,99}	Since ¹⁰⁰	Occupants
1	Itu Aba Island	10° 22' 35" N, 114° 21' 55" E	Rock	113.7 acres	1946	Taiwan (1)
2	Subi Reef	10° 55' 25" N, 114° 5' 5" E	Low-tide elevation	976 acres	1988	China (7)
3	Gaven Reef	10° 12' 24" N, 114° 13' 25" E	Rock	34 acres	1988	
4	Hughes Reef	9° 54' 30" N, 114° 29' 50" E	Low-tide elevation	19 acres	1988	
5	Johnson South Reef	9° 43' 1" N, 114° 16' 54" E	Rock	27 acres	1988	
6	Fiery Cross Reef	9° 32' 45" N, 112° 53' 15" E	Rock	677 acres	1988	
7	Cuarteron Reef	08° 51' 45" N, 112° 50' 15" E	Rock	56 acres	1988	
8	Mischief Reef	09° 54' 00" N, 115° 32' 00" E	Low-tide elevation	1,379 acres	1995	
10	Southwest Cay	11° 25' 44" N, 114° 19' 54" E	Rock	7.45 acres	1974	
11	South Reef	11° 23' 15" N, 114° 17' 54" E	Rock	N/F	1988	
12	Petley Reef	10° 24' 38" N, 114° 35' 15" E	Rock	N/F	1988	
13	Sand Cay	10° 22' 29" N, 114° 28' 48" E	Rock	9.19 acres	1974	
14	Namyit Island	10° 10' 46" N, 114° 21' 59" E	Rock	13.09 acres	1974	
15	Discovery Great Reef	10° 03' 00" N, 113° 51' 00" E	Rock	N/F	1988	
16	Sin Cowe Island	9° 53' 7" N, 114° 19' 47" E	Rock	26.07 acres	1974	
17	Collins Reef	9° 46' 9" N, 114° 15' 23" E	Rock	N/F	1988	
18	Lansdowne Reef	8° 39' 56" N, 111° 40' 28" E	Rock	0.24 acres	1988	
19	Sin Cowe Island	9° 53' 7" N, 114° 19' 47" E	Rock	26.07 acres	1974	
20	Ladd Reef	8° 39' 56" N, 111° 40' 28" E	Low-tide elevation	N/F	1988	
21	Spratly Island	8° 38' 43" N, 111° 55' 12" E	Rock	37.19 acres	1974	
22	West Reef	8° 51' 29" N, 112° 13' 33" E	Rock	70.5 acres	1988	
23	Central Reef	8° 55' 51" N, 112° 21' 11" E	Rock	4.13 acres	1978	
24	East Reef	08° 49' 30" N, 112° 36' 00" E	Rock	N/F	1988	
25	Pearson Reef	8° 57' 27" N, 113° 40' 57" E	Rock	6.03 acres	1988	
26	Allison Reef	8° 48' 6" N, 113° 59' 18" E	Low-tide elevation	N/F	1988	
27	Cornwallis South Reef	8° 42' 44" N, 114° 11' 1" E	Low-tide elevation	4.17 acres	1988	
28	Tennent Reef	8° 51' 30" N, 114° 39' 22" E	Rock	N/F	1974	

⁹⁶ Occupation and Island Building, Asia Maritime Transparency Initiatives, *available at* <https://amti.csis.org/island-tracker> (last visited on Mar. 10, 2019).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Digital Gazetteer of Spratly Islands, *The South China Sea*, *available at* <http://www.southchinasea.org/2011/08/19/digital-gazetteer-of-the-spratly-islands> (last visited on Mar. 10, 2019).

¹⁰⁰ *Supra* note 96.

29	Barque Canada Reef	08° 10' 30" N, 113° 18' 45" E	Rock	N/F	1987	Vietnam (26)
30	Amboyna Cay	7° 53' 30" N, 112° 55' 16" E	Rock	3.95 acres	1974	
31	Vanguard Bank	7° 30' 49" N, 109° 39' 58" E	Submerged	N/F	1989	
32	Gainger Bank	07° 47' 35" N, 110° 30' 03" E	Submerged	N/F	1991	
33	Alexandra Bank	08° 01' 00" N, 110° 37' 00" E	Submerged	N/F	1991	
34	Prince Consort Bank	10° 24' 37" N, 114° 35' 15" E	Submerged	N/F	1990	
35	Prince of Wales Bank	8° 7' 2" N, 110° 31' 12" E	Submerged	N/F	1989	
36	Northeast Cay	11° 27' 9" N, 114° 21' 15" E	Rock	31.38 acres	1968	The Philippines (9)
37	Thitu Island	11° 3' 12" N, 114° 17' 5" E	Rock	91.92 acres	1974	
38	Loita Cay	10° 43' 43" N, 114° 21' 09" E	Rock	N/F	N/F	
39	Loaita Island	10° 40' 04" N, 114° 25' 27" E	Rock	15.93 acres	1978	
40	West York Island	11° 4' 54" N, 115° 1' 27" E	Rock	45.96 acres	1974	
41	Flat Island	10° 48' 53" N, 115° 49' 21" E	Rock	1.41 acres	1974	
42	Nanshan Island	10° 43' 57" N, 115° 48' 11" E	Rock	19.59 acres	1974	
43	Second Thomas Shoal	9° 43' 57" N, 115° 51' 51" E	Submerged	N/F	1999	
44	Commodore Reef	08° 21' 30" N, 115° 13' 30" E	Rock	N/F	1978	
45	Swallow Reef	7° 22' 20" N, 113° 50' 43" E	Rock	15.32 acres	1983	Malaysia (5)
46	Ardasier Reef	7° 37' 3" N, 113° 56' 21" E	Low-tide elevation	N/F	1986	
47	Mariveles Reef	7° 58' 12" N, 113° 55' 3" E	Low-tide elevation	N/F	1986	
48	Erica Reef	8° 6' 20" N, 114° 7' 55" E	Rock	N/F	1999	
49	Investigator Shoal	8° 7' 3" N, 114° 41' 28" E	Low-tide elevation	N/F	1999	

*N/F= not found