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# ASEAN and the South China Sea

Rodolfo C. Severino

Territorial claims in the South China Sea are one of the most longstanding security issues in South East Asia. In this article, former ASEAN Secretary-General Rodolfo C. Severino reviews the claims of ASEAN members in the area, and details ASEAN's involvement in the dispute since the 1992 ASEAN Declaration on the South China Sea.

Amidst all the legal arguments and political and diplomatic posturing, the claimants to the land features and waters of the South China Sea—and others which have no claims—are really driven by their strategic interests in it.

China fears the expanse of water being used to threaten or attack it from the southeast, as it has been in the past. At the same time, some accuse Beijing of seeking dominion over the South China Sea in order to achieve a measure of hegemony over Southeast Asia. Vietnam needs its footholds in the South China Sea to avoid being practically surrounded by Chinese power, with which it was in conflict for many centuries. The Philippines feels compelled to extend its zone of jurisdiction and responsibility westwards, having been invaded by the Japanese from that direction at the start of the Pacific War. A vast area of the South China Sea both separates West and East Malaysia and connects them to each other. Brunei Darussalam has to ensure for itself the resources in its claimed exclusive economic zone and continental shelf, which overlap with other claims.

Others, which have no direct land or maritime claims in the area save those that they say are granted them by the 1982 United Nations Convention on the Law of the Sea (UNCLOS), are keenly interested in what happens in the South China Sea. Jakarta needs to make sure that the rich gas resources of the Natuna group of islands are under Indonesia's exclusive authority and for its exclusive exploitation. Although supporting no one's claims, the United States seeks to ensure that its warships and aircraft are free to navigate in or above the waters of the South China Sea and keep unhampered its trading links with East Asia. Much of Japan's trade flows through the South China Sea, including a large portion of its energy imports. Tokyo, therefore, has an interest in keeping the trading lanes through—and above—the South China Sea free and open.

All, including the ten members of the Association of Southeast Asian Nations (ASEAN), have a deep interest in the peace and stability of the South China Sea. How much peace and stability figure in each country's calculation of its

strategic interests, of course, varies from country to country and from time to time.

In order to justify, in terms of international law, their interest-driven positions, the claimants invoke their respective interpretations of history and international and national laws.

The Treaty of Peace with Japan, concluded in San Francisco in September 1951, divested Japan of “all right, title and claim to the Spratly Islands and to the Paracel Islands”.<sup>1</sup> However, that treaty or any subsequent agreement did not explicitly state which country would have the “right, title and claim” to those land features in the South China Sea.

Calling the Spratlys area Nan Sha and the Paracels Xi Sha, the Chinese on both sides of the Taiwan Straits have been arguing that those land features and the waters around them rightly belong to China. They invoke history, citing the contacts that, at least since the Han Dynasty (206 BC to 220 AD), Chinese people have had with the islands, old Chinese maps, records of Chinese voyages, and the continuous presence in the area of Chinese fishermen. As the Western practices of asserting territorial sovereignty took hold, China utilised them in pressing its claims in the South China Sea—issuing protests and other statements, publishing maps, entering into agreements, enacting laws, planting flags, and placing markers.<sup>2</sup>

In 1911, the new republic in China placed the Spratlys and the Paracels under a county on Hainan Island, which was then part of Guangdong Province. In 1947, the Nationalist government of China published a map of the South China Sea that displayed nine bars enclosing almost its entire expanse. What those bars indicate—whether they represent a claim to all the waters of the South China Sea or just the land features and the maritime regimes that they generate—remains uncertain. In any case, it has been pointed out that the nine bars cannot be authoritative, since they are merely lines on a map with no coordinates fixing their exact locations.<sup>3</sup>

In its September 1958 Declaration on the Territorial Sea, Beijing included the Spratlys, the Paracels and Macclesfield Bank among China’s territories, to which the twelve-mile breadth of the territorial sea applied, even as it designated the waters between the Chinese mainland and the islands that

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<sup>1</sup> Treaty of Peace with Japan, 8 September 1951, San Francisco, California, USA (Los Angeles: UCLA Center for East Studies), in <<http://www.international.ucla.edu/eas/documents/peace1951.htm>> [Accessed 29 June 2010], Article 2(f).

<sup>2</sup> The Chinese claim is summarised in Lu Ning, *Flashpoint Spratlys!* (Singapore: Dolphin Trade Press Pty Ltd, 1995), pp. 5-30.

<sup>3</sup> Sam Bateman, ‘Commentary on “Energy and Geopolitics in the South China Sea” by Michael Richardson’, and B. A. Hamzah, ‘Pax Sinica and Regional Maritime Order in the Spratlys’, both in *Energy and Geopolitics in the South China Sea: Implications for ASEAN and Its Dialogue Partners* (Singapore: ASEAN Studies Centre, Institute of Southeast Asian Studies, 2009), pp. 48, 61. Also available at: <[www.iseas.edu.sg/aseanstudiescentre](http://www.iseas.edu.sg/aseanstudiescentre)>.

China claims as “the high seas”. In 1988, China split off Hainan from Guangdong Province to create the new province of Hainan, in which the Spratlys, the Paracels and Macclesfield Bank were included.

### **ASEAN Members’ Claims**

Similarly, the Vietnamese claim the land features in the South China Sea by virtue of discovery, use and occupation. In addition, as successor-state to France, Vietnam has invoked the acts of sovereignty that France had carried out in the area since the 1920s. At the 1951 San Francisco peace conference, the Vietnamese Prime Minister and Foreign Minister asserted his country’s claims to the Spratlys and the Paracels without anyone challenging him.

In January 1974, Chinese Communist forces, who had taken over half of the Paracels from their Nationalist rivals, ejected the South Vietnamese troops, who had received the surrender of the Japanese in the Paracels, from the other half of that group of islands, which the Vietnamese troops were occupying. In so doing, the Chinese spared themselves the need to seize the Paracels from a unified Vietnam under the victorious North, their erstwhile ally, which was, moreover, supported by a powerful Soviet Union. At the same time, with the Paris conference on a political settlement of the Vietnam War going on, the United States seemed to have elected not to come to the help of its South Vietnamese allies.

As for ASEAN, there is no record of the association—or of anyone else—reacting in any way to one of the most momentous events in the modern history of the South China Sea, the China-South Vietnam clash in the Paracels in January 1974. In the case of ASEAN, three of its then five members were about to establish diplomatic relations with Beijing and, therefore, did not wish to offend it. At the same time, they must have sensed that South Vietnam was close to defeat by the Chinese-allied North.

Nor is there any record of an official ASEAN reaction to the bloody battle in the Spratlys, near Johnson Reef, between Chinese and Vietnamese forces in March 1988. Even while the Vietnam War was still in its last months, the North Vietnamese had, in April 1975, seized by armed force the land features in the Spratlys occupied by South Vietnamese troops, who had fled there more than a year before. Responding quickly to the Vietnamese incursion into Cambodia and the alleged depredations by Vietnam against its Chinese minority, China attacked Vietnam in order, the Chinese said, “to teach it a lesson”. Thus, by the 1988 naval battle in the Spratlys, the animosity between China and Vietnam had returned to the surface. With its hands full trying to prevent and survive a break-up, the Soviet Union could not be relied upon to succour its Vietnamese allies.

At the same time, with the support of China and the United States, ASEAN had been opposing Vietnam's incursion into and military occupation of Cambodia as an unacceptable effort at regime change by armed force. There was, therefore, a distinct lack of ASEAN sympathy for Vietnam's predicament when China gave it a bloody nose, consisting of more than seventy Vietnamese dead and one Vietnamese vessel sunk and two damaged. What was strategically significant was that China's 1988 victory over Vietnam in the Spratlys enabled it to gain a foothold and rapidly expand it in that group of islands.

Meanwhile, Nationalist Chinese forces, which had fled to Taiwan from the victorious Chinese Communists, had returned to Itu Aba or Tai Ping or Ligaw, the largest land feature in the Spratlys area, in July 1956. They had occupied it since December 1946, when they were still in control of the Chinese mainland, but abandoned it in June 1950.

After several encounters with Nationalist Chinese/Taiwanese vessels, a Filipino group led by Tomás Cloma, a marine educator, entrepreneur and adventurer, laid claim to an area in the South China Sea, which they named Freedomland. Although Cloma's boats had been sailing in the area at least since 1947, it was not until 1956 that Cloma and his group made a formal claim to "Freedomland" on their own behalf rather than that of the Philippine government. The Philippine position at that time was not to claim sovereignty over or ownership of that area. The Philippines regarded the area as not being part of the Spratlys but as *res nullius*, or something not belonging to anyone, an area, nevertheless, that was of strategic value and economic interest to the country.

In December 1974, the martial-law regime of President Ferdinand E. Marcos obtained—some say coerced—from Cloma a document transferring to the Philippine government all the rights of Tomas Cloma & Associates to "Freedomland". After the overthrow of Marcos, Cloma's associates wrote to the new President, Corazon C. Aquino, charging that Cloma had signed the deed of assignment under compulsion but affirming the transfer. In the process, they claimed reimbursement of expenses incurred while occupying and otherwise administering "Freedomland".<sup>4</sup>

In the meantime, in June 1978, Marcos issued a decree officially laying claim to part of the Spratlys area, off the west coast of the Philippine island of Palawan, and making it a municipality in Palawan province. The coordinates defining the claimed part of the South China Sea are almost identical to

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<sup>4</sup> Tomás Cloma & Associates, Memorandum for Her Excellency Corazon C. Aquino, President of the Philippines, Malacañang Palace, Manila (15 July 1987), document in my possession.

those of the area claimed by Cloma. The decree remains in force to this day.<sup>5</sup>

Disregarding or challenging the claims of others, Malaysia projects its exclusive economic zones and continental shelves eastwards from the Malay Peninsula and westwards from Sabah and Sarawak. It claims several land outcroppings, some of which it occupies, by virtue of their locations in the EEZ and on the continental shelves, invoking national-security interests arising from their proximity to Malaysia's main land territories. Among the land features that Malaysia claims are some that are also claimed by China/Taiwan, Vietnam, and/or the Philippines, which occupy a number of them.

Brunei Darussalam projects its continental shelf and an "exclusive fishing zone" from its coast line, an area that totally overlaps with the exclusive economic zone and continental shelf that are projected from East Malaysia. That area also juts into maritime areas that others claim. If official statements are to be believed, the overlap between the claimed waters of Brunei Darussalam and Malaysia is nearing resolution.

## **The ASEAN Declaration**

Perhaps responding to the growing assertiveness of China's territorial claims in the South China Sea, and certainly to the growing potential for conflict (conflict that had actually erupted between China and Vietnam in 1988), the ASEAN foreign ministers adopted in July 1992 the ASEAN Declaration on the South China Sea. Pushed by the Philippines, which was chairing that year's ASEAN Ministerial Meeting, the Declaration called for the peaceful resolution of "all sovereignty and jurisdictional issues pertaining to the South China Sea", the exercise of "restraint", and the application of

the principles contained in the Treaty of Amity and Cooperation in Southeast Asia as the basis for establishing a code of international conduct over the South China Sea.

The Declaration committed the ministers to exploring

the possibility of cooperation in the South China Sea relating to the safety of maritime navigation and communication, protection against pollution of the marine environment, coordination of search and rescue operations, efforts towards combating piracy and armed robbery as well as collaboration in the campaign against illicit trafficking in drugs.

It expressed their recognition of the "sensitive questions of sovereignty and jurisdiction" involved in South China Sea issues and the fact that "any

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<sup>5</sup> Raphael Perpetuo Lotilla (ed.), *The Philippine National Territory: A Collection of Related Documents* (Quezon City, Philippines: Institute of International Legal Studies, University of the Philippines Law Center and Manila: Foreign Service Institute, Department of Foreign Affairs, 1995), pp. 465-6.

adverse developments in the South China Sea directly affect peace and stability in the region”.<sup>6</sup>

The ASEAN ministers sought to get Qian Qichen to sign on to the declaration. The Chinese foreign minister, together with his Russian counterpart, was in Manila as guest of the ASEAN chair. However, after some frantic telephone calls to Beijing, Qian demurred on the stated ground that China had not been involved in the declaration’s drafting. Nevertheless, China, he said, subscribed to the declaration’s “principles”.

Together with the start in 1990 of the informal workshops on managing potential conflict in the South China Sea, which Indonesia had initiated and Canada helped to fund, the adoption of the ASEAN Declaration raised hopes for the peace and stability of the South China Sea, despite the extremely small chance of the conflicting territorial and maritime claims being resolved in a definitive manner.

## **Mischief Reef**

These hopes were set back in March 1995, when the Philippines announced the discovery of a steel structure on Mischief Reef, Meiji Jiao in Chinese, with a Chinese flag and a parabolic antenna atop it. One-hundred and thirty miles or 209 kilometres west of Palawan, the reef had been used as shelter by Filipino fishermen. Indeed, the Philippines first heard about the Chinese presence from Filipino fishermen whom the Chinese had detained at the reef.

Reflecting their alarm at the discovery, the ASEAN foreign ministers issued a statement on 18 March:

We, the ASEAN Foreign Ministers, express our serious concern over recent developments which affect peace and stability in the South China Sea.

We urge all concerned to remain faithful to the letter and spirit of the Manila Declaration on the South China Sea which we issued in July 1992 and which has been endorsed by other countries and the Non-Aligned Movement. The Manila Declaration urges all concerned to resolve differences in the South China Sea by peaceful means and to refrain from taking actions that de-stabilize the situation.

We call upon all parties to refrain from taking actions that destabilize the region and further threaten the peace and security of the South China Sea. We specifically call for the early resolution of the problems caused by recent developments in Mischief Reef.

We urge countries in the region to undertake cooperative activities which increase trust and confidence and promote stability in the area.

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<sup>6</sup> ‘ASEAN Declaration On The South China Sea, Manila, Philippines, 22 July 1992’, Association of Southeast Asian Nations web site, <<http://www.aseansec.org/3634.htm>> [Accessed 29 June 2010].

We encourage all claimants and other countries in Southeast Asia to address the issue in various fora, including the Indonesia-sponsored Workshop Series on Managing Potential Conflicts in the South China Sea.<sup>7</sup>

At the first meeting of ASEAN and Chinese senior foreign-ministry officials, which happened to have been scheduled to take place in Hangzhou in April 1995, the ASEAN delegations pressed China on South China Sea issues, including the significance of the nine bars on Chinese maps, which dangerously skirt the gas-rich Natuna group of islands of non-claimant Indonesia, as well as on China's presence on Mischief Reef.

At their annual regular meeting towards the end of July 1995, the ASEAN foreign ministers stated their view of the developments in the South China Sea, recording in their joint communiqué:

The Foreign Ministers expressed their concern over recent events in the South China Sea. They encouraged all parties concerned to reaffirm their commitment to the principles contained in the 1992 ASEAN Declaration on the South China Sea, which urges all claimants to resolve their differences by peaceful means and to exercise self-restraint. They also called on them to refrain from taking actions that could destabilise the region, including possibly undermining the freedom of navigation and aviation in the affected areas. They also encouraged the claimants to address the issue in various bilateral and multilateral fora. In this regard, they reiterated the significance of promoting confidence-building measures (CBMs) and mutually beneficial cooperative ventures in the ongoing Informal Workshop Series on Managing Potential Conflicts in the South China Sea initiated by Indonesia.<sup>8</sup>

In response to the altered configuration of power in East Asia, ASEAN and its Dialogue Partners, plus China and Russia, then not yet ASEAN Dialogue Partners, Vietnam and Laos, then not yet ASEAN members, and Papua New Guinea, an ASEAN observer, initiated the ASEAN Regional Forum for consultations on regional political and security issues. The first ASEAN Regional Forum (ARF) ministerial meeting took place in 1994. It was generally agreed that the situation in the South China Sea was one of the flashpoints of potential conflict in the region. However, sensitive to China's preference for bilateral rather than multilateral discussions on the subject, the ARF took up the South China Sea over dinner rather than in plenary, although the plenary meeting was held behind closed doors.

The next year, with alarm and concern rising as a result of the discovery in Mischief Reef, the ARF ministers included a paragraph on the South China Sea in their chairman's statement. The ministers were said to have

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<sup>7</sup> 'Statement by the ASEAN Foreign Ministers on the Recent Developments in the South China Sea, 18 March 1995', Association of Southeast Asian Nations web site, <<http://www.aseansec.org/2089.htm>> [Accessed 29 June 2010].

<sup>8</sup> ASEAN, 'Joint Communique of the Twenty-Eighth ASEAN Ministerial Meeting, Bandar Seri Begawan, 29-30 July 1995', Association of Southeast Asian Nations web site, <<http://www.aseansec.org/2087.htm>> [Accessed 29 June 2010], para. 9.

expressed concern on overlapping sovereignty claims in the region. They encouraged all claimants to reaffirm their commitment to the principles contained in relevant international laws and convention and the ASEAN's 1992 Declaration on the South China Sea.<sup>9</sup>

Subsequent ARF chairman's statements carried references to the South China Sea.

For a number of years, ASEAN continued seeking to "internationalise" the South China Sea issue, not only in ASEAN and ARF meetings but in other international gatherings as well. For example, the ASEAN countries have raised the matter at the meetings of the Non-aligned Movement, in which all of them are members and China is an observer. The Philippines has also sought to turn the international spotlight on the environmentally destructive practices, including the use of dynamite and cyanide, of Chinese—and Taiwanese—fishermen in the semi-enclosed sea.

### **The Declaration on Conduct**

In July 1996, the ASEAN foreign ministers, according to the joint communiqué of their annual meeting, "endorsed the idea of concluding a regional code of conduct in the South China Sea" as something that would "lay the foundation for long term stability in the area and foster understanding among claimant countries".<sup>10</sup> Freedom of navigation, meant to reassure the great trading nations using the South China Sea, and the exercise of "self-restraint" were principles to which all could subscribe. The commitment to the peaceful settlement of the jurisdictional disputes in accordance with international law, including the 1982 UN Convention on the Law of the Sea, has been frequently repeated like a mantra.

However, four issues were and continue to be the subjects of contention before and since the conclusion of the ASEAN-China agreement. One is the commitment to refrain "from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features". Another is the area of application of the agreement. Related to it is the legally binding nature of the document. The fourth is the role of ASEAN.

The commitment not to inhabit hitherto uninhabited land features is evidently aimed at preventing a repetition of Mischief Reef. However, it apparently does not include a prohibition against beefing up the structures and facilities that are already in place in "inhabited" territory. Most countries in occupation of land territories in the South China Sea have, indeed, done so.

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<sup>9</sup> 'Chairman's Statement, The Second Meeting of the ASEAN Regional Forum, Brunei Darussalam, 1 August 1995', Association of Southeast Asian Nations web site, <<http://www.aseansec.org/3617.htm>> [Accessed 29 June 2010], para. 11.

<sup>10</sup> 'Joint Communique of The 29th ASEAN Ministerial Meeting (AMM), Jakarta, 20-21 July 1996', Association of Southeast Asian Nations web site, <<http://www.aseansec.org/1824.htm>> [Accessed 29 June 2010], para. 11.

Not surprisingly, Vietnam has been insisting that the Paracels, to which it maintains a claim, be part of any agreement or discussion of the South China Sea. Just as expected, China considers the Paracels as non-negotiable. Indeed, China has drawn “baselines” around the Paracels, although its legal capacity to do so is in question. Eager to conclude an agreement with China and probably considering the Paracels issue to be a bilateral matter between China and Vietnam, the rest of ASEAN consented not to designate the area of the application of the agreement with precision but to apply the agreement to the South China Sea in general. This brought up the question of whether a state could be a party to a legally binding document, such as a “code of conduct”, without being precise as to the area to which the document applied. Thus, the document agreed upon in Phnom Penh in November 2002 was reduced to a political declaration from the originally envisioned legally binding “code of conduct”.<sup>11</sup> This left the Vietnamese feeling abandoned by the rest of ASEAN while insisting, with the support of others in ASEAN, that the ultimate aim is a “code of conduct”.

Since its issuance, ASEAN has been expressing the view that the Declaration on the Conduct of Parties in the South China Sea is but a step towards the conclusion of a “code of conduct”. It has repeatedly called for the observance and implementation of the commitments in the Declaration, particularly the need for self-restraint, freedom of navigation, and the confidence-building and cooperative measures specified in it. ASEAN and China have set up a senior officials meeting and a working group to oversee and promote the implementation of the Declaration.

### **ASEAN as a Group or Individual Claimants?**

Finally, there seems to be a difference in outlook between China and ASEAN with respect to the role of ASEAN in the matter of the South China Sea—specifically, whether China is to deal with individual Southeast Asian claimants or with ASEAN as a group. Xue Hanqin, China’s ambassador to ASEAN, has presented the Chinese position lucidly and succinctly. In her presentation at a forum in the Institute of Southeast Asian Studies in Singapore, she said:

In the follow-up negotiations on the draft guidelines for the implementation of the DOC (Declaration on the Conduct of Parties in the South China Sea), the work got stuck mainly because of the difference over the modality of their (ASEAN member-states’) consultations. The key issue is whether ASEAN Member States should consult among themselves first before they consult with China. ASEAN members insist on such a consensual approach towards China, while the Chinese side does not think this is in line with the understanding of DOC. ... The whole issue of South China Sea is not a matter between ASEAN as an organization and China, but among the relevant countries. ASEAN could serve as a valuable facilitator to promote

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<sup>11</sup> ‘Declaration on the Conduct of Parties in the South China Sea’, Association of Southeast Asian Nations web site, <<http://www.aseansec.org/13163.htm>> [Accessed 29 June 2010].

mutual trust among the Parties, but not turn itself into a party to the dispute.<sup>12</sup>

It is not, however, true to say, “The whole issue of South China Sea is not a matter between ASEAN as an organization and China, but among the relevant countries.” The word “relevant” here obviously refers to the claimant-countries, but the “whole issue of (the) South China Sea” does not consist only of the jurisdictional claims. In that narrow sense, ASEAN has no wish to “turn itself into a party to the dispute”. Indeed, the jurisdictional issues can be resolved only by the claimants themselves through negotiations or through adjudication by a third party. However, because the legal, historical and other issues are so complex and because of the deep and often conflicting interests of the claimants in their positions in the South China Sea, the rival claims have little chance of being resolved anytime soon, particularly in the light of the fact that most points of conflict involve more than two parties.

What can be done in the meantime is what precisely ASEAN and China have been trying to do—exercising self-restraint, refraining from occupying any more territory, avoiding any acts that could shake the stability of the area, build mutual confidence, and cooperate in dealing with matters that call for cooperation and yield common benefits to the cooperating parties. All of these deliver value to all, including even to those who are not claimants to land features or maritime jurisdictions in the South China Sea, but have an interest in peace and stability in the area and in freedom of navigation in it.

Aside from deriving negotiating strength from the association in dealing with a behemoth that is China, ASEAN does operate as a group in a matter in which all its members, and not just the four claimants, have an interest. This is an acknowledged fact. ASEAN as a group holds discussions with China on the South China Sea in a number of forums. It negotiated the Declaration on the Conduct of Parties in the South China Sea as a group. All the ASEAN foreign ministers—and China’s special envoy—signed the Declaration on the occasion of the ASEAN-China summit meeting in Phnom Penh in November 2002. The joint communiqués of the annual ASEAN Ministerial Meeting and the chairmen’s statements of the yearly ASEAN Regional Forum foreign ministers’ meetings carry repeated references to ASEAN in relation to the South China Sea. Persons from all ASEAN members, including the non-claimants and even land-locked Laos, take part in the informal workshops on managing potential conflict in the South China Sea. The fact is that the South China Sea is surrounded almost completely by Southeast Asian countries, which, therefore, have a vital interest in what happens there.

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<sup>12</sup> Xue Hanqin: *China-ASEAN Cooperation: A Model of Good Neighbourliness and Friendly Cooperation*, Singapore, 19 November 2009, <<http://www.iseas.edu.sg/aseanstudiescentre/Speech-Xue-Hanqin-19-9-09.pdf>> [Accessed 29 June 2010], pp. 24-5.

As pointed out at the beginning of this piece, major trading nations, which have no land or maritime claims in the South China Sea, also have an interest in the peace, stability and freedom of navigation of the area, through which much of the world's trade passes.

## **Regime of Islands**

In March 2009, the Philippines enacted a new law adjusting its archipelagic baselines and declaring “regimes of islands” for Scarborough Shoal, which China also claims, and the land features in the Spratlys that China and Vietnam, as well as the Philippines, claim. Although the reiteration of the old Philippine claims to parts of the Spratlys has received the most attention, conferring a “regime of islands” on land features outside the main Philippine archipelago could carry more significance. To be sure, in an exercise of “strategic ambiguity”, the Philippines does not designate which land features are islands that can sustain human habitation and, therefore, under Article 121 of the UNCLOS, generate their own exclusive economic zones and continental shelves and which are mere rocks, which cannot. However, conferring “regimes of islands” on the land features in the Spratlys that the Philippines claims brings those claims into greater accord with the UNCLOS.<sup>13</sup>

If China and Vietnam do something similar about their own claims, perhaps the complex picture of the South China Sea can become less fuzzy, a resolution less difficult to achieve, and the area more stable and less threatening.

*Rodolfo C. Severino, a former Philippine diplomat and a former ASEAN Secretary-General, is head of the ASEAN Studies Centre at the Institute of Southeast Asian Studies, Singapore. The views expressed here are his own. [severino@iseas.edu.sg](mailto:severino@iseas.edu.sg).*

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<sup>13</sup> Rodolfo C. Severino: ‘Clarifying the New Philippine Baselines Law’, in *Energy and Geopolitics in the South China Sea: Implications for ASEAN and Its Dialogue Partners*, Report No. 8, (Singapore: ASEAN Studies Centre, Institute of Southeast Asian Studies, 2009), pp. 74-6. Also in <[www.iseas.edu.sg/aseanstudiescentre](http://www.iseas.edu.sg/aseanstudiescentre)>.