China’s dispute with the Philippines over the Nansha Islands

Abstract: This chapter discusses China’s dispute with the Philippines over the Nansha Islands. The Philippines’ relatively recent claim in the South China Sea relies on geographic proximity, national security, effective occupation and control and legal definition of the EEZ, none of which is supported by solid evidence and international law. Geographic proximity has long been dismissed by international law and practice as a principle to support territorial claims. Continued protests from China and other parties have failed the applicability of claiming the Nansha Islands as res nullius. The principle of ‘land dominating the sea’ refuses the extension of jurisdiction from water to land features. The Philippines has been keen to invite in external powers, including the United States and foreign oil companies, to consolidate its presence in the disputed area. It is predictable that with pressure from domestic politics and increasing ties with the United States, the Philippines will adopt more assertive policies and approaches to sustain its claim in the SCS.

Key words: China, the Philippines, Nansha Islands disputes, cooperation.

Compared to Vietnam, the Philippines’ sovereignty claim over the South China Sea is more recent, relying on its interpretation of international laws and practice instead of historical evidence. As a US ally, the Philippines has never hesitated to get the United States involved in Southeast Asian matters and help internationalise the SCS issue.
Regional Cooperation and Development in the South China Sea

Basis of the Philippines’ claims

The Philippines’ official claims and related legal documents

The Philippines claims most of the Nansha Islands (Spratlys), but not Nanwei (Spratly) Island itself or several others in that immediate vicinity (Smith, 2010: 227).

The Philippines first clarified its national territory through the 1935 Constitution of the Republic of the Philippines, which provides that:

The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits which are set forth in Article I of said treaty, together with all the islands embraced in the treaty concluded at Washington between the United States and Spain on the seventh day of November, nineteen hundred, and the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippines Islands exercises jurisdiction. (Congress of the Philippines, 1935)

On the issue of maritime boundary, the Philippines is one of the earliest Asian countries to propose extending its maritime jurisdiction beyond its territorial sea. Several national laws were enacted to clarify the boundaries of its territorial sea and claim rights over its archipelagic waters, continental shelf and EEZ.

On 18 June 1949 the Philippines issued Republic Act No. 387, otherwise known as the Petroleum Act of 1949, Article 3 of which provides that:

All natural deposits or occurrences of petroleum or natural gas in public and/or private lands in the Philippines, whether found in, on or under the surface of dry lands, creeks, rivers, lakes, or other submerged lands within the territorial waters or on the continental shelf, or its analogue in an archipelago, seaward from the shores of the Philippines which are not within the territories of other countries, belong to the State, inalienably and imprescriptibly. (Congress of the Philippines, 1949)
Republic Act No. 3046, issued on 17 June 1961, defines the baselines of its territorial sea (Congress of the Philippines, 1961). This was amended by Republic Act No. 5446 on 18 September 1968, which formally publicised the baselines of the Philippine territorial sea and the coordinates of base points (Congress of the Philippines, 1968). According to these two acts, the baselines of the territorial sea are defined by 81 base points and the lines connecting them; all the waters beyond the outermost islands of the archipelago but within the boundaries set forth in the treaties mentioned in Article 1 of the 1935 Constitution of the Republic of the Philippines comprise the territorial sea of the Philippines.

On 20 March 1968 the Philippines issued Presidential Proclamation No. 370, which clarified its continental shelf limit and declared its jurisdiction over the extended area. According to the document, the continental shelf under Philippine jurisdiction extended to ‘where the depth of the superjacent waters admits of the exploitation of such resources’ (Marcos, 1968).

To support its attempt to extend its jurisdiction over maritime areas, the Philippines relied on its interpretation of international law. The current Constitution of the Republic of the Philippines, which was amended in 1978, has deleted expressions referring to historical treaties and instead refers to its archipelago status, providing that:

The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines. (Congress of the Philippines, 1978)

On 11 June 1978 the Philippines issued Presidential Decree No. 1596, proclaiming that the majority of the Spratly Islands belong to the Philippine Kalayaan Islands group, and declaring that it enjoys sovereignty over them. It cited reasons to support this claim:

…much of the above area is part of the continental margin of the Philippine archipelago;
...these areas do not legally belong to any state or nation but, by reason of history, indispensable need and effective occupation and control established in accordance with international law, such areas must now be deemed to belong and be subject to the sovereignty of the Philippines;

...while other states have laid claims to some of these areas, their claims have lapsed by abandonment and cannot prevail over that of the Philippines on legal, historical, and equitable grounds. (Marcos, 1978)

On the same day the Philippines issued Presidential Decree No. 1599 to claim a 200 nm EEZ, and reaffirmed its claims to territorial sea and continental shelf (Official Gazette, 1978).

On 8 December 1982 the Philippines signed UNCLOS, and ratified it on 8 May 1984, making it one of the earliest member states of the convention (UN Division for Ocean Affairs and the Law of the Sea, 2011).

On 10 March 2009 the Philippines enacted Republic Act No. 9522, a new law adjusting its archipelagic baselines defined and described by 101 base points. Article 2 provides that the Philippines exercises ‘sovereignty and jurisdiction’ over the Kalayaan Islands group and Scarborough Shoal (Huangyan Island), both of which were determined as ‘regimes of islands’ (Congress of the Philippines, 2009).

On 8 April 2009 the Philippines submitted ‘A partial submission of data and information on the outer limits of the continental shelf of the Republic of the Philippines’ to the UN Commission on the Limits of the Continental Shelf, establishing the outer limits of its shelf in the Benham Rise region east of the Philippine islands. No limits were put forward for its SCS continental shelf (Smith, 2010: 223). The document specified that ‘this partial submission is without prejudice to the right of the Philippines to make other submissions for other areas at a future time’ (Philippines, 2009b).

**Basis of claims**

Proximity, security and economic significance

The area claimed by the Philippines is within a fairly short distance of the Philippine archipelago. Its strategic importance is seen in Japan’s previous construction of air and naval bases, a repair base and weather
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and radio stations on the islands in the area, using them as a staging post for its occupation and control during the Second World War. The Philippines considers the Nansha Islands as an important component of its national defence (McDorman, 1993: 267).

The Nansha Islands and their surrounding waters are important fishing grounds and contain oil and gas reserves for the Philippines. Fisheries are one of the pillow industries in the Philippines, and contribute 4.3 per cent of its GDP. The population involved in fisheries amounts to 1.61 million, accounting for 15 per cent of the total population. Because of its proximity and rich fishery resources, the Nansha area is one of the major fishing grounds for Philippine fishermen (Qiao, 2011: 71).

Oil and gas reserves in the area also attract Philippine interest in development. As a net oil importer, the Philippines has launched favourable policies to draw support from foreign oil companies in order to explore oil and gas in the Nansha Islands (Buszynski and Sazlan, 2007: 163). Its effort has resulted in significant growth in terms of oil production and raised the strategic importance of this area.

Effective occupation and control

The Philippines has relied on two major sources to support its claim to effective occupation and control: ‘discovery’ by Tomas A. Cloma, and non-illegal occupation after the San Francisco conference.

On 11 May 1956 Cloma, owner of a fishing company and director of the Philippine Maritime Institute, sailed with his younger brother and four other fishermen to the Nansha Islands. This was his ‘discovery’ of the group. They hoisted the Philippines’ national flag on each island where they landed, and named them Kalayaan (Freedomland) (Samuels, 1982: 82; Morgan and Valencia, 1983: 51). Subsequently, Cloma released a ‘Notice to the Whole World’ (Bernas, 2011) claiming a large area in the SCS, including several major islands and reefs of the Nansha group, such as Nansha Island, Itu Aba, Thitu Island, Namyit Island, Mariveles Reef, Northeast Investigator Shoal and Investigator Shoal. Cloma stressed that his declaration was based on the ‘rights of discovery and occupation’ because the islands were ‘under the jurisdiction of no countries’ (Samuels, 1982: 85; Morgan and Valencia, 1983: 51).

The Philippine government supported Cloma’s claims in a statement from the secretary of foreign affairs in 1956, saying the Spratly Islands had been under the de facto trusteeship of the Allied powers after the San Francisco conference of September 1951, since there had been
no territorial settlement by those powers when they divested Japan of possession after the Pacific war (Bernas, 2011).

Article 2(f) of the San Francisco treaty simply stated that ‘Japan renounces all right, title, and claim to the Spratly Islands’ (Buszynski and Sazlan, 2007: 144). Cloma argued that the SCS had remained res nullius after Japan’s withdrawal in 1951; hence it could be acquired by ‘occupation and effective administration’. Later in the year Philippine Secretary of Foreign Affairs Carlos P. Romulo proposed more development activities in the Kalayaan area. The undersecretary of foreign affairs asserted at the UN Seabed Committee that the Philippines had effective occupation of the Kalayaan Islands (Bernas, 2011).

In December 1974 the administration of President Marcos received a document from Cloma transferring all the rights of Tomas Cloma & Associates in ‘Freedomland’ to the Philippine government. In June 1978 President Marcos issued a decree officially claiming part of the Spratly Islands and making it a municipality in Palawan province. The area claimed was almost identical to Cloma's claim. The decree remains in force to this day (Severino, 2010: 40).

Assessment of the Philippines’ claims

Weaknesses of claims

Arguments based on proximity and/or security and economic significance are rootless in supporting sovereignty claims. Geographic proximity has long been dismissed by international law and practice as a principle to support territorial claims (Zou, 1999c: 76).

The Philippines’ claims based on effective occupation of the Spratly Islands as res nullius also lack solid evidence. For applicability, peaceful, unopposed and continuous administration is required. In the case of the Philippines, where there are continued protests from China and other parties, this requirement is not fulfilled. As early as 1877, in the Qing dynasty, China lodged a diplomatic protest when British vessels reached the Nansha Islands. A similar protest was made in 1883 when a German vessel entered the area to conduct a survey. Over the years China has repeatedly affirmed its claims through official statements and practice (Buszynski and Sazlan, 2007: 144).

The earlier support that the Philippines relied on was to interpret the so-called ‘treaty limits’ to its favour in order to extend its claims. In 1984
when the Philippines ratified UNCLOS, it appended a declaration stating in part that:

By signing the Convention the Government of the Republic of the Philippines shall not in any manner impair or prejudice the sovereign rights of the Republic of the Philippines under and arising from the Constitution of the Philippines. (Smith, 2010: 226)

The United States, as one of the signatories of the three historical treaties, launched a protest in January 1986 again this declaration, stating:

With respect to other States and the nationals of such other states, the rights and duties of states are defined by international law, both customary and conventional. The rights of States under international law cannot be enlarged by their domestic legislation, absent acceptance of such enlargement by affected States. (Ibid.)

The study conducted by Robert Smith (ibid.) is in line with the US protest. He argued that the box-shape zone defined by the ‘treaty limits’ was for the convenience of the United States and Spain when they signed the treaties. There is no relationship between this zone and other maritime zones under principles of modern international law of the sea. The legal principle of uti possidetis juris, by which colonial boundaries are not subject to alteration, is irrelevant to the Nansha Islands sovereignty dispute. The colonial boundaries that defined the Philippines and divided it from Malaysia do not extend into the Spratly Islands (ibid.: 225).

Other arguments are related to the EEZ and continental shelf. The Philippines argues that it has sovereignty over the islands because they fall within its claimed EEZ. Even though UNCLOS allows littoral states to claim 200 nm of EEZ, it does not allow any state to extend its maritime jurisdiction into other countries’ territory. ‘Land dominates the sea’ is a basic principle of the law of the sea, which means marine jurisdiction flows from sovereignty over land territory to waters, not the reverse. The Philippine argument is based on misinterpretation of international law (Dzurek, 1996: 50).

Continental shelf extension cannot support the Philippine claims, either. Mark Valencia et al. (1999: 35) have confirmed that the deep Palawan Trough separates the Spratly Islands from the Philippine archipelago, so there is no natural prolongation as required by Article 76 of UNCLOS.
History of the dispute between China and the Philippines

Stages of the dispute

The Nansha dispute between China and the Philippines can be traced back a long time. On 7 April 1949 the Chinese Republican legation in Manila informed the Philippine government that China was garrisoning Itu Aba in an effort to block the traffic of arms through Hainan to mainland China. On 17 May 1950 Philippine President Quirino stated at a press conference that the Nansha Islands belonged to the Philippines, but this statement was later disavowed by a government spokesman (Dzurek, 1996: 50). During the 1940s and 1950s the Philippines attempted to annex Itu Aba by encouraging migration of its citizens to the island. Diplomatic interactions increased between the Republic of China and the Philippines (Wu, 1999: 104). In 1971 the Philippines alleged that one of its vessels attempted to land on Itu Aba but was repulsed by Chinese troops from Taiwan. However, the Philippine troops succeeded in landing on other islands (Dzurek, 1996: 19).

The recent dispute between China and the Philippines is mainly over Mischief Reef, Scarborough Shoal and Reed Bank. By January 1995 China had built four clusters of buildings with steel pylons on Mischief Reef as shelters for fishermen. Philippine military reconnaissance confirmed the structures and also reported several Chinese military vessels in the area. The situation led to protests from the Philippine government (Ott, 2011: 236).

In reaction, President Ramos ordered increased reconnaissance in the Nansha area. A marine and archipelagic development policy task force was established to plan the development of the Kalayaan area, including building lighthouses. The Philippine legislators attempted to invoke the Philippine-US 1995 Mutual Defense Treaty but were rebuffed by the United States, which insisted that the treaty did not apply to the Nansha area (Dzurek, 1996: 35).

Several rounds of diplomatic consultations between China and the Philippines were held in the following months to clarify the situation and reduce tensions. China reaffirmed its stance on shelving disputes and conducting joint development. The Philippines claimed progress in improving bilateral relations with China on the one hand; but destroyed China’s markers on Half Moon Shoal, Jackson Atoll and Sabina Shoal on the other hand (ibid.: 37).
The Philippines had never challenged China’s sovereignty over Scarborough Shoal until the 1990s. On 3 April 1997 several Philippine naval vessels prevented three Chinese boats from reaching Scarborough Shoal, which led to a bilateral dispute between the two countries (Zou, 1999c: 73). In mid-May a group of Philippine congressmen sailed to Scarborough Shoal and hoisted the Philippine flag (Storey, 1999: 103). After these incidents there were more frequent disputes on fishing around the shoal. In the name of protecting its territory and spawning ground for corals, the Philippine navy was heavily involved in blocking Chinese fishing vessels, confiscating their catch, firing at and arresting the fishermen and even killing one captain (Song, 2003: 239).

The year 2011 witnessed increasing accusations by China and the Philippines of the other party’s misbehaviour in the disputed areas in the SCS, mainly revealed by dispute over oil exploitation in the area of Reed Bank. In February, March and June 2011 Philippine officials complained several times that Chinese patrols had harassed Philippine oil exploration vessels near Reed Bank (Barta and Larano, 2011: 2). In response, China’s Ministry of Foreign Affairs spokesperson Hong Lei said on 7 June that ‘Chinese vessels’ regular activities of patrolling, scientific research and survey in the waters under the jurisdiction of China are completely justified and lawful’ (Ministry of Foreign Affairs, 2011b). In July 2011 China’s embassy in the Philippines protested against a planned trip by several Philippine congressmen to the Nansha Islands, which, according to China, ‘goes against the spirit of the DOC and serves no purpose but to undermine peace and stability in the region and sabotage China-Philippines relationship’ (Philippine Star, 2011).

Meanwhile, the Philippines started to name the SCS the ‘West Philippine Sea’, and proposed submitting the dispute to international justice (Public Information Service Unit, 2012). Philippine Foreign Affairs Secretary Albert F. del Rosario commented in January 2012 that ‘to peacefully and finally settle the disputes of the West Philippine Sea… the Philippines is… prepared to validate our claims under UNCLOS, and we cordially invite China to join us in endeavouring to validate its own claims’ (Philippines Department of Foreign Affairs, 2012). The Philippines carried out its plan on 22 January 2013 when it sent China a note verbale to initiate international arbitration proceedings against China with regard to the SCS issue, and submitted the dispute to the International Tribunal for the Law of the Sea unilaterally when the abovementioned note was rejected by China (Philippine Department of Foreign Affairs, 2013; Phil Star, 2013). China fully abides by UNCLOS and declared under Article 298 that all disputes with relevance to
territory, maritime delimitation, historic titles and military activities shall be excluded from a third-party compulsory dispute settlement body. China’s position on dispute settlement has been consistent. It believes that the best and most efficient way is through direct negotiation among claimant countries instead of involving third parties.

**The Philippines’ consolidation of its occupation**

Through five military actions in 1970, 1971, 1978, 1980 and 1999, the Philippines has occupied eight islands, cays and reefs – Nanshan Island (Mahuan Dao), Loaita Island (Nanyue Dao), Thitu Island (Zhongye Dao), West York Island (Xiyue Dao), Northeast Cay (Beizi Dao), Flat Island (Feixin Dao), Loaita Nan (Shuanghuang Shazhou) and Commodore Reef (Siling Jiao) (Wu, 1999: 103; Ministry of Foreign Affairs, 2013). The Philippines consolidates its occupation in various ways.

First, the Philippines has continued to retain a certain scale of military presence on the features it occupies in the SCS. Over the years it has constructed houses, lighthouses and radar stations on these features and expanded the airport facilities for large cargo transport airplanes, such as by renovating the 1,500 metre runway on Thitu Island (ibid.: 114).

The Philippine military actions in these disputed areas were supported directly and indirectly by the United States, now a major player in the SCS issue. The military tie between the United States and the Philippines has become an integral factor when analysing the issue, and has been formulated through several legal documents. The Military Bases Agreement signed in 1947 allowed the United States to retain use of its military bases in the Philippines. Defence links between the two countries were strengthened with the conclusion of the Mutual Defense Treaty in 1951 and Manila Pact in 1954 (Storey, 1999: 101). After the United States withdrew from Subic Bay in 1992, the Visiting Forces Agreement was signed in 1998 to regulate joint military exercises between the two countries (Buszynski, 2003: 352). Since then, the SCS region has witnessed frequent joint military exercises between the United States and the Philippines (sometimes with other parties). Subjects range from battle simulations such as ‘Balikatan’ (literally ‘shoulder to shoulder’), search and rescue exercises such as ‘MARSEA Exercise 01’ and training such as ‘cooperation afloat readiness and training’ exercises (Song, 2003: 238).
Despite the apparent military tie between the United States and the Philippines, the US attitude towards the dispute between China and the Philippines has changed over the years. During the 1990s US support for the Philippines in the dispute was very limited. Although US officials such as the ambassador to the Philippines and the assistant secretary of state for East Asian affairs continued to reassure the Philippines of the US determination to maintain security, its own interest and its allies’ interests in Southeast Asia, the United States did not commit itself specifically to respond to conflicts occurring in the SCS and threatening Philippine national interests. When the Philippines turned to the United States during the Mischief Reef incident, no US military support was provided because it did not think the scope of the 1951 treaty included the SCS features claimed by the Philippines. The Philippines also suspected that the United States had long noticed the existence of Chinese facilities on Mischief Reef, but did not alert the Philippines. This was not denied by the United States (Storey, 1999: 108).

At the dawn of the twenty-first century the United States began to show greater determination to strengthen its military tie with the Philippines. Adjustment of its China policy was a main reason for the change of SCS policy. Since 2005 the Annual Report to Congress: Military Power of the People’s Republic of China published by the US Department of Defense has expressed concerns over the modernisation of the People’s Liberation Army and the implications for the regional balance of power. The 2008 national defence strategy emphasised the need for the United States to hedge against China’s growing power and influence in East Asia. By strengthening military ties with allies such as the Philippines, the United States succeeded in containing China through its forward-deployed forces (De Castro, 2009: 404).

The increased US involvement in the SCS issue was marked by US Secretary of State Hillary Clinton’s speech at the ASEAN Regional Forum in Hanoi in July 2010. According to Clinton, ‘the United States... has a national interest in freedom of navigation, open access to Asia’s maritime commons, and respect for international law in the South China Sea... While the United States does not take sides on the competing territorial disputes over land features in the South China Sea, we believe claimants should pursue their territorial claims and accompanying rights to maritime space in accordance with the UN convention on the law of the sea’ (US Department of State, 2010). The increasing US involvement in the SCS was interpreted to be more specifically related to the Philippines.

On her way to the East Asian Summit in November 2011, Hillary Clinton paid a one-day working visit to the Philippines. She delivered a
speech at the sixtieth anniversary of the Philippine-US Mutual Defense Treaty held on the USS Fitzgerald docked in Manila Bay (ABC-CBN News, 2011), reaffirming the strong military relationship between the two countries and reiterating the great US concern about peaceful resolution of the SCS dispute. Her presence on board a US warship and use of ‘West Philippine Sea’ instead of SCS were interpreted as US support of the Philippines against China in the SCS issue (Whaley, 2011).

Second, the Philippines tries to engage international players in exploiting resources in the disputed area. As early as 1976, when oil was discovered off Palawan, the Philippines tried to involve international companies in the exploration (Dzurek, 1996: 30). In May 1994 the Philippine Department of Energy approved an application made by Alcorn, a Philippine subsidiary of US oil company Vaalco, to conduct a preliminary oil development survey in the area around Nanshan Island and Flat Island (Storey, 1999: 97). In October 2003 Philippine Energy Secretary Vicente Perez declared that 46 exploration blocks would be opened for public tender not only in the Malampaya field but also northwest, southeast and east of Palawan. The Philippines invited US Energy Secretary Spencer Abraham to explore the prospects for US involvement in oil and gas exploration in the Philippine-claimed area (Buszynski and Sazlan, 2007: 161). Over the years other companies from outside the region have also been invited to conduct oil exploration in the disputed areas claimed by the Philippines in the SCS, such as Unocal of the United States, Santos of Australia, Lasmo of the United Kingdom, PTTEP of Thailand, Medco of Indonesia and GM International of Canada (ibid.: 163).

Oil exploration in the SCS has brought significant benefits for the Philippines. Its production of crude oil surged from 1,000 barrels per day in 2001 to 336,000 barrels per day in 2009 (Zou, 2006: 87; Wang, 2009: 59).

Third, the Philippines has intensified its civilian presence in the disputed area. Trips have been arranged for Philippine officials and reporters to land on the features under its control. Moreover, as reported in the Los Angeles Times (Glionna, 2009), ‘the Philippines decided to establish a small colony of hardy civilian settlers on the island augmenting the two dozen military workers who earn special “loneliness pay” to live on the far-off spot and bolster its claim that possession is nine-tenths of the law’. The plan was that the inhabitants would take turns to stay on the 75-acre property for three months at a time, to keep the island inhabited all year round. There were also ‘telephones and satellite TV… powered by generators that run only part time’ (Smith, 2010: 216).
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A recent move by the Philippines to consolidate its occupation is the submission of a proposal at a meeting of ASEAN maritime experts held in Manila in September 2011. The ‘Philippine paper on ASEAN-China zone of peace, freedom, friendship and cooperation in the WPS (SCS)’ was presented by Philippine Vice President Jejomar Binay. He called for segregation of disputed from non-disputed areas in the SCS, and for sharing resources in the disputed areas pending resolution of dispute (Cohen, 2011). Despite the new title, the proposal lacked fresh perception, since it has long been suggested that each party involved in the SCS dispute should clarify its claims.

China-Philippine efforts for dispute settlement

All claimant countries have a stake in the peace and stability of the SCS; but they are of different strategic importance to different countries at different stages of development. Chinese and Philippine efforts at resolving the issue have macro and micro dimensions: to maintain healthy overall bilateral relations as well as targeting the SCS maritime disputes specifically. Interaction between China and the Philippines concerning the SCS can be traced back to April 1988, when Philippine President Corazon Aquino met with then Chinese leader Deng Xiaoping. Deng initiated shelving the disputes and conducting joint development, reiterating China’s position of solving this issue in a peaceful way (Storey, 1999: 97). The proposal was disregarded by the Philippines when it invited a US oil company to conduct exploration in May 1994. This was considered an infraction of the principle of joint exploration as agreed by Deng and Aquino in 1988.

After the Mischief Reef incident, China and the Philippines decided to repair their bilateral relations. Between 1996 and 2000 they conducted low-key but frequent high-level contacts and official visits, including President Joseph Estrada’s state visit to Beijing in May 2000. During his visit the two countries signed the Joint Statement on the Framework of Bilateral Cooperation in the 21st Century, which laid down the strategic direction for bilateral cooperation in defence, trade and investment, science and technology, agriculture, education and culture, the judiciary and other areas. The visit normalised bilateral diplomatic relations between the two countries (De Castro, 2009: 407).
On 14 March 2005 China, the Philippines and Vietnam signed the Joint Marine Seismic Undertaking agreement for the disputed waters of the SCS. Between 2005 and 2008 the three countries conducted their first seismic survey of the SCS, which was a milestone in joint development in these disputed areas (ibid.: 409).

In this period, bilateral interaction in the field of traditional security reached a new peak. High-ranking military officials from the two countries exchanged visits more frequently. In 2004 Philippine Defence Secretary Avelino Cruz completed a successful trip to Beijing by signing a memorandum of understanding on defence cooperation with his counterpart in China; this proposed more frequent military exchanges, setting up a consultation mechanism, enhancing cooperation against terrorism and other internal security threats, and combined military exercises. In addition, China agreed to provide $1.25 million in non-lethal military assistance to the Philippines. In fact, over the following two years total military equipment and supplies provided by China to the Philippines amounted to $2.50 million (ibid.: 410).

Progress was also made in cooperation on non-traditional security areas. In October 2009 China and the Philippines signed a joint action plan for strategic cooperation, including participating in regional and international collaboration to promote sustainable development such as Partnerships in Environmental Management for the Seas of East Asia (PEMSEA, 2009). The two countries agreed to ‘continue to support and explore environmental cooperation in efforts to address environmental problems to promote sustainable development... strengthen collaboration on policies, conduct of researches and capacity building on the environment and natural resources sectors, including disaster management’ (ibid.). Progress of the action plan was reviewed in July 2011 during the official visit of Philippine Secretary of Foreign Affairs Albert F. del Rosario. He agreed with China’s Minister of Foreign Affairs Yang Jiechi to maintain close political links, including high-level visits and defence and security cooperation. They reaffirmed their commitments to respect and abide by the DOC and not let maritime disputes affect the broader picture of friendship and cooperation (Targeted News Service, 2011).

The greatest beneficiary of continued healthy bilateral relations between China and the Philippines is trade. Trade between the two countries soared from $10.35 billion in 2010 to $32.25 billion in 2011, making China the Philippines’ third-largest trading partner (National Bureau of Statistics of China, 2011).

This healthy relationship is fully recognised by the current government of the Philippines. According to a statement released by the Philippine
Foreign Ministry, during President Aquino III’s state visit to China in 2011 leaders of the two governments shared a positive assessment of the development of China-Philippines relations in the past 36 years. They reiterated their commitment to pursue jointly a stable relationship of strategic cooperation on the basis of mutual respect, equality and mutual benefit in the long run. They also agreed that the joint action plan signed by the two sides in 2009 will continue to guide cooperation in all fields (Philippines Department of Foreign Affairs, 2011). Echoing these comments, a Chinese statement was also positive and optimistic:

> It has been proven that the sound and stable development of China-Philippines relations serves the fundamental and long-term interests of the two countries and the two peoples as well as regional peace, stability and prosperity. China is willing to make concerted efforts with the Philippines to push for constant new progress in our strategic and cooperative relationship. (Ministry of Foreign Affairs, 2011c)

## Conclusion

Compared with China and Vietnam, the Philippines has claimed sovereignty for the SCS fairly recently and without supporting historical evidence. Over the years it has increasingly asserted this claim by consolidating its occupation and presence in the disputed area, even without strong military capacity. To predict the Philippines’ future actions, two elements must be considered.

First, the SCS issue has been used as a tool in domestic politics, which escalates the uncertainty. The current government of the Philippines is facing many domestic challenges, such as economic depression, corruption and competition among different political forces. The SCS issue serves as a distraction to defuse domestic tensions. When the approval rating for President Aquino III slipped from its peak immediately after the 2010 election, he tried to stir nationalist sentiment in a nationally televised address: ‘We do not wish to increase tensions with anyone, but we must let the world know that we are ready to protect what is ours.’ He also said the Philippines was taking steps to modernise its armed forces, including buying more weapons and possibly acquiring more naval vessels (Barta and Larano, 2011: 1).
Second, the strengthened military ties between the Philippines and the United States will stir up more bold incidents. The US ‘rebalance’ strategy has turned Southeast Asia into a competition ground for major powers. The Philippines’ alliance with the United States will enable it to benefit from the increasing US presence in the area.

The SCS issue has evolved from a regional dispute to being an apple of discord that has attracted world attention. The Philippines believes that internationalising the dispute will work to its advantage. With the combination of US demand and Philippine expectation, it is perceived that Philippine policies in the SCS will become more active and it will take more assertive steps in the near future.