Early Chinese Voyaging in the South China Sea: Implications on Territorial Claims

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Abstract

The main purpose of this paper is to examine historically issues of territorial claims over the South China Sea. As it is known that at present there are at least six countries claiming part or all of South China Sea territory. In this case China is the most ambitious country to control all areas in the South China Sea. This has led to political and military tensions in the region. It is strange that the South China Sea waters has actually been a shipping thoroughfare for the last two millennia. Therefore, this historical study will contribute to an understanding of the issues that could provoke international conflict.

Introduction

The South China Sea has been for at least the past two millennia. Apart from piracy and occasional acts of war, ships of all kinds and origins have been free to sail wherever they wished. Freedom of navigation through the South China Sea could now be at risk. Six countries lay claim to all or part of the Spratly Islands and the Paracels. Five of them occupy islands or reefs. All five have built structures and infrastructure, and all have reclaimed land to do it. But recently China has instigated something of a reclamation blitzkrieg. China has converted seven submerged reefs into islands, and several of those incorporate runways and harbours. They are primarily for military use and therefore dramatically change the strategic status quo. When challenged, China cites an indisputable right to be there.

This paper seeks to address the sense of entitlement that all claimants exude, not just China. Perceived rights seem to override international law, ratified conventions, signed declarations, and even common sense. They stem from history, both ancient and modern. But history is open to interpretation. Archaeological evidence is more concrete. It can corroborate and/or enhance the textual evidence.

The core evidence presented in this paper is factual, the archaeological findings and what they tell us of early voyaging in the South China Sea. The author has investigated number of shipwrecks on reefs in the Spratlys. While Chinese junks were initially thought to have been lost there, the evidence seems to show otherwise. The veracity of the various claims remains open to interpretation.

Shipwreck Survey in the Vietnamese-Occupied Spratlys

In 1993 the author had the good fortune to investigate some of the Vietnamese-occupied reefs in the Spratly Archipelago, the Dangerous Ground marked on maritime charts. The survey license allowed a remote sensing survey at Ladd Reef (Da Lat), West London Reef (Da Tay), Central London Reef (Dao Sa Truong Don), East London Reef (Da Dong), and Spratly Island (Dao Truong Sa Lon), in the presence of representatives from joint-venture partner, the Vietnam Salvage Corporation (Visal), the Navy, and the Marine Police.

Ladd Reef

Ladd Reef is the western-most danger in the Dangerous Ground, and therefore the most likely to get in the way of shipping in the busy trade route along the western reaches of the South China Sea. On approaching this 3-mile long by 1-mile wide impediment, its wrecking potential was immediately apparent. A small tanker sat high and dry on the northwest extremity of the reef, while the south side had claimed steel fishing boat and a barge. To the north lay the severed hull of a larger fishing boat. While the southern edge of the reef was steep-to, the northern side sloped relatively gently allowing plenty of magnetometer work within diveable depths. Boat-towed visual survey was conducted in the shallows in order to detect ballast stones, ceramic shards, and any other non-ferrous artefacts. The initial circumferential magnetometer survey had the pen shooting off the chart in several locations.

The first wreck was marked by long steel spars, a capstan, anchors, chain, hawse pipes, and dozens of iron frames pierced by bronze fastenings. The top of the reef was strewn with fragments of copper sheathing. A porcelain shard bore the mark "Royal Ironstone China – Johnson Bros. England". Research has confirmed that this is the wreck of the famous tea clipper, *Taeping*. She was built in 1863 in Greenock by the renowned firm of Robert Steele. Measuring 56 m long and 767 tonnes, she was said to have been a magnificent vessel, excelling in light winds. She won the China tea races in 1866[1] and 1867, however on 22nd September 1871, while bound from Amoy to New York, she grounded on Ladd Reef. The crew abandoned the wreck in three boats, one of which made it to Saigon to report that the only damage sustained seemed to be "a few pieces of wood which came up from under the bows". A gun boat was dispatched to search for the rest of the crew and to salvage the cargo, however *Taeping* was found to be broken up, and surrounded by bobbing chests of tea.

Further to the west the seabed was littered with steel plate and frames. Discernible features included battery lead, iron billets, a heavy machinegun, bullets, and 4-inch shells. This was all that remained of the Dutch submarine, *O-19*, which ran hard aground on Ladd Reef in July 1945.[2] The Gato class submarine, *USS Cod*, was sent to the rescue. Two days were spent trying to free the stricken sub, to no avail. After the Dutch crew of 56 was taken aboard the *USS Cod*, the *O-19* was destroyed with torpedoes and fire from deck guns to prevent it from falling into Japanese hands.

Divers carrying out a visual search around the northeast corner of the reef discovered a cluster of three anchors, rounded ballast stones, square-cut granite blocks, iron frames with bonze fittings, and a padlock bearing a crown insignia. This is probably the Liverpool barque,

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[1]In 1866 the clippers *Taeping, Ariel,* and *Serica* crossed the bar of the Min River in China on 30th May. Ninety-nine days later all three docked in London on the same tide, *Taeping* and *Ariel* within one hour of each other. The tea race was serious business, the winner being paid a significant premium for her cargo.

[2]"Gato Class Submarine USS Cod Opens Fire Again". For video footage of the stranding and destruction see: http://www.oldsaltblog.com/2011/07/gato-class-submarine-uss-cod-opens-fire-again, accessed 15 November 2015.

Titania, which was lost on Ladd Reef[3] on 20th September 1852 while sailing from Macau with "a valuable cargo for Sydney"[4]. After days of foul weather "at 1.30 a.m. in a thick squall the vessel struck violently upon the reef … At daylight got provision and sail into the boats, ready for leaving the ship. Soon afterwards two vessels were seen close to the shoal in the offing…"[5] One was the brig, *Equator*, which delivered the crew safely to Singapore.

West London Reef

West London Reef lies approximately 35 miles to the east-northeast of Ladd Reef. It still protrudes into the shipping lane, presenting a 5,5-mile long virtually invisible barrier, however it has not claimed as many victims. The reef is also some 3 miles wide, encompassing a relatively sheltered lagoon with a natural entrance to the southwest. A large boiler protruded above the water to the west, one of three that originally powered a riveted iron-hulled steamer. A long crank shaft lay along the centreline of the wreck but all of the non-ferrous fittings had been stripped by salvors.

A circumnavigation with the magnetometer led to the discovery of an iron capstan and a cluster of three anchors. Fragments of copper sheathing and a few bonze fastenings were all that remained of the vessel. From the similarity to the *Titania* she was probably also lost around the mid-19th century.

East London Reef

East London Reef lies 18 miles to the east of West London Reef. It is larger, being 7 miles east/west by 2.5 miles north/south. A beautiful steel wreck, some 60 m long and with the bow and part of the stern still intact, lies to the east. The base of the bowsprit remained in place and towered over two massive anchors. They were still connected heavy chain that spilled through hawse-pipes on port and starboard. The side plating had collapsed outwards, however the transom remained intact around the steering quadrant. Adjacent to that lay a small steam engine and boiler, known as a donkey engine, used for powering the windlass and capstan. Steel masts and spars lay across the flattened hold. The only artefacts of note were a torpedo-shaped bottle from "A.H. Watson & Co. Hong Kong China Manila", a Walker's spinning log[6], and a 5 fennig piece dated 1900, suggesting that she could have been a German sailing vessel.

Magnetometer survey along the northern edge of the reef revealed yet another site nearly identical to the *Titania*. Three anchors were lodged in a surge gully that was full of ballast stones. Bronze bolts and iron framing indicated composite construction. Apart from some square cut granite blocks there was no sign of cargo.

There may well have been cargo in the distant past, a particularly interesting cargo. On the 8 June 1842 the British barque, *Christina*, left Macau "with a large quantity of treasure bound for Bombay", the payment for her inward cargo of opium. On the 1 July 1842, she was lost on "West London Shoal."[7] The ship broke up almost immediately. The crew couldn't save the log book or anything else as the waves were breaking over the vessel. Over two years later the Singapore Free Press[8] ran the following account:

> "The captain of a certain vessel, *Martires de Tunkin*, reports that when fishing to the eastward of East London Shoal, he discovered a chain leading from the reef to the water,

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[3]*Straits Times* of 15 October 1852 uses the alternative name for Ladd Reef, Robb Roy Shoal.
[4]*Straits Times*, 19 October 1852.
[5]*Straits Times*, 15 October 1852.
[6]A spinning log is a torpedo shaped device that spins on the end of a rope trailed behind a ship. A dial on the transom converts the rate of spin into ship's speed in knots.
[7]Singapore Free Press and Mercantile Advertiser, 6 October 1842.
[8]Singapore Free Press and Mercantile Advertiser, 30 January 1845.

upon following which the remains of a vessel was discovered, in about three fathoms at high water. One of the crew at low water discovered what he considered to be a piece of pewter, but on inspection it was found to be silver. Further search was made, and money in dollars and *sycee* was picked up to the amount of drs 150,000... It is supposed the wreck is that of the *Christina* lost in 1842."

The captain was a Spaniard by the name of Carlos Cuarteron, and he was not fishing for fish. Having heard of the loss of the *Christina* he purchased a small schooner, enlisted a number of pearl divers and set out from Manila in March 1844. He initially searched West London Reef as per the newspaper reports, but when nothing was spotted he proceeded to Central London Reef and then East London Reef, where his efforts finally paid off.[9] Interestingly, he chose to cruise amongst the Spice Islands before eventually delivering 150,000 silver dollars to *Christina*'s insurers in Hong Kong in December 1844. While receiving a substantial reward, he also discovered that he had only scratched the surface. Consequently, he returned to the wreck in March 1845, arriving back in Macau on 14th May. There are no newspaper reports of him delivering a second stash, so perhaps he chose to be more discrete. Some years later the honest captain was ordained as a Catholic Bishop and went on to become the first Prefect of Borneo.[10]

UNCLOS

The United Nations Convention on the Law of the Sea (UNCLOS) was drafted in 1982, and entered into force in 1994 with the requisite sixty ratifications. It is fundamental to the South China Sea dispute. All claimants have signed it, and by doing so they have theoretically abandoned any earlier stance that now contravenes the Convention. Unfortunately, the deliberately ambiguous clauses within UNCLOS, deemed necessary to bring the nine years of negotiations to a close, leave many issues open to interpretation. UNCLOS defines a variety of boundaries, each affording differing degrees of sovereignty.

Territorial waters afford full sovereignty over all waters within 12 nautical miles of the coastal low water mark, including the seabed and whatever lies beneath it. The Exclusive Economic Zone (EEZ) is an order of magnitude greater than territorial waters, extending 200 nautical miles from coastal baselines and from offshore islands. The EEZ is neither under the sovereignty of the adjacent coastal state nor part of the high seas. Rather the coastal state has sovereign rights to the natural resources within the EEZ, such as fish in the waters or oil, gas and minerals beneath the seabed[11]. All other states have the right to exercise high seas freedoms of navigation, overflight, and the laying of subsea cables and pipelines. UNCLOS seems to unduly complicate matters by allowing coastal states to extend their EEZ an additional 150 nautical miles by claiming a continuation of their continental shelf.

With the ratification of UNCLOS, islands suddenly gained tremendous status. A radius of 200 nautical miles awards a minimum 126,000 square miles of EEZ to the successful claimant. An island is defined as "a naturally formed area of land, surrounded by water, which is above water at high tide." As this could potentially include barren outcrops, an additional clause

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[9]Cuarteron seems to have discovered another reef to the east of East London Shoal during this voyage. It now bears his name.

[10]For the full story of this fascinating fellow see Mike Gibby *Crowned with the Stars: The Life and Times of Don Carlos Cuarteron, First Prefect of Borneo, 1816-1880* (Kota Kinabalu: Diocese of Kota Kinabalu, 2005) 47

[11]As a shipwreck is not a natural resource, it remains unclear as to whether a shipwreck within the EEZ of a state belongs to that state. If it does not then the shipwreck must lie in limbo as no other state or entity has the right to carry out salvage work in another's EEZ.

states that "rocks which cannot sustain human habitation or economic life of their own shall have no economic zone or continental shelf", although they still qualify for territorial waters.

UNCLOS does not preclude customary international law. If the critical date principle of customary international law is taken into accounts, all efforts at island building have been in vain. The critical date is the date upon which a dispute over sovereignty arose between two or more states.[12] The islands and reefs in the disputed area of the South China Sea have been occupied on and off since the early 20th century[13] and invariably these occupations have been opposed by other claimants as soon as they became known. Many features were disputed well before occupation. Either way, the critical date predates any enhancements. Consequently, such efforts can only be strategic and/or designed to bolster the claimant's position in bilateral negotiations.

While China has led the occupy and enhance race in recent decades, the Chinese were laggards during the post WWII wave of occupation. To bolster their claim to all islands and reefs that are not in their possession, the Chinese have gone to great lengths to emphasise their "indisputable" historic claim. The Philippines has countered with their own historic claim, particularly with respect to Scarborough Shoal. Vietnam and Malaysia have been relatively quiet in this regard, but as will be discussed later in this paper, their historic actions may well be as valid as anyone else's. However, according to Robert Beckman, the Director of the Centre for International Law at the National University of Singapore and expert on territorial disputes in the South China Sea, under UNCLOS no parties are entitled to make any claims to historic rights or historic waters outside their territorial sea.[14] This puts China in particular an awkward position.

Declaration of Conduct

In response to heightening tensions resulting from territorial claim disputes in the Spratlys, China and all members of ASEAN signed the Declaration of Conduct (DOC) in 2002. Two clauses are of particular relevance to this discussion.

> Clause 4: The Parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.

> Clause 5: The Parties undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.

Who Occupies What in the South China Sea?

The axiom, possession is nine tenths of the law, holds strong in the South China Sea. China, Taiwan and Vietnam claim all of the Spratly and Paracel Islands. The Philippines claims all the Spratlys. Meanwile, Malaysia claims all of the Spratly Islands that lie within its self-proclaimed

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[12]Robert Beckman, "ASEAN and the South China Sea Dispute." *Entering Uncharted Waters?: ASEAN and the South China Sea* (Singapore: ISEAS, 2014), 19.

[13]Some of the earliest occupiers, as opposed to itinerate fishermen, were not states at all. They were entrepreneurs out to mine guano.

[14]Beckman, *ASEAN and the South*, 28.

continental shelf. Brunei claims an extended continental shelf but has made no mention of the reefs encompassed within that claim. They are all trying it on, some far more than others. Perhaps more relevant is the physical assertion of perceived rights - occupation.

Until the early 20th century the islands and reefs in the Spratlys and Paracels were effectively *terra nullius*, not occupied by any state. Seasonal fishing camps and intermittent commercial guano mining do not qualify as occupation, at least not by a state.

In 1933 the French, then governing Cochinchina, formally annexed Spratly Island, Amboyna Cay, Itu Aba, North Danger Reef, Loaita, and Thitu. The Japanese and Chinese protested but took no overt action. In 1937 Japan invaded China as a precursor to the occupation of much of South East Asia. The Vichy French government ceded control of Vietnam to the Japanese in 1940. With the British falling in Singapore in February 1942 and the Americans suffering a similar fate in the Philippines later in the same year, the entire South China Sea fell under the control of Japan. The Japanese occupied several islands, establishing a submarine base on Itu Aba in the Spratlys and a garrison at Woody Island in the Paracels, but by 1945 they were out. After the war, the French were quick to reassert control over Indochina, and the Spratlys. The Chinese were also keen to reassert themselves, particularly in the absence of any decisive action from the victorious Americans. Both sent ships to place stone markers on various islands. Nobody else took much notice of them.

In 1949 the Communist Party ousted the nationalists and proclaimed the People's Republic of China. They retained all policy and claims related to the South China Sea, as did Taiwan, the new Republic of China. Chinese and Taiwanese claims have remained parallel ever since, but their occupations of course varied. Taiwan kept hold of Itu Aba, initially occupied by the Republic of China in 1947, and has maintained a garrison there since 1963.

In 1956, with fish processing and guano mining in mind, Filipino Thomas Cloma personally claimed all the Spratlys east of Spratly Island simply by issuing a letter to a government minister and various embassies in Manila. He based his claim "on the rights of discovery and/or occupation" and called his territory Freedom land.[15] In 1974 Marcos persuaded Cloma to sign over Freedom land to the Philippine government, finding legal and economic intimidation more effective than negotiation. Marcos changed the name to the Kalayaan Islands, meaning freedom in Tagalog.

The Philippines now occupies Thitu, Nanshan, West York, Loaita and Flat Islands, along with Northeast and Lankiam Cays, and Commodore Reef. Thitu (Pagasa) is the second largest island in the Spratlys. Second Thomas Shoal remains in Filipino hands, just, by virtue of the rusting *Sierre Madre* and her resilient crew. While a lighthouse was constructed there in the 1960's, Scarborough Shoal was never occupied by the Philippines. That was a mistake.

In September 1973, the South Vietnamese formally annexed ten of the Spratly islands and reefs, occupying two of the crown jewels, Spratly Island and Namyit Island. They also occupied the Crescent Group in the Paracels but lost it to China in 1974. By 1989 Vietnam held 24 islands and reefs throughout the Spratlys.

Malaysia has confined itself to reefs within their 1979 self-proclaimed continental shelf limit, which roughly coincides with their EEZ. The claim is based on national security and the relatively close proximity of these features to the Sabah mainland. Pulau Layang Layang was occupied in 1983, and opened to diving tourists in 1991. Ardasier, Mariveles, Dallas, Erica, and

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[15]Bill Hayton, *The South China Sea: The Struggle for Power in Asia* (New Haven aand London: Yale University Press, 2014), 67.

Investigator Reefs are also occupied. Malaysian Special Forces placed markers on Amboyna Cay in 1978 but that didn't stop the Vietnamese from occupying the reef a few years later.[16]

China claims just about everything, by way of the infamous nine-dashed line. The line encompasses the entire South China Sea north of Indonesia's Natuna Islands. A map delineating a dashed line was first produced in 1936, with a more detailed version being officially published by the Chinese Ministry of Internal Affairs in 1948. In 2009, when Malaysia and Vietnam jointly applied to the UN for an extension of their continental shelves beyond the 200-mile EEZ limit, China attached the map to their protest note, thereby officially declaring that these lines demarcate the full extent of their claim. While the lines encompassed most of the South China Sea, the accompanying verbiage fortunately clouded the matter. "Sovereignty" over the islands and their "adjacent waters" seems to imply territorial waters or an EEZ rather than the entire sea.[17] "Sovereign rights and jurisdiction over the relevant waters", however, could potentially cover the lot. Interestingly, there was no mention of historic justification in these UN protests although use of the term "indisputable claims" seems to take the history for granted. How else could they be "indisputable"?

Actions speak louder than words, and the actions of China in recent years are consistent with a claim over everything within the nine-dashed line. There have been numerous incidents of Chinese vessels deliberately cutting the towed arrays of seismic survey vessels operating well within the EEZ of Vietnam and the Philippines. Chinese patrol craft tested Malaysia's fortitude a number of times in 2010 by closing in on Pulau Layang Layang (Swallow Island on Admiralty charts), 150 nautical miles off Kota Kinabalu. Malaysia was up to the task, much to the relief of the sport divers staying at Layang Layang Resort.[18] The high-profile deployment of an oil drilling rig off Triton Island in the Paracels in 2014, within Vietnam's proclaimed EEZ, was in blatant disregard of the 2002 Declaration on Conduct of Parties in the South China Sea (DOC) calling for no actions that could escalate tensions. But the occupation of two reefs, and the blockade of another, well within the Philippines' EEZ was the most menacing manifestation of Chinese intensions prior to the reclamation blitz.

Mischief Reef is completely submerged at high tide. It lies 125 nautical miles off Palawan, well within the EEZ of the Philippines, and 600 miles from Hainan, the closest point in China. Towards the end of 1994 the Chinese quietly built three steel platforms supporting octagonal blockhouses on the reef. When a Filipino fishing boat discovered these new edifices, and made the mistake of passing too close, the crew was incarcerated for a week. When the news got out the Philippine government expressed indignation but was powerless to act. ASEAN as a whole was taken aback but neglected to act. Major reclamation work has now been completed, changing this atoll into a substantial island.

Scarborough Shoal is completely submerged at high tide too, except for a couple of coral boulders that remain dry at high water, on a calm day. A British ship with a cargo of tea came to grief on the reef in 1748, bestowing the name that now appears on Admiralty charts. Scarborough Shoal is not part of the Spratlys but lies completely isolated, some 120 nautical

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[16]Dzirhan Mahadzir, "Malaysia's Maritime Claims in the South China Sea," *Entering Uncharted Waters?: ASEAN and the South China Sea* (Singapore: Institute of Southeast Asian Studies, 2014), 209.

[17]Beckman, Robert, "International Law, UNCLOS and the South China Sea," *Beyond Territorial Disputes in the South China Sea: Legal Framework for the Joint Development of Hydrocarbon Resources* (Singapore: NUS Centre for International Law, 2013), 47-90.

[18]The prolific sea life at protected Pulau Layang-Layang, including the famous schooling hammerhead sharks and manta rays, stands in stark contrast to most other reefs in the Spratlys. Construction, blasting, over fishing, destructive fishing methods, and now reclamation have left many reefs barren. As these reefs form a spawning ground for much of the South China Sea fishery, the ramifications of their destruction are immense.

miles off the west coast of Luzon, again well within the EEZ of the Philippines. The closest landfall in China is 460 miles away.

The storm that thrust the boulders above water gifted them with a potential 12-mile territorial sea under UNCLOS. But if Mischief Reef is anything to go by, this enhanced status is not required to attract China's attention. In April 2012, the Philippine coastguard caught eight Chinese fishing boats in the act of decimating the reef. They were loaded to the gunnels with coral and giant clams. Two Chinese Marine Surveillance vessels immediately interceded. The Philippines ramped it up by sending their biggest warship but then decided better of it and reinstated the coastguard. An approaching typhoon gave diplomats a chance to negotiate a simultaneous departure. The Philippine coastguard left. The Chinese stayed, and consolidated their position by kicking out a Filipino-French archaeological team later in the same month. In early 2014 Filipino boats were driven away with water cannon. In January 2015 three fishing boats were rammed. The Scarborough Shoal blockade was the latest in a long and grim game of catch up.

It started with the Paracels which lie equidistant from Chinese Hainan and Vietnam. Fishermen, pirates and wreckers of both ethnicities have camped on the more substantial islands for centuries. They were briefly occupied by French and then Japanese troops during World War II, but resumed their status of *terra nullius* after 1945. Only two years later France and China simultaneously attempted to occupy the islands. After a tense standoff, China held Woody Island in the Amphitrite Group to the north and France retreated to Pattle Island in the Crescent Group to the south. In 1950 the Chinese nationalist forces withdrew from Woody Island, to be replaced by the Communists five years later. The South Vietnamese replaced the French on Pattle Island in 1956.

In 1974 China judged correctly that the US would no longer come to the aid of the South Vietnamese troops stationed in the Crescent Group. They launched a well-planned attack. The Vietnamese navy responded but was soundly defeated, leaving the garrisons on Pattle and adjacent islands isolated. Chinese forces shelled and then landed on each island, systematically displacing the Vietnamese. They have occupied the Paracels in their entirety ever since, with the "city" of Sansha being declared on Woody Island in 2012. The runway has now been extended and harbour facilities have been expanded.

In January 1988 China landed on Fiery Cross Reef which, apart from a few rocks, was submerged at high water. Within a few weeks a large coral platform had been constructed and channels had been blasted into the lagoon. In February 1988, China surprised Vietnam by occupying Cuarteron Reef, just 12 miles east of the Vietnamese garrison on East London Reef. Realising that all features capable of supporting a structure were now being targeted, the Vietnamese raced to secure Collins, Lands down and Johnson South Reefs on Union Bank. They already occupied the adjacent miniscule Sin Cowe Island. Two landings were successful, but China chose not to relent on Johnson South Reef. After an unsuccessful attempt to remove a flag that was being held in place by Vietnamese troops the Chinese returned to their ships and opened fire. The virtually defenceless Vietnamese, standing knee deep in water, were mowed down by a levelled anti-aircraft gun. Their three decrepit support vessels were destroyed. Sixty-four men were killed, along with Vietnam's ability to pre-empt any more challenges. Within months China had occupied Hughes, Subi and Gaven Reefs, adjacent to Vietnamese, Filipino and Taiwanese garrisons respectively.[19]

The Chinese aggression was as calculated as it was blatant. Most of the Spratly islands and reefs lie outside Vietnam's self-proclaimed EEZ. Under UNCLOS, China has as much right to occupy them as Vietnam. Vietnam had only just commenced the economic reform process

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[19]Hayton, *The South China Sea*, 83.

known as *Doi Moi*, and remained relatively isolated in the world community. Vietnamese protests were no more than that. The world remained silent. For China, f*ait accompli.*

It continues. Since 2014 China has deployed a fleet of huge dredgers throughout the Spratlys to create land on the submerged reefs that they occupy. A revolving cutter head devours sand and coral then pumps it onto the reef through a floating pipeline. Lagoons provide a ready supply of sand, and in the process, they are deepened for use as harbours. So much for the environment, and so much for the DOC. With "indisputable sovereignty" the DOC does not seem to apply to China. One might ask why they bothered signing it, or UNCLOS for that matter.

Fiery Cross Reef, Cuarter on Reef, Johnson South Reef, Hughes Reef, Gaven Reef, Subi Reef, and now Mischief Reef have, or soon will have harbours, buildings, desalination plants and greenhouses. A runway is being built on Fiery Cross Reef and Subi and Mischief Reefs are likely to accommodate more, projecting China's military power to the southern reaches of the South China Sea. *Fait accompli.*

China is not alone in physically altering their controlled features. The Philippines has encroached on the surrounding reef by building a runway on Thitu Island, although that is now being reclaimed by the sea. Vietnam has substantially altered Southwest Cay, adding a harbour and other land features over the past decade. Taiwan has built an airstrip and upgraded naval facilities on Itu Aba. The main difference between these activities and China's is that they modified existing islands, while Beijing is constructing islands out of reefs that for the most part were under water at high tide.[20]

Historical Evidence for Early Voyaging in the South China Sea

Chinese Junks

Manguin comments: it is widely accepted that the Chinese did not possess large sea-going craft before the 8th century.[21] Other scholars are not so magnanimous. Wade, while hedging his bet, nudges the start date ahead, stating that Chinese ships were rarely used on the Southeast Asian routes until the 9th century, while Indian, Persian and Kunlun (Southeast Asian) ships are frequently mentioned [in ancient texts].[22]

Wang Gungwu quotes a Chinese text describing a mission from China to India via the Isthmus of Kra in AD 2: "The merchant ships of the barbarians are used to transfer them [the Chinese] to their destination."[23] In his opinion the word 'transfer' implies that Chinese ships transported the mission to the Isthmus, before they crossed the land and embarked on foreign ships. Other translators such as Pelliot, Ferrand and Luce conclude that foreign ships were used for the entire voyage. The author must side with the majority in this case, as it is highly unlikely that such a feat would go unrepeated for nearly a thousand years. To bolster the case, Miksic notes that during the mid-3rd century AD several Chinese envoys were sent to the Nanhai (South Seas), but they all travelled in foreign ships.[24]

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[20]*IHS Jane's Defence Weekly,* 20 June 2014.

[21]Pierre-Yves Manguin, "Relationship and Cross-Influence Between Southeast Asian and Chinese Shipbuilding Traditions," *SPAFA Consultative Workshop on Research on Maritime Shipping and Trade Networks in Southeast Asia* (Indonesia, 1984), p.199.

[22]Geoff Wade, "Maritime Routes between Indochina and Nusantara to the 18th Century," *Archipel 85,* 2013, p.11.

[23]Wang Gungwu, "The Nanhai Trade: the early History of the Chinese Trade in the South China Sea," *Journal of the Malayan Branch of the Royal Asiatic Society,* XXXI, Pt.2 (182), 1958, 20.

[24]John Miksic, "Introduction," in *Ancient Silk Trade Routes: Cross Cultural Exchanges and Their Legacies in Asia* (World Scientific Publishing, Singapore, 2015), 5.

Official Chinese forays were very rare. Wolters notes another in AD 683, when the Tang court sent an envoy to Srivijaya.[25] The text does not mention a ship or even a mission, just an envoy. The implication is that this envoy travelled on a foreign ship.

Wang later states that there are no Tang records of large Chinese junks sailing to the Nanhai.[26] He says that neither Chinese traders nor coastal shippers were interested in the Nanhai and its trade per se. Neither would take the gambles necessary to advance the trade appreciably, least of all risk their lives in trading junks and foreign countries at the mercy of waves, pirates and 'barbarian' officials.[27]

Heng's work on early Sino-Malay[28] trade draws heavily on Chinese texts. He concludes: it does not appear that Chinese shipping carried any of the trade between Southeast Asia and China throughout the first millennium AD.[29] He pushes the 'start' date even further ahead by stating: information on Chinese participation in maritime shipping to the Malay region is not forthcoming until the 11th century, when Chinese provincial accounts, particularly in Fujian and Guangdong, begin to mention the Chinese sailing abroad for the purpose of trade.[30] The passive stance of the Chinese courts in their diplomatic and economic interaction with maritime Southeast Asia appears to have greatly discouraged active Chinese participation in shipping between the two regions during this period.[31]

Being more specific, in 989 the Song court began to permit Chinese private vessels to sail abroad for the purpose of trade, however regulations were imposed requiring all Chinese traders to first register themselves at the mercantile shipping super-intendency at the ports of Hangzhou and Mingzhou.[32] During Renzong's reign (1023-65) the port of Guangzhou was added. Chinese ships had to return to the ports at which they registered so that they could be subjected to customs inspection, a restriction that must have stifled early direct trade. Eventually, in 1090, the Song court decreed that Chinese ships could officially register and depart from any prefecture. Within ten years trade revenue doubled.[33]

From as early as the second half of the 11th century the Song court had ruled that Chinese vessels could not remain abroad for more than nine months.[34] As they could only operate within a single monsoon cycle it was impossible to trade directly with the Indian Ocean littoral. This restriction seems to have remained in force until the end of Southern Song rule (around 1279).[35] As a result of the lifting of this restriction by the newly installed Yuan court, Chinese shippers appear to displace the Southeast Asians from their traditional role of transhipping products from the Indian Ocean littoral and Middle-East to China.[36] As an indication of how far the Chinese had come, a Muslim merchant and maritime trade supervisor

[25]Oliver William Wolters, *Early Indonesian Commerce: A study of the origins of Srivijaya*, Ithica: Cornell University Press, 1967, 231.

[26]Wang Gungwu, *The Nanhai Trade,* 107.

[27]Wang, *The Nanhai Trade,* 116.

[28]For the purpose of his work, Heng defines the Malay region as encompassing the Malay Peninsula, the eastern coast of Sumatra, and the northern coast of Borneo.

[29]Derek Heng, *Sino-Malay Trade and Diplomacy: from the Tenth through the Fourteenth Century* (Singapore: ISEAS, 2012), 30.

[30]Heng, *Sino-Malay Trade*, 30 citing Wolters, Restudying Some Chinese Writings on Srivijaya, *Indonesia* 42, (1986), 1-42.

[31]Heng, *Sino-Malay Trade*, 31.

[32]Heng, *Sino-Malay Trade*, 42.

[33]Heng, *Sino-Malay Trade*, 48

[34]Heng, *Sino-Malay Trade*, 51.

[35]Heng, *Sino-Malay Trade*, 59.

[36]Heng, *Sino-Malay Trade*, 64.

in Quanzhou, Pu Shou-geng, reported in 1281 that he had been ordered by the Yuan emperor to build 200 sea-going ships, of which 50 had been finished.[37]

In 1284, there was a major departure from the private trade policy implemented throughout the Song, when the Yuan court attempted a state monopoly on Chinese shipping.[38] Much of the maritime trade during the Yuan was controlled by foreign, mainly Muslim merchant resident in the southern ports, often in *ortogh*[39] partnerships with Mongol imperial family members or government officials. A joint venture system was established, combining government ships with merchant expertise. Profits were shared in a 7:3 ratio. In 1285, the Yuan government allocated 100,000 *ding* (more than 20 tonnes) of silver to build ships for joint ventures.[40]

The ban on private trade was lifted and re-imposed intermittently through to 1323, after which time private trade was permitted until the end of the Yuan dynasty.[41] The Mongols were not content with trade alone. They invaded Korea repeatedly from 1231 to 1259, when the Goryeo Dynasty finally acquiesced to becoming a vassal state. In 1274 the Mongols invaded Japan but were eventually repelled. They tried again in 1281 only to have their fleet shattered by a typhoon.

Then it was Java's turn. According to the Accounts of Shih-pi:[42]

"In the year 1292, he [Shih-pi] was made commander of the expedition to Java, whilst Ike Mese and Kau Hsing were appointed to assist him… In the 12th month he joined the other troops with 5,000 men and departed from Quanzhou: the wind was strong and the sea very rough, so that ships rolled heavily and the soldiers could not eat for many days. They passed the Sea of Seven Islands (Paracels) and the Long Reef[43], they passed the land of the Giau-chi (northern Vietnam) and Champa, and in the first month of the next year they came to the Western Tung Islands (Anambas?), entered the Indian Sea (?) and consecutively arrived at the Olive Islands (?), Karimata and Kau-lan (Bilitung), where they stopped to cut timber to make small boats for entering the rivers."

Pirates joined the expedition with a large number of men and ships[44], but in vain. The Mongol incursion became immersed in local intrigue, and the fleet retreated while they could still take advantage of the favourable monsoon. Chinese oceanic shipping steadily advanced however there were nowhere near enough sea-going vessels to satisfy the new emperor's goals. Emperor Yongle reigned from 1402 to 1424. Wade is of the opinion that he intended to create legitimacy after usurping the previous emperor by displaying the might of the Ming.[45] He aimed to bring all the known polities into submission and to collect treasures for his court.

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[37]Wade, *Sino-Malay Trade*, 90.

[38]Heng, *Sino-Malay Trade*, 65.

[39]*Ortogh* partnerships were Mongol merchant associations which pooled their resources and spread their risks.

[40]Geoff Wade, "An Asian Commercial Ecumene, 900-1300 CE," *Offshore Asia: Maritime Interaction in Eastern Asia Before Steamships* (Singapore: ISEAS, 2013), 82.

[41]Heng, *Sino-Malay Trade*, 59.

[42]Stuart Robson, "The History and Legend of the Foundation of Majapahit," in David Bade, *Of Palm Wine, Women and War* (Singapore: ISEAS, 2013), 196.

[43]Robson suggests that Long Reef is Macclesfield Bank. The author's opinion that Long Reef refers to a legendary non-existent reef stretching south from the Paracels, known as the Scorpion's Tail. Macclesfield Bank is not a reef at all, but a huge area of shallows with a least depth of 9 m, and is nowhere near the course of ships heading for northern Vietnam.

[44]Bade, *Of Palm Wine*, p.9.

[45]Wade, "An Asian Commercial Ecumene," 11.

Designated Admiral Zheng He's fleets needed to be imposing enough to cow any opposition. Wade enumerates the phenomenal shipbuilding activities.[46] In 1403, the Fujian Regional Military Commission was ordered to build 137 sea-going ships. In the same year, various military units were ordered to build an additional 400 ships. In 1405, just after Zheng He departed on his first expedition, Zhejiang and other regional military commissions were ordered to build 1,180 sea-going ships[47]. By 1408, the Ministry of Works was required to build 48 "treasure-ships" or *bao-chuan*[48]. The various missions comprised between 50 and 250 ships, some voyaging for years before returning to China.

Zheng He's voyages had drained the state coffers, and lost relevance when viewed against the renewed threat of invasion from the north. When his patron, Yongle, died in 1424, successors, Hongxi, who only lasted for one year, and then Xuande, ordered the immediate cessation of overseas exploration. Tribute missions were consolidated and official trade continued, but without unfettered private trade the quantity of Chinese exports and the number of Chinese ships carrying them began to decline.

The first edict specifically banning all private Chinese shipping was issued in 1371 by Emperor Hongwu. It was lifted in 1405 but in 1479 China again turned inwards. Shipbuilding laws were implemented restricting the size of sea-going vessels. The decline of the Ming navy allowed the growth of both local and Japanese piracy along China's coasts. Instead of mounting a counterattack, Ming authorities chose to shut down all ports to private shipping. Foreign trade was to be conducted by the state under the guise of tribute missions. These were known as the *hai jin* laws, a strict ban on private maritime activity which was not formally abolished until 1567.[49]

Despite the frequent policy changes a Chinese shipbuilding tradition had been well established. Construction techniques changed little for the next three hundred years, when steam finally forced sail from the seas.

Archaeological Evidence in China and Southeast Asia – A Look at the Trends

It is fortunate for the maritime archaeologist that there are only four key types of non-European ship found in Asia. Construction techniques are unique to each region and/or period, and differ so much from each other that a ship's origin can be determined from a glimpse of the hull or from fragmentary remains. The Southeast Asians had lashed-lug ships. The Arabs and Indians had stitched "dhows". The Chinese had the heavily built, iron fastened junks. And, from the mid-14th until the mid-16th century, the Thais had a hybrid design referred to as the South China Sea Tradition.

Maritime archaeology has only been practiced in Asia since the late 1970's. It was introduced at that time in response to the looting of wrecks in the Gulf if Siam. Interestingly, institutional archaeology has been limited to Thailand ever since. Virtually all that is known of the multitude of shipwrecks found throughout the rest of Southeast Asia comes to us from responsible commercial excavators, working with regional governments under license. China is

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[46]Wade, "An Asian Commercial Ecumene," 11.

[47]In the author's opinion, this number is a gross exaggeration, but it does convey an idea of the massive amount of construction needed to support Zheng He's voyages.

[48]The *bao-chuan* are frequently ascribed a length of 120 m or more, based on one unsubstantiated Chinese text. In the humble opinion of the author, and many other scholars and professionals, this is rubbish. From consideration of naval architecture, sail-ability, archaeology and history, the *bao-chuan* would have been a maximum of 50 m long. This size is still huge and imposing, and was not matched again by wooden sailing vessels until the arrival of the 1,100 tonne Dutch retourships in the 18th century.

[49]John Fairbank, *China: A New History* (Cambridge: Harvard University Press, 2006), 39.

a relative new-comer to maritime archaeology. The field is fully controlled by the government and efforts are being made to make up for lost time. But no amount of effort, in China or Southeast Asia, will bring back the masses of information that have been lost to looting. If anything, the looting is increasing.

Data Selection

It can be difficult to determine whether a particular shipwreck was involved in distant voyaging or coastal trade when there is no surviving cargo. So, for the purpose of determining the prevalence of particular types of long distance trading vessel from the shipwreck evidence, the terrestrial finds without surviving cargoes must be excluded. Most are in fact abandoned hulls rather than shipwrecks. Likewise, shipwrecks with documented cargoes but no conclusive evidence for the origin of the vessel. For example, the 12th to 13th century *Pulau Buaya Wreck* in Indonesia, with a cargo of Chinese ceramics and iron.[50] Nothing of the hull was recorded. And the 10th century *Karawang Wreck*[51], also in Indonesia, with a ceramics cargo similar to those on the contemporary *Intan* and *Cirebon Wrecks*. It was almost certainly another lashed-lug ship, but nothing of the hull was observed and/or recorded.

When studying the chart in Fig. 1 the first thing that springs to mind is the dearth of documented sea-going shipwrecks in China and Southeast Asia. For the entire first-millennium there are only six wrecks. In the 11th century, during the Southern Song when maritime trade began to surge, there are none. During the 12th century there is a single Chinese junk. Even at the peak, during the 15th century, there are only nine wrecks, an average of less than one per decade. Storms, pirates, rotten timbers, fire, overloading, and reefs must have claimed many ships every year. The documented shipwrecks are but a fraction of what lies, or lay, out there.
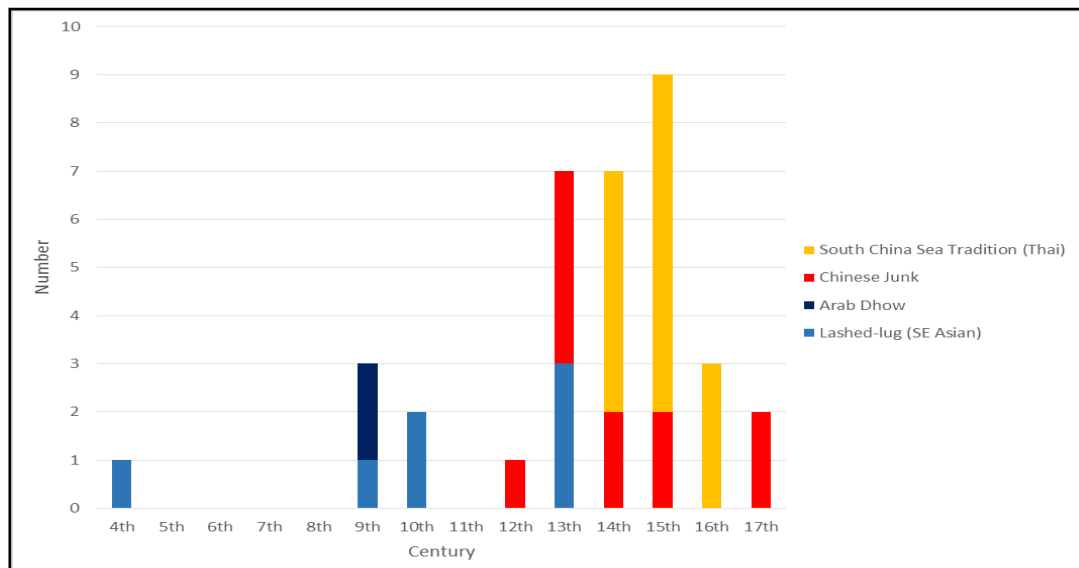

Figure 1. Chart of documented shipwrecks in China and Southeast Asia by type.[52] Processed from various sources, 2015.

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[50]A. Ridho and E. E. McKinnon., *The Pulau Buaya Wreck* (Jakarta: Himpunan Keramik Indonesia, 1997).

[51]Horst Liebner, *Cargoes for Java: Interpreting Two 10th Century Shipwrecks* (Leeds: EAST, University of Leeds, 2014).

[52]Note that wrecks with dates that mark the transition between centuries have been allocated to the earlier century, i.e. a 13th to 14th century wreck appears in the 13th century column.

The Trends

The trends are quite evident from the chart in Figure 1. In simple term, Southeast Asian lashed-lug ships dominated for a thousand years through to the 13th century. During the 9th century Arab (and probably Indian) ships switched from trading via the Isthmus of Kra to direct trade with China. But during the 10th century they switched back. Chinese ships first appear in the South China Sea by the 12th century, and coexisted with Southeast Asian vessels during the 13th century. Unless a design flaw caused an inordinate number of shrinking, the South China Sea Tradition ships that sprang up in response to various bans on Chinese overseas trade, would seem to be the prevalent craft from the 14th to the 16th century. From this admittedly simplistic visualisation, it would seem the South China Sea Tradition replaced the Southeast Asian lashed-lug design during the 14th century.[53] However, textual evidence reveals that lashed-lug vessels evolved, with treenails replacing internal plank stitching and lashed in frames. Two, and sometimes three layers of hull planking were also attached with treenails. But the quarter rudders were retained on these vessels, referred to as *jongs* by the Portuguese.[54] The Chinese continued to trade directly with Southeast Asia through to the 17th century and beyond, with imperial policies causing fluctuations. By this time European ships were trading throughout the South China Sea, and they began to influence traditional Asian shipbuilding techniques.[55] From the archaeological evidence, the Southeast Asians seem to have eventually become bit players, but from frequent mention in European reports it is clear that this was not the case.[56]

Archaeology and History: The Implications

What Claims?

According to some protagonists[57], one of the early Chinese references to the Paracels is the *Chu Fan Chi*, a 13th century book, translated by Hirth and Rockhill in 1911, into "Chau Ju-kua: His work on the Chinese and Arab Trade in the 12th and 13th Centuries". Chau, the customs inspector of foreign trade in Fujian province, wrote:

> "To the east [of Hainan] are the 'Thousand li banks' (*Chien-li chang-sha*) and the 'Myriad li rocks' (*Wan-li shih-chuang*). [Beyond them] is the boundless ocean, where the sea and the sky blend their colours, and the passing ships sail only by means of the south-pointing needle — if it be closely watched by day and night — for life or death depends on the slightest fraction of error."[58]

There are in fact no banks or reefs to the east of Hainan, so the direct inference that these banks and rocks are the Paracels is invalid. However, Hirth and Rockhill do concur with Groeneveldt's translation and interpretation of the narrative of Shih Pi's invasion of Java in

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[53]It has been assumed that the South China Sea Tradition vessels were constructed in Thailand. Most were made predominately from teak. However, a detailed analysis of other timber species found on the many wrecks may shed light on other potential construction sites.

[54]Manguin, Pierre-Yves, "Asian Shipbuilding Traditions in the Indian Ocean at the Dawn of European Expansion," in *The Trading World of the Indian Ocean, 1500-1800* (Delhi: Centre for Studies in Civilizations, 2012) 612. The absence of *jongs* from the archaeological record is an enigma.

[55]The *Vung Tau Wreck*, a lorcha, is a prime example.

[56]Post South China Sea Tradition ships present a hole in the archaeological record. One exception is the *Ca Mau Wreck* of c.1725. A single hull plank recovered from the wreck shows a row of dowels for edge-joining, a Southeast Asian shipbuilding characteristic. Unfortunately, nothing of the hull was recorded in-situ.

[57]Li Dexia and Tan Keng Tat, "South China Sea Disputes: China Has Evidence of Historical Claims," *RSIS Commentary*, No. 165, 15 August 2014.

[58]F. Hirth, W. Rockhill, *Chau Ju-Kua* (Taipei: Cheng-Wen Publishing Company, 1911) 176.

1292, which mentions his fleet sailing through the 'Sea of the Seven Islands' (*Ch'i-chou yang*), and past Long Reef (*Wan-li shi-tang*).[59] Groeneveldt concludes that the 'Sea of Seven Islands' is the Paracels, which lie to the southeast of Hainan. Hirth and Rockhill agree, and equate this feature to their *Wan-li shih-chuang.*

Contrary to the claim by Li and Tan[60], none of these scholars interpret *Wan-li shi-tang* as the Spratlys. Instead they concur with Groeneveldt's assumption that it refers to Macclesfield bank, to the southeast of the Paracels. The author doubts this identification as, having passed Long Reef, Shih Pi's next landfall is northern Vietnam. Macclesfield Bank is not a reef at all, and lies nearly 200 miles off the direct route from Quanzhou, the port of departure, to northern Vietnam. Long Reef may allude to a legendary non-existent reef stretching south from the Paracels.

Chien-li chang-sha may be Macclesfield Bank, for beyond it is indeed the "boundless ocean" extending 300 miles to the coast of Luzon, interrupted only by Scarborough Shoal. But so what? What does the recording of a few place names in the 12th and 13th century have to do with a territorial claim? Ninth century Arab texts mention the route south of Hainan, past the dangerous Paracel reefs.[61] The Southeast Asians had been taking the same route for hundreds of years prior to that. They must have been aware of this hazard. The Paracels were a landmark, spotted and passed with a wide berth, and great relief. Fearless pirates may have lurked behind the islands, and wreckers may have set up camp from time to time in order to salvage lost cargoes. Wayward traders and fishermen may have even spotted some of the reefs and islands of the Spratlys. Again, so what?

Ptak has studied earlier Chinese works such as the *Wujing zongyao* (1044), the *Song huiyao jigao* and the *Fangyu shenglan* (1239). He notes the general use of the words *shi-tang* and *chang-sha* for reefs and banks, without these features being specifically identified. Consequently, there is little to suggest that Song and Yuan geographers conceived the Spratly or Paracel Islands as part of China's territory. He concludes: indeed, traditional Chinese border terminology would rather suggest the opposite, namely that any such islands lay beyond Chinese 'territorial waters'.[62]

Why Claim?

From the analysis of ancient Chinese texts, Ptak has determined that two major trade arteries led from Quanzhou to the south in the Song and Yuan periods.[63] The first route followed the China mainland to Guangdong, then turned to Hainan from where it continued towards the Vietnamese coast. Near the southern tip of Vietnam it branched out into different directions. One branch went into the Gulf of Siam, a second led to the east Malaysian coast, and a third to Cape Datu on the western tip of Borneo. The second major trade artery connected Quanzhou with the west coast of Luzon. This route passed south-western Taiwan, then down to Manila Bay, past Mindoro Island, and from there continued, via Palawan, to Sabah, Brunei, and other sites along the coast of northern Borneo.[64] The emergence of this double trunk route system is

[59]Hirth & Rockhill, *Chau Ju-Kua,* 185.

[60]Li and Tan, *South China Sea,* 2014.

[61]G.F. Hourani, *Arab Seafaring in the Indian Ocean in Ancient and Early Medieval Times* (New Jersey: Princeton University Press, 1995) 66.

[62]Roderich Ptak, "Quanzhou at the Northern Edge of a Southeast Asian "Mediterranean"," in *China, the Portuguese, and the Nanyang: Oceans and Routes, Regions and Trade (c.1000-1600)* (Farnham: Asgate Variorum, 2004) 395-427.

[63]Ptak, *Quanzhou at the Northern,* 403.

[64]Michael Flecker The Archaeological Excavation of the 10th Century Intan Shipwreck, *British Archaeological Report International Series,* 1047 (Oxford: Archaeopress, 2002).

partly due to the existence of coral reefs in the central section of the South China Sea. Few vessels, if any, dared go directly from Quanzhou to Brunei Bay by cutting through the many reefs lying on the way.[65] Those reefs are the Spratlys.

From the detailed work of Mills (1979), it would seem that these routes changed little through to the Ming.[66] His map shows the various routes criss-crossing the South China Sea. Long offshore legs from the Gulf of Siam to Brunei, and from southern Vietnam to Tioman Island and to Tanjung Datu, demonstrate that mariners had fully mastered the compass. Hugging the coast was a thing of the past.

The mariners compass is a Chinese invention, originating from the magnetized needles that were used for geomancy on an increasingly widespread scale from the late 6th century. They are thought to have first been used for offshore navigation around the late 10th century.[67] The south-pointing needle is mentioned in the 13th century *Chu Fan Chi*, quoted above. Chinese sailing directions are given by compass bearing and number of watches[68] (duration) to the next destination on the *Wu Pei Chih* charts, originally of c.1421. And yet there are no shipping routes in the vicinity of the central South China Sea. In fact, there are none south of the Paracels, vessels choosing instead to pass between these reefs and Hainan before coasting off Vietnam. The early 17th century Selden Map depicts the routes quite clearly. The western passage hugs the coast of Vietnam. The eastern passage hugs the coast of Palawan. There is no venturing into the wide expanse of the South China Sea until well south of the Spratlys. The ancient shipping routes clearly demonstrate that the Spratlys were to be avoided at all costs.

Horsburgh, in his sailing directory of 1836, agrees:

"The Archipelago of sandbanks, rocks or reefs, above and under water, … is so extensive, and the dangers that form it so numerous, that there can be little utility in entering into a minute description of them, for they ought to be avoided by all navigators."[69]

It is therefore interesting to note that there were two ships in the offing when the *Titania* wrecked on Ladd Reef in September 1852, demonstrating that by the 19th century it was common for sailing ships to risk the wrath of the Dangerous Ground.[70] By this time speed was crucial for maximising profits in the tea and opium trade. Advanced rig and navigation allowed European ships to sail into the teeth of the southwest monsoon, following the most direct route down the middle of the South China Sea.

Christina wrecked on 1st July, at the height of the southwest monsoon. *Titania* and *Taeping* wrecked on 20th and 22nd September respectively, when it was still blowing. They were all tacking into the wind, and therefore deviating markedly from the direct route, and they suffered the consequences.

Until the late 18th century, tacking into the wind was not an option. Even beyond the 18th century Chinese junks remained relatively poor upwind sailers. As a rule-upwind sailing was not necessary as opposing monsoons allowed ships to sail downwind both outward and

[65]Ptak, *Quanzhou at the Northern*, 404.

[66]J.V. Mills, "Chinese Navigators in Insulinde About AD 1500," *Archipel* 18 (1979), 69-94.

[67]J. Needham and C. Ronan, *The Shorter Science and Civilisation in China* (Cambridge University Press, 1986).

[68]Each watch was 2.4 hours, so with a typical speed of 10 knots, 10 nautical miles would be covered in one watch, or 100 miles in a day.

[69]James Horsburgh, *India Directory: East Indies, China, Australia, Cape of Good Hope, Brazil* (London: Allen & Co., 1836) 427.

[70]The London Reefs were observed by the ship *London* in 1786, Horsburgh, *Indian Directory*, 429.

homeward bound. Horsburgh provides two routes for downwind sailing from Canton to Singapore. The Outer Passage initially aims for Macclesfield Bank. It had to be located by sounding, so it was clearly too deep to be of any danger, even from breaking waves. From there ships were instructed to head southwest for Pulau Sapata, a tall white rock off the southern coast of Vietnam. This route is well clear of the Spratlys. The Inner Passage passed between Hainan and the Paracels before ships made landfall at Cape Varela on the central coast of Vietnam. Horsburgh states "The Inner Passage was the only route used by homeward bound ships upward of a century ago [the early 18th century]."[71] In heading for China, "when the southwest monsoon is set fairly in, ships bound for the Canton River ought to proceed by the Outer Passage [south of the Paracels]."[72]

Today the Spratlys are littered with modern wrecks. Lighthouses, accurate charts, radar and GPS have not been enough to prevent losses on the Dangerous Ground. Before these navigational aids were introduced the risks involved in sailing anywhere near the Spratlys were immense. Fishermen could carefully pick their way through the reefs and islands, being small and agile and having time on their hands. But in centuries past, there were fish enough for all who ventured there. There was never a need for anyone to claim ownership of the treacherous reefs of the Spratlys.

Defying Logic

China defendants have cited Horsburgh's India Directory of 1836 in an effort to demonstrate an ongoing presence in the South China Sea:

> "The Hainan fishermen visit the islands and shoals in this part of the China Sea [Spratlys] in March and April to fish, as well as those at the Paracels."[73]

A couple of months fishing during the calmest time of the year hardly constitutes a presence. It is, however, interesting that fishermen ventured so far from their home port to fill their holds well before fish stocks were decimated by modern fishing techniques. Fish stocks around the isolated reefs of the Spratlys must have been extraordinary prior to the 20th century. Perhaps the dense coastal population of China necessitated the time and risk of venturing further afield. Vietnam and the Philippines were not so populous as a whole, although there were high density areas in the Red River delta and central Luzon associated with wet rice cultivation.[74] They are much closer to the Spratlys, but perhaps fish were still plentiful in coastal waters. Maybe Vietnamese and Filipino fishermen did occasionally sail out to the Spratlys, unnoticed by Horsburgh and his deputies during their brief visitations.[75] Populations throughout Southeast Asia rose rapidly from the beginning of the 20th century, so it is likely that fishermen from the Philippines, Vietnam and northern Borneo would have increasingly taken advantage of the common waters, along with the Chinese.

While some could argue a degree of logic for the above-mentioned fishermen example, it's pretty hard to detect any when it comes to using shipwrecks as a basis for claim. Liu Shuguang is the head of the Chinese government's Centre of Underwater Cultural Heritage,

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[71]Horsburgh, *Indian Directory*, 420.

[72]Horsburgh, *Indian Directory*, 420.

[73]Horsburgh, *Indian Directory*, 428.

[74]Hirschman, C. and Bonaparte, S., "Population and Society in Southeast Asia: A Historical Perspective," *Population and Society*, http://faculty.washington.edu/charles/new%20PUBS/A120.pdf, accessed November 2015.

[75]There is no evidence whatsoever that Chinese fishermen exploited Scarborough Shoal before the Filipinos. From historical seafaring capability and geographical proximity, it is a highly unlikely scenario.

which was established in 2009 to oversee underwater archaeology. If the Wall Street Journal[76] is to be believed, Liu "wants to find more evidence that can prove Chinese people went there and lived there, historical evidence that can help prove China is the sovereign owner of the South China Sea". Commenting on the joint Filipino-French archaeological expedition that was evicted from Scarborough Shoal by the Chinese in 2012, Liu reasons: "because this was material evidence that Chinese people first found the Scarborough Shoal, they wanted to destroy evidence that was beneficial to China."

It would set a truly remarkable precedent if the misfortune or ineptitude that led to shipwreck could later be interpreted as discovery and occupation. As for Scarborough Shoal, the scattered rocks that break the surface would have afforded little relief for shipwreck survivors, let alone entice them to stay. And without any archaeological evidence of a ship, it is impossible to say who was carrying the Chinese ceramics that now decorate Scarborough Shoal and many other reefs, in fragmentary form.

In fact, only one site in the region of the Spratlys shows any evidence of a Chinese ship. The 13th century *Breaker Shoal Wreck*, located on a reef of that name adjacent to Palawan Passage, contained a stone anchor stock that is Chinese in design.[77] It was documented by the same French outfit that was kicked off Scarborough Shoal. There are certainly no signs of Chinese ships on arguably the most dangerous reefs in the Dangerous Ground, those investigated by the author in 1993. Indeed, there were no signs of the ceramic fragments that mark shipwreck sites on so many other reefs in the South China and Java Seas.

Taking another tack, Li Xiaojie, the Chinese Vice Minister of Culture, was quoted as saying, "Marine archaeology is an exercise that demonstrates national sovereignty" as he examined porcelain retrieved from a wreck in the Paracels.[78] Without context, this statement could conform to Liu's belief that wrecking equals possession, or it could mean that the act of scientific investigation in occupied territory reinforces ownership rights.

Shipwrecks can have no bearing on historical claims. However, archaeology can. If there is genuine archaeological evidence for prolonged occupation on some of the islands in the Spratlys and Paracels, that could go some way towards justifying a claim. So far, none has been forthcoming, to the author's knowledge. Even if archaeological evidence was produced, it would be viewed with some scepticism internationally. By openly declaring the nationalistic intent of their archaeological programme, and by preventing any form of international participation, Chinese cultural officials do their country a disservice.

Conclusions

Whenever challenged, China reiterates the 'indisputable' rights the country enjoys within the nine-dashed line. Under the UNCLOS boundary regime, China's rights within the South China Sea are indeed very disputable. So, one can only conclude that these perceived rights are historical. Forgetting for the moment that UNCLOS also denies any party historic rights outside their territorial sea, let us summarise the historical and archaeological evidence.

The Southeast Asians, in their lashed-lug ships, gained many centuries of knowledge of the islands and reefs in the South China Sea before other seafarers ventured into these waters.

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[76]*Wall Street Journal*, 2 December 2013.

[77]M.F. Dupoizat, "The ceramic cargo of a Song dynasty junk found in the Philippines and its significance in the China-Southeast Asia trade," in *Southeast Asia & China: Art, Interaction, and Commerce*, edited R. Scott and J. Guy, Colloquies on Art and Archeology in Asia No. 17 (London: University of London Percival David Foundation of Chinese Art) 205-224.

[78]*Wall Street Journal*, 2 December 2013.

Towards the end of the first millennium, the Arabs and Indians voyaged through the South China Sea, probably under the guidance of Southeast Asian pilots. It was not until the 11th century that Chinese junks took to the high seas to trade directly with Southeast Asian polities.

The Chinese Ministry of Foreign Affairs cites Han and Tang dynasty texts as evidence of historical rights.[79] Chinese texts dating prior to the 11th century cannot possibly demonstrate any form of claim or ownership, simply because the Chinese did not voyage through the South China Sea in their own ships until that time. Some texts based on early Chinese voyages may specifically mention the Paracels, but none conclusively mention the Spratlys. Even if they did, the reference to a place on a trade route has no bearing whatsoever on the ownership of that place. So, claims based on any ancient texts would seem to be irrelevant.

Due to the extreme danger posed by the reefs and islands of the Spratlys, they were avoided by ships both ancient and modern, Southeast Asian, Arab or Chinese. Still, some unfortunates wrecked there. The older wrecks tend to be on the reefs adjacent to Palawan Passage, on the eastern route. One of the wrecks found there may be a Chinese junk. Wrecks on the western-most reefs tend to be post-18th century and European. There is no evidence of any Chinese ships, or even Chinese ceramics, in this treacherous area. Regardless, shipwrecks are a result of bad luck or poor navigation. They cannot possibly be interpreted as a claim on territory.

Fishing boats have been taking advantage of the bountiful sea life in the Spratlys for centuries. Perhaps the Chinese ventured there first, when coastal stocks proved insufficient to feed the heavily populated hinterland. But they only visited for a couple of months at a time during the best weather window. And fishermen did not claim territory, at least not until Filipino, Thomas Cloma, tried it on in the mid-20th century.

While territorial claims had been declared, the Paracels and Spratlys were effectively *terra nullius* until the early 20th century. From that time, there was a rising awareness that occupation was the only way to enforce a claim. Sometimes even occupation was not enough. Some features were taken by force, or trickery, from earlier occupiers.

UNCLOS entered into force in 1994 having been ratified by sixty countries, including all of the South China Sea claimants. From that moment on, unoccupied features lying within the EEZ of a specific country technically belonged to that country. Where already occupied features lay within another country's EEZ, bilateral negotiations were mooted in the hope that production sharing arrangements would result. So far, they haven't.

Towards the end of 1994, immediately after UNCLOS came into force, China occupied Mischief Reef, well inside the EEZ of the Philippines. In 1999 Malaysia also built structures on several of their occupied reefs, although these were within Malaysia's self-proclaimed EEZ.

The Declaration of Conduct (DOC) was signed by all claimants in 2002. It called for them to refrain from taking any actions that might escalate tensions. Despite signing, several claimants continued to enhance their occupied territory. China has completely ignored the DOC by blockading Scarborough Shoal and Second Thomas Reef, both well inside the EEZ of the Philippines, by deploying a drilling rig inside the EEZ of Vietnam, and by undertaking massive reclamation projects on most of its occupied territory in the Spratlys, invariably reefs that barely break (broke) the surface at high tide.

The Paracels are roughly equidistant from Hainan and Vietnam. Vietnam and China can both offer relatively resent historical evidence to bolster their respective claims, but China occupies the Paracels in their entirety and is not going to be moving out in the foreseeable

[79]Chinese Ministry of Foreign Affairs, 2000, http://fas.org/news/china/2000/china-000600.htm.

future. Bilateral negotiations similar to those that determined the division of the Gulf of Tonkin would be the best way forward, for the eternal optimist.

No country has demonstrated that they have historical rights to the Spratlys, simply because it is, and always has been, Dangerous Ground, a place to avoid at all costs. China's claim to virtually all of the South China Sea does not seem to be indisputable.

Acknowledgement

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