

Review Essay

Comment on Documents Claiming Vietnamese Sovereignty over the Spratly and Paracel Islands

CHEN HURNG-YU

Luu Van Loi, *The Sino-Vietnamese Difference on the Hoang Sa and Truong Sa Archipelagoes* (Hanoi: The Gioi Publishers, 1996).

Brice M. Clagett, "Competing Claims of Vietnam and China in the Vanguard Bank and Blue Dragon Areas of the South China Sea," Part I, *Oil Gas Law and Taxation Review* (U.K.), 1995, no. 10:375-88; Part II, *ibid.*, 1995, no. 11:419-35.

As an effort to claim sovereignty over the Spratly Islands (the Truong Sa Archipelagoes or the Nansha Islands) and the Paracel Islands (the Hoang Sa Archipelagoes or the Xisha Islands), the Vietnamese not only publicized related Vietnamese historical documents but also published English-edition publications for international propaganda purposes. Here, the author is going to examine two of the latter category of writings: *The Sino-Vietnamese Difference on the Hoang Sa and Truong Sa Archipelagoes* which was published by Luu Van Loi in 1996 and "Competing Claims of Vietnam and China in the Vanguard Bank and Blue Dragon Areas of the South China Sea" which was written by an American Lawyer, Brice M.

Chen Hurng-yu is a Research Fellow at the Institute of International Relations, National Chengchi University. This article was translated from Chinese by Yun-hua Kao.

Clagett, in 1995 under the commission of the Vietnamese government.

Luu's book is written from a historical approach, while Clagett's report is a defense of Vietnamese sovereignty over the Vanguard Bank and Blue Dragon areas based on the modern law of the sea. Here I will first discuss Luu's book which will provide a general picture of the territorial disputes between China and Vietnam over the South China Sea area. In the second section, I will then turn to Clagett's work.

I

The book, *The Sino-Vietnamese Difference on the Hoang Sa and Truong Sa Archipelagoes*, can be viewed to some extent as the Vietnamese official stance on the two archipelagoes. This is because its author Luu Van Loi served once as an assistant to the foreign minister of North Vietnam and participated in the Paris Peace Talks between North Vietnam and the United States. The book was written in 1994 when Luu was consultant for Vietnam's Institute of Foreign Relations. As one of the few English publications by the Vietnamese government regarding the Spratly and Paracel islands, this book is obviously published for international propaganda purposes with regard to Vietnam's claims to the Paracel and Spratly islands. Since the Vietnamese have published only very limited materials on questions concerning these islands, this book will increase understanding of the Vietnamese viewpoint, thus enabling us a clearer picture of the disputes over these islands.

Luu's book is not very long, using ninety-four pages for text and sixty-three pages for a timeline, documents, maps, and pictures. Historical events mentioned in his book are generally arranged in chronological order, supplemented by concepts of modern international law. There are notable repetitions in this book when enunciating certain viewpoints and describing certain historical events. The date and the validity of the ancient Vietnamese books (published before the nineteenth century) cited in this book remain to be verified. Also noteworthy is that the translations of some ancient Chinese books cited in this book are not correct. The remainder of this section will highlight examples of the mistakes in Luu's book with re-

gard to cited materials and preferred judgments.

1. On pages 11-12, Luu argued that Chinese scholars deliberately made theoretical deductions to China's advantage while citing documents related to Xisha. He gave the following examples to justify his argument. First, Han Zhenhua explains that the shoals mentioned in *Funan zhuan* (扶南傳 Account of Funan) are the Xisha and Nansha islands when that book only states: "In the Zhanghai [漲海] there are coral shoals; under the shoals there are rocks on which coral grows." Second, Han said that Zhanghai is the South China Sea, comprising the islands of the Southern Sea, and the reefs are those of the islands of the Southern Sea when *Ji Wu Zhi* [異物志] states that the reefs of the Zhanghai are found in shallow waters where there are many magnet rocks, which prevent the passage of large iron-banded ships belonging to foreign countries. Luu questioned that as the South China Sea has an area of over 3,400,000 square kilometers, does the Zhanghai represent the totality of the South China Sea or only part? If a part, then which part? Third, from the description in *Nan Yue Ji Wu Zhi* (Strange things of the peoples of the South)—a treatise which according to Luu was published in the first century—that fishermen captured scaled tortoises and the narration in *Guangzhou ji* (廣州記 Notes on Guangzhou) that ancient men found coral while fishing at sea, Pan Shiying deduces that the Chinese reclaimed and exploited the first islands of the Southern Sea, although these two books speak of the sea in general, not specifying which exact area. Fourth, *Dongxiyang kao* (東西洋考 Studies on the ocean in the East and West) says that Qizhouyang (七洲洋) is the maritime zone where the seven islands are found at a distance of one hundred *li* (fifty kilometers) from the Wenchang (文昌) district. However, it is affirmed that the sea of Xisha lies several hundreds of kilometers away from Wenchang. Fifth, *Zhu fan zhi* (諸蕃志 Notes on foreign countries) writes: "Hainan was the Yazhou [崖州] and the Dan Eu [儋耳] of the Han period." Han Zhenhua affirms in an explanatory note that the name indicates the Hainan Island of today as well as the islands of the Southern Sea, with the clear intention of putting it among Xisha and Nansha. Luu also argued that while *Wujing zongyao* (武經總要 General program of military affairs) contains a passage on the royal order of the Song dynasty to set up sea patrol posts and a sea passage along the route from Guangzhou to India, the PRC Ministry of

Foreign Affairs has made the route into the one and only passage in order to pretend that the Chinese navy of that time had carried out patrols in the sea of Xisha. An additional example given by Luu is that based on the statement in *Quanzhoufu zhi* (泉州府志 History of Quanzhou prefecture) that General Wu Sheng himself conducted the patrol, starting from Qiongya (瓊崖) and passing by Tonggu (銅鼓), Qizhouyang, and Sigengsha (四更沙), making a tour of three thousand *li*. The PRC Ministry of Foreign Affairs had affirmed that General Wu Sheng conducted patrols in the sea of Xisha, although according to these toponymies, the patrol actually took place around the island of Hainan.

The above statements have the following points which need further discussion:

First, when citing ancient Chinese books, Luu did not pay attention to their publication date and henceforth failed to cite them by chronological order. For example, *Zhu fan zhi* was written in 1225, *Dongxiyang kao* was in 1618, and *Wujing zongyao*, in 1044.

Second, the title of the book *Nan Yue Ji Wu Zhi* is probably meant to refer to *Nanzhou yiwu zhi* (南州異物志). If so, the latter was published in the third century instead of the first century as noted in Luu's book.

Third, when citing *Guangzhou ji*, Luu only said: "ancient men found coral while fishing at sea." In fact, the complete sentence in *Guangzhou ji* is: "Previously, there were people who found coral while fishing around the coral shoals which are five hundred *li* south of Dongguan [東莞] county." Based on Han Zhenhua's *Woguo nanhai zhudao shiliao huibian* (A collection of historical documents on the islands in the South China Sea), the coral shoals are the Dongsha Islands (the Pratas Islands).¹ Thus, it is incorrect for Luu to say that the ancient Chinese books did not specify which archipelagoes these shoals are.

Fourth, Luu Van Loi should not criticize Han Zhenhua's explanation about Hainan and the islands of the Southern Sea by merely citing one sentence in *Zhu fan zhi*: "Hainan was the Yazhou and the Dan Eu of the Han period." In that book, there are statements regarding the Chinese govern-

¹Han Zhenhua, ed., *Woguo nanhai zhudao shiliao huibian* (A collection of historical documents on the islands in the South China Sea) (Beijing: Dongfang chubanshe, 1988), 27.

ment's administration of large areas in the South China Sea, the reference to part of these sea area as Qianli Changsha (千里長沙) and Wanli Shitang (萬里石塘), and the placement of this sea area under the jurisdiction of the Guangnan Xilu (廣南西路), Hainan. In China's Song dynasty, Qianli Changsha and Wanli Shitang were under the jurisdiction of the Guangnan Xilu, Hainan.²

Fifth, Luu Van Loi argued that the description in *Wujing zongyao* indicates that the Chinese navy of the Song dynasty did not carry out patrols in the sea of Xisha. However, from the statement in that book, we can see that Chinese navy patrols reached Tunmenshan (屯門山) and Jiuruluozhou (九乳螺洲) under the order of the Chinese emperor. As we know, Tunmenshan is near Qingshan (青山), southwest of Kowloon. Moreover, Jiuruluozhou is in the waters off Xisha.³

Sixth, the earliest report about Qizhouyang is in Wu Zimu's *Mengliang lu* (夢梁錄) of the Southern Song dynasty. In volume 12 of that book, there is the following sentence: "People who want to make trade abroad by sea can set off at Quanzhou and then pass through Qizhouyang where the water is over seven hundred feet in depth." Qizhouyang was also mentioned in other later writings. According to Shi Dizu, Qizhouyang is within the Xisha Islands,⁴ but Marwyn S. Samuels holds that it is in the waters between the Xisha and Zhongsha islands.⁵ In 1618, Zhang Xie in his book *Dongxiyang kao* also made a description of Qizhouyang. Zhang Liqian said that Qizhouyang is situated off the east coast of Hainan Island and to the north of the Xisha Islands.⁶ In one of the illustrations carried in Chen Lunjiong's *Haiguo wenjian lu* (海國聞見錄 Things heard and seen in overseas countries), Qizhouyang is marked as being in the waters around the Xisha Islands.⁷

²Ibid., 33.

³Ibid., 38.

⁴Shi Dizu, "Islands in the South China Sea Have Been China's Territory since Ancient Times," *Renmin ribao* (People's Daily) (Beijing), November 25, 1975, 2.

⁵Marwyn S. Samuels, *Contest for the South China Sea* (New York and London: Methuen, 1982), 18.

⁶Zhang Liqian, *Dongxiyang kao zhong zhi zhenlu* (The needle route in *Dongxiyang kao*) (Singapore: Nanyang shuju, 1947), 12.

⁷Chen Lunjiong, *Haiguo wenjian lu* (Things heard and seen in overseas countries) (originally

However, what warrants our attention is that not until the twentieth century was Qizhouyang marked on the map of Guangdong province, and then only being marked in the area northeast of Hainan Island. This is because by the thirteenth century, the area of Qizhouyang was defined differently. In the thirteenth century, it was referred to as the waters stretching from the south of Hainan Island to the Xisha Islands.

2. On page 12, Luu cited the following words of *Hai yu* (海語 The words of the sea), which was written by Huang Zhong in the Ming dynasty (1536), to maintain that Wanli Shitang is the shoals of the barbarous countries of the southwest: "Wanli Shitang is found east of the sea of Wu Zhu and Du Zhu (Wu Zhu is an island situated to the east of the islands Xiang Chuan, Xia Chuan, district of Wan Ninh, Guang Dong. Du Zhu is an island situated to the southeast of the island of Hainan). Wanli Changsha lies to the southeast of Wanli Shitang, i.e., the shoals of sand of the barbarous countries of the southwest."

Luu said that Han Zhenhua, after having omitted the words "the barbarous countries of the southwest," refers to Wanli Shitang as Xisha and Zhongsha. Luu also said that in annotating the book *Daoyi zhilue* (島夷志略 Brief notes on overseas islands) by Wang Dayuan, Han said that Wanli Shitang was used to refer to all the four archipelagoes Dongsha, Xisha, Zhongsha, and Nansha, and when annotating the book *Song hui yao* (宋會要) of the Song dynasty, Han said that Wanli Shitang referred to the Zhongsha Islands. Luu's conclusion is that Han is self-contradictory because he does not know whether Wanli Shitang refers to Zhongsha, Xisha, both, or even all four archipelagoes.

The above statements have the following points which need further discussion:

First, Luu misunderstood what Huang Zhong said. Huang's statement was: "Wanli Shitang is found east of the sea of Wu Zhu [烏豬] and Du Zhu [獨豬] and it is a place where the evil wind and darkness is unsuitable for human beings to stay. . . . Wanli Changsha which lies southeast to Wanli Shitang is the moving sand bank of the barbarous countries of the south-

published in 1730; reprinted, Taipei: Bank of Taiwan Office of Economic Studies, 1958), 15-16.

west." What Huang said is that Wanli Changsha, but not Wanli Shitang, is the shoals of the barbarous countries of the southwest.

Second, in his study of the book *Hai yu*, Han Zhenhua said that Wanli Shitang was at that time referred to as the Xisha and Zhongsha islands while Wanli Changsha was known as the Nansha Islands.⁸ In his study of *Daoyi zhilue* which was published in 1349, Han judged that Wanli Shitang was at that time referred to as the four archipelagoes in the South China Sea. Since *Hai yu* was published in 1536, much later than *Daoyi zhilue*, a more clear distinction was made regarding Wanli Shitang and Wanli Changsha. In the book *Song hui yao*, the term "Shitang," but not "Wanli Shitang," was used. Han said that Shitang is in the Zhongsha Islands.⁹ Some mainland scholars hold different views, however. For example, Lin Ronggui and Li Guoqiang said that Shitang is in Nansha.¹⁰

3. On page 13, the translator of *Shibi zhuan* (史弼傳 History of Shibi) was listed as Groenevelt. In fact, this is not correct. In his book *Notes on the Malay Archipelago and Malacca* published in 1876, Groenevelt discussed Qizhouyang mentioned in *Shibi zhuan*. Groenevelt said that Qizhouyang is referred to as the waters of the Xisha Islands while Wanli Shitang is referred to as the Zhongsha Islands. Su Jiqing holds a different view, however, saying that Qizhouyang should be the waters southeast of Hainan Island while Wanli Shitang should be the Xisha Islands.¹¹

4. On page 14, Luu Van Loi expressed his doubts regarding the site of Jiuruluozhou. Based on the following description in *Wujing zongyao*, he concluded that it takes ten days from Tunmenshan to Pulashan (不勞山): "From Tunmenshan, with an eastern wind, going toward the southwest for seven days, one will arrive in Jiuruluozhou and in three days more, one will reach Pulashan." Based on the following assertion in Jia Shen's *Huang*

⁸Han, *Woguo nanhai zhudao shiliao huibian*, 58-59.

⁹Ibid., 42.

¹⁰Lin Ronggui and Li Guoqiang, "A Comprehensive Study of the Historical and Geographical Questions Concerning Islands in the South China Sea," in *Nanhai zhudao: Dili, lishi, zhuquan* (Islands in the South China Sea: Geography, history, and sovereignty), ed. Lu Yiran (Harbin: Heilongjiang jiaoyu chubanshe, 1992), 138-58.

¹¹Su Jiqing, *Daoyi zhilue jiaoshi* (Annotation on *Daoyi zhilue*) (Beijing: Zhonghua shuju, 1981), 319.

Hua Si Da Zhi (皇華四達記), he concluded that it takes nine days to go from Guangzhou to Pulashan: From Guangzhou by the maritime route to the southeast one reaches Tunmenshan, sailing to the west 200 *li*, one will reach Jiuluoshi in two days, Xiangshi in two days more, and in another three days more to Pulashan southwest bound. Moreover, based on traditional itineraries of the Chinese, he said that Jiuluoshi designates the group of seven islands called Qizhou to the northeast of the island of Hainan, and Xiangshi refers to the island Dazhou (大洲) to the southeast. Luu thus concluded that Jiuruluozhou, being three days from Pulashan, must be a point between the island of Dazhou and the island of Cham of Vietnam (Pulashan) and on the maritime route along the coast of Hainan toward the south. He also said that if Xiangshi (象石) refers to Xisha as Han Zhenhua annotated, it is impossible to make the journey from Tunmenshan to Xisha in four days by the means available at that time.

In the above quotations, Luu also made some translation mistakes. For example, *Huang Hua Si Da Zhi* should be *Huang Hua Si Da Ji*; the name of its writer should be Jia Dan but not Jia Shen; Jiuluoshi should be Jiuzhoushi; Xiangshi should be to the south of Jiuzhoushi by a two-day sail; and from Guangzhou by the maritime route to the southeast sailing 200 *li*, one reaches Tunmenshan. Based on *Huang Hua Si Da Ji*, Luu said that it takes nine days to sail from Guangzhou to Pulashan and more than four days from Tunmenshan to the Xisha Islands. He did not, however, give us the reasons behind this assertion.

5. On page 16, Luu questioned China's sovereignty over the Nansha and Xisha islands by saying that on a map of China printed in 1935, the names of islands in the South China Sea are phonetic transcriptions of international names (such as Amphitrite, Crescent, Lincoln, Pattle, Dido, Bombay, Triton, Duncan) or the simple translation of international names (such as North Reef, Antelope, West island, etc.). Moreover, the Dongsha archipelagoes were then referred to as "Pratas," and the Nansha archipelagoes, Doan Sa (團沙 Tuansha).

Even up to the end of the Qing dynasty, the Chinese did not have a complete record of the names of the islands in the Xisha and Nansha archipelagoes. In 1909, Li Zhun made an inspection of Xisha, but at that time did not give names to the shoals there. In an effort to rename the islands in

the Xisha and Nansha archipelagoes, the Examination Committee of *Shuilu ditu* (Map of the sea and the land) made an investigative tour of these islands and held two meetings in December 1934 and March 1935 respectively. Probably due to time limitations, the committee only consulted English-edition maps during the renaming process. As a result, the names of many of the southern islands that appeared in *Zhongguo nanshai ge daoyu tu* (Map of islands in the South China Sea) published by the committee in 1935 are a transliteration of their English names. The Republic of China (ROC) Ministry of the Interior renamed these islands in November 1947 after having made a thorough investigation. Many new names are taken after the Hainan pronunciation and some are in honor of important personages.¹² The name of Dongsha existed as long ago as in the Qing dynasty, while Westerners called this island "Pratas." The name of Nansha began to be used in 1947, being called "Tuansha" earlier in 1935.

Based on the study of Liu Nanwei, a mainland scholar, many of the English names of the islands in the South China Sea are translated from the ones given by local fishermen in the area. He provided the following table to support his argument:¹³

English Name	Hainan Name	Hainan Phonetics
Itu Aba	黃山馬	Uiduave
Namyit Island	南乙、南密	Namyit, Namit
Simcowe Island	秤鉤	Sivnguo
Thitu Island	鐵峙	Hi Du
Subi Reef	丑未	Suivi
Lankian Cay	銅金	Ddanggin
Landon Reef	銅統	Ddangsong
Passukeak	白峙仔	Beisingia
Duncan Island	三腳	Daha

6. On pages 16-17, Luu said that despite the scarcity of direct writings, the Chinese people have probably known since remote times that

¹²For the name of the islands, see Liu Nanwei, "On the Naming of Islands in the South China Sea in Ancient China," in *Nansha qundao lishi dili yanjiu zhuanji* (A special collection of research on the history and geography of the South China Sea) (Guangzhou: Zhongshan daxue chubanshe, 1991), 166-81; Lin Jinzhi, "The History of China's Earliest Discovery, Management, and Administration of Islands in the South China Sea," in Lu, *Nanshai zhudao*, 27-57.

¹³Liu, "On the Naming of Islands."

there were coral islands in the Southern Sea. This is because the Chinese have a long history of engaging in maritime navigation and fishing. He also added, however, that there exist no written reports that such fishermen have ever occupied any island. In Luu's words, there is a great difference between discovery and knowledge: "Everyone knows that simple *knowledge* cannot establish the acquisition of territorial authority. . . . It must be followed by occupation and the consolidation of that occupation by actual continuous and peaceful performance of state functions."

Obviously, Luu has used the "colonial theory" of "discovery" and "occupation" in the occupation of undeveloped areas. Although having been applied by some international courts, such a theory can probably not stand long as the general international method to solve territorial dispute. The more likely method is to lay increased emphasis on human rights and national self-determination.

Activities by Chinese fishermen in the South China Sea began in remote times. These fishermen would not have left Xisha and Nansha were they not driven away by intruding Western forces, such as the French. Does Luu mean that the French occupation of these islands by force is justifiable? If so, why should the Vietnamese resist the French occupation?

As far as state function is concerned, it is doubtful whether a country can make a territorial claim over some area based only on full exercise of state function. In the Philippines and Indonesia, for example, about half of the islands under their respective jurisdiction are uninhabited and many have not even been given a name; the two countries have claimed sovereignty over these islands although they have not occupied or performed state functions in the area.

7. On page 24, based on *Quanzhoufu zhi's* statements that General Wu Sheng passed by Tonggu, Qizhouyang, and Sigengsha from Qiongya, covering three thousand *li* and making the patrols himself, Luu argued that the area under Wu Sheng's patrol in the period 1710-12 centered around the island of Hainan and not Xisha. Based on the same description, Han Zhenhua asserted that Qizhouyang is in the Xisha Islands,¹⁴ because—if based

¹⁴Han, *Woguo nanhai zhudao shiliao huibian*, 67.

on the measurement unit of that time—three thousand *li* should include the waters around the Xisha Islands.

8. Pages 24-25 declare that until the landing of Li Zhun, the Chinese government had for several centuries tacitly acknowledged that the Hoang Sa and the Truong Sa belonged to Vietnam, and that the authorities of the district of Wenchang had even once given assistance to the members of the Hoang Sa Company on duty on the Hoang Sa in 1753 and had returned them to their country of origin with an official letter to the seigneur Nguyen in Phu Xuan.

Some points in the above statement need to be discussed. First, does Luu have any evidence to prove that until the landing of Li Zhun, the Chinese government had for several centuries tacitly acknowledged that the Hoang Sa and the Truong Sa belonged to Vietnam? The historical fact is that the Qing government sent Li Zhun to Xisha to exploit the local natural resources and to handle the case of the harassment of Chinese fishermen by the Germans and Japanese.¹⁵ This is an indication that the Chinese people had already occupied these islands before Li's visit.

Also noteworthy is that when Li Zhun went to inspect Xisha, the French and the Vietnamese did not protest. Does this not indicate that the French and the Vietnamese gave tacit consent to China's sovereignty over the Xisha Islands?

Luu did not relate to us what happened in 1753 and why the Chinese government had returned members of the Hoang Sa Company back to Vietnam. However, based on volume 10, book 2 of *Danan shilu* (大南實錄 True writings on Dai Nam) which is appended to Luu's book (on page 136), when members of the Hoang Sa Company in Guangyi (廣義) went to Hoang Sa island by ship in July, they were forced to anchor in the waters of Qiongzhou (瓊州) to escape strong winds. The Qing governor sent them back to their country of origin. After this incident, it was the Vietnamese emperor who wrote a letter to the Chinese authorities, rather than the Chinese government sending an official letter to the Vietnamese

¹⁵"On Guangdong's Survey of the Xisha Islands," *Dongfang zazhi* (Oriental Magazine), May 25, 1911, no. 6:170-72.

government. Luu obviously misunderstood the meaning of the Chinese text. This fact cannot be interpreted as China's recognition of Vietnam's claim to the sovereignty over the Xisha Islands. Based on historical documents, we know that the Chinese government also sent back Vietnamese ships in 1756. In his report to Emperor Qianlong of the Qing dynasty on November 2, 1756, then Minister of War Yang Yingju said that foreign ships drifting into the waters near Wanzhou (萬州) and Jiuzhouyang (九洲洋) were to be sent back to their countries of origin as per the usual custom.¹⁶

When he mentions the Hoang Sa Company on pages 37-38, Luu did not discuss its origins, saying only that the company already existed in the Nguyen period. However, as the Nguyen regime was founded in 1802, we may wonder if the Hoang Sa Company existed in 1753.

9. On pages 25-29 and also on page 50, Luu mentioned the existence of some international meetings to justify his argument that Xisha and Nansha belong to Vietnam. For example, he said that the Cairo Declaration stated that all the territories of the Pacific that Japan had usurped or occupied since 1941 and all the territories that Japan had taken from China—such as Manchuria, Taiwan, and Penghu (the Pescadores)—would be returned to the ROC, but made no mention of the Paracel and Spratly archipelagoes. Luu also said that Chiang Kai-shek personally attended the meeting but did not lay claim to these islands—an inaction that is tantamount to a tacit consent to Vietnam's sovereignty over these two archipelagoes. He pointed out that in the 1951 Peace Conference in San Francisco, the Soviet delegate, Andrei Gromyko, proposed the transfer of the Paracel and Spratly archipelagoes to China, but his motion was rejected by forty-six votes (with one abstention). He also said that other delegates did not make any protest or raise any reservation to the following statement by Vietnam's Prime Minister Tran Van Huu, the Vietnamese delegate to that meeting: "The Hoang Sa and Truong Sa archipelagoes have long been Vietnamese territories."

In fact, the Cairo Declaration only made a generalized rather than

¹⁶Han, *Woguo nanhai zhudao shiliao huibian*, 68.

detailed statement regarding the disposition of the territories occupied by Japan. This is why many territorial disputes have arisen after World War II, including conflicting claims over the Ryukyu Islands, the Diaoyutai (Senkaku) Islands, and Du Island (Zhu Island). The reason that no delegates to the 1951 Peace Conference in San Francisco spoke up over the Vietnamese delegate's territorial claim is because neither of the two sides of the Taiwan Strait sent delegates to that conference. In fact, the ROC government had already sent troops in 1946 to take over Xisha, Nansha, Dongsha, and Zhongsha islands from Japanese troops.

10. Page 33 states: "With the available documents, we can affirm that, at least, since around the 17th century, the Vietnamese feudal state had discovered and occupied the Hoang Sa (name of the Hoang Sa and Truong Sa archipelagoes at that time) which did not belong to any state." Page 70 states: "At the start, discovering the Hoang Sa, the Vietnamese knew also that it was a region strewn with a multitude of islands, islets, and shoals, which spread in length without knowing that there were two distinct archipelagoes there. They were aware that the Hoang Sa (i.e., the two archipelagoes, Hoang Sa and Truong Sa) was composed of approximately 130 islands, islets, and sand shoals. Now, the number of islands, islets, reefs, and shoals of *the two archipelagoes taken together* gives a figure of about 130, depending on the way of counting."

It is groundless for Luu to say that the Hoang Sa include the Hoang Sa and Truong Sa archipelagoes. As the Vietnamese have been unable to find evidence to prove their activities in Nansha in remote times, by saying that the Hoang Sa included the two archipelagoes would provide them a ground to make a claim to Nansha.

11. On page 34, Luu quoted the following statement in *Collection of Road Maps of the Southern Countries* (彙集天南四至路圖): "In the middle of the sea there is a great sand shoal called *Bai cat vang* about 400 *dam* long and 20 *dam* wide which spreads [across] the sea. . . . Each year, [during] the last month of winter, the Nguyen sent there 18 junks to resupply the goods, thus obtaining a great quantity of gold, silver, money, arms, and ammunition."

The appendix of the book (page 134) includes "Maps of Quang Nghia Region." In the note, one can read: "On the sea, there is a great sand shoal,

400 *dam* long, 20 *dam* wide, called *Bai Cat Vang* (Yellow sand) which emerges from the depth and faces the coast from the port of Dai Chiem [大占] to the port of Sa Vinh [沙榮]. Each year, in the last months of winter, the Nguyen sent there 18 junks to resupply goods, obtaining thereby a great quantity of gold, silver, money, rifles, and ammunition. From the port of Dai Chiem, the archipelago can be reached in a day and a half by junk; from the port of Sa Ky, it takes half a day." After the above statement, Luu added the following remarks: "All other documents indicate that it takes 3-4 days and nights to reach the Hoang Sa. It is evident that in this note the copier has made a mistake."

Luu did not cite the publication date of the book he quoted and did not explain why there were gold, silver, money, rifles, and ammunition on the great shoal. Luu said that the copiers of the book he quoted made a mistake in calculating the passage of the ships and that *Bai Cat Vang* should be *Xisha*. Unless Luu can prove that the copier really made a mistake, otherwise, *Bai Cat Vang* should not be taken to be *Xisha*.

12. Pages 43-44 of Luu's book stated that on the basis of the available documents, Dai Viet (大越) had since the seventeenth century occupied and administered the Hoang Sa, i.e., the Paracel and Spratly archipelagoes. At that time, Spain—which was the ruler of the Philippines—was not opposed to the occupation of the archipelagoes by Dai Viet. The Portuguese were also not opposed to the occupation of the archipelagoes by Dai Viet in order to maintain friendly cooperative relations with the Nguyen seigneur. Until the end of the nineteenth century, China had not raised any protest against the Vietnamese authorities for nearly three centuries. Luu also said that Hoang Sa did not belong to the territory of the Qing because the books, the manuals of geography, and the Chinese maps show the southern extremity of China being the island of Hainan. The Chinese authorities, as well as the Chinese navigators and businessmen who had passed by the Bien Dong and Vietnam, made no statements on this question.

Here again, Luu made an expanded definition of Hoang Sa. When the Spaniards and Portuguese were trying to expand their trading activities and colonies, they were more interested in such ports as Cebu, Manila, Keelung, and Macao rather than *Xisha*. Fishermen only made seasonal visits to *Xisha*. It is possible that the Spaniards and Portuguese did not even

know that these islands existed, let alone be interested in them. Therefore, although these other nations did not lodge protests against Dai Viet, this does not necessarily mean that they tacitly consented to Vietnam's claim to Hoang Sa. In fact, in many Chinese geographical writings and maps, there are records and accounts of Chinese people's discovery and utilization of the Xisha and Nansha archipelagoes.¹⁷

13. Pages 45-46 of Luu's book stated that because China has no valuable writings to defend its right of sovereignty over Xisha and Nansha, it uses the right of "suzerain" vis-à-vis its "vassal Dai Viet" to pretend that the latter had occupied the islands on China's behalf. Luu said that Deveria's book *Histoire des relations de la Chine avec l'Annam du XIIIe au XIXe siècle* notes that the word "FAN" which he translates as "vassal" has the literal meaning of "borderland," a hedge in the sense of an immediately neighboring country and at the same time a hedge for China's safety. Combined with the word "THAN" it means the "protector of the throne" and the "defender of frontiers." Under the Northern Song dynasty, this title was given to certain dignitaries near the frontiers who enhanced the honor of China and were considered as China's subjects.

Luu continued by saying that the regime of vassality, essentially applied in the Ottoman Empire, is a precedent that brought about two kinds of obligations: those of the vassal state (financial tribute and military assistance to the suzerain state), and those of the suzerain state (military aid to the vassal state. In his opinion, the Chinese emperor invested the kings of Dai Viet without being obliged to defend their country militarily in case of aggression. The kings of Dai Viet paid tribute to China without being obliged to pay a financial tribute or to offer military assistance. Internally, as well as externally, the Vietnamese kings had the right to act without having to first consult the Chinese government (for instance, at the signing of treaties with France in the nineteenth century). The fact of accepting the investiture can be seen as an alignment, as today one stands in the Third World or the socialist world. With such a distinction between the notion of hedge-country and vassal country, it is evident that China has

¹⁷Ibid.

no right of "suzerainty" over Vietnam.

In the above statements, Luu interpreted the Chinese words "*fan shu*" (蕃屬) as neighboring countries. This is not in accord with their real meaning, because in Chinese, the two words refer to vassal states which help shield China, but do not necessarily neighbor China. For example, the Ryukyu Islands and Siam were China's vassal states although they do not border China. When citing Deveria's narration of the concept of "*fan zhen*" (蕃鎮 vassal, THAN), Luu said such a concept was first used in the Northern Song dynasty. This is not correct. The term was used much earlier, in the Tang dynasty. Luu said that China had no right of "suzerainty" over Vietnam because the two states did not have a relationship involving financial tribute and military assistance. However, based on historical documents, we find that Vietnam had long been a vassal state of China. In his *Yuenan jilue* (越南輯略 A brief introduction to Vietnam), Xu Yanxu said that the name of Annam was first given in the Tang dynasty. It was in a position equal to such fiefdoms as Andong, Anxi, and Anbei. Not until the Song dynasty did Annam assert itself as a country and have an emperor. Even so, in their written reports to the Chinese emperors, the Vietnamese authorities did not dare to use the title of emperor. The Vietnamese emperors still accepted the official titles given by Chinese emperors. Their titles had been inherited by their offsprings. Not until the time of Emperor Xiaozong of the Southern Song dynasty did the Vietnamese authorities refer to themselves as having an emperor in their written reports.¹⁸

In the Qing dynasty, Vietnam paid tribute to China with gold and silver. In 1793, the king of Annam shortened the interval of Vietnamese tribute to China from three years to two years and that of sending envoys to China from six years to four years.¹⁹ In his book *Yuenan tongshi* (A general history of Vietnam), Chen Zhongjin, the premier of the last imperial dynasty in Vietnam, said that after the Qing envoy came to Vietnam in 1804 to announce the Chinese decision to create a feudal lord there, the Vietnamese emperor sent an envoy to China to pay tribute in gratitude.

¹⁸Xu Yanxu, *Yuenan jilue* (A brief introduction to Vietnam), (N.p.: 1877), 5-6.

¹⁹For Vietnam's tribute to China during the Qing dynasty, see ibid.

Since then, Vietnam paid tribute once every three years. The tributes include: 200 taels of gold, 1,000 taels of silver, 100 bolts respectively of tough and fine silk fabric, two rhinoceros horns, and 100 catties of ivory and cinnamon.²⁰ Even after signing a peace treaty with France in 1874 by which Vietnam was recognized as an independent country, Vietnam continued to pay tribute to China with the hope that China might render assistance in times of need.

China and Vietnam also enjoyed military relations. Based on Zhang Tingyu's *Ming shih* (History of the Ming dynasty), Emperor Yongle of the Ming dynasty asked the Vietnamese emperor to donate army provisions.²¹ Chen Zhongjin's *Yuenan tongshi* mentions that the Vietnamese government asked for military assistance from China in 1868 to suppress the intruding remnants of the Taiping Rebellion in north Vietnam.²² Again in October 1882, the Vietnamese government asked help from China to resist the French intrusion.²³ Vietnam was China's vassal state for about eight hundred years, until China abandoned its right of "suzerainty" over Vietnam in June 1885 following the signing of the Sino-French treaty on Vietnam. This kind of relationship is different from the alliance relationship in recent years or the relationship of camps during the Cold War period.

14. Page 57 of Luu's book said that on February 18, 1937, France sent a note to the Chinese Embassy again proposing either a friendly settlement of differences or a solution by arbitration, but China did not respond.

The real fact is that on February 20 of the same year, immediately after France sent that note, the Chinese government instructed the Chinese ambassador in France to convey to the French Foreign Ministry that there was no need to hold negotiations on this matter because China had sover-

²⁰Chen Zhongjin, *Yuenan tongshi* (A general history of Vietnam) (Beijing: Shangwu yinshuguan, 1992), 308.

²¹Zhang Tingyu, *Ming shi* (History of the Ming dynasty), vol. 321, foreign countries 2, entry on Annam, 3-4.

²²*Ibid.*, 374-75. For the record of Vietnam's requests for help from China to suppress internal disorder, see also Lung Chang, *Yuenan yu Zhong-Fa zhanzheng* (Vietnam and the Sino-French war) (Taipei: Shangwu yinshuguan, 1996).

²³Chen, *Yuenan tongshi*, 392; Wu Chun, *Yuenan lishi* (History of Vietnam) (Taipei: Ziyou qiaosheng zazhishe, 1992), 256.

eignty over the Xisha Islands.²⁴

15. Page 59 of the book said: "On January 7, 1947, the [Foreign Ministry of the Chinese Nationalist Government in Nanjing] announced that Chinese troops had retaken Xisha; more precisely, Woody Island only. This occupation can in no way be interpreted as an act of [acceptance] of the Japanese surrender because after the conclusion of the February 28, 1946 Accord signed in [Chongqing], the Chinese government had handed this task over to France. Moreover, by this date, Japanese troops had completely withdrawn from the archipelagoes Xisha and Nansha. By this occupation, China had encroached on the rights of Vietnam that France had to defend."

However, there are documents showing that the ROC already sent people to occupy Xisha before January 7, 1947. Based on ROC Foreign Ministry documents, as early as December 8, 1945, the Taiwan Provincial Government sent an official of the Taiwan Meteorology Bureau to Xisha to make investigations there and to set up a wooden marker indicating the ROC's claim to sovereignty. Meanwhile, the ROC's flag was also erected on Woody Island (永興島).²⁵ In mid-December of that year, the ROC's navy sent a lieutenant commander to conduct inspections in Xisha.²⁶ On October 23, 1947, the ROC government stationed troops on Xisha and Nansha. The ROC navy then stationed troops on Woody Island on November 28 and Taiping Island (太平島) on December 12.

The conclusion of the February 28, 1946 Accord signed in Chongqing was not related to the Japanese surrender or the occupation of Xisha and Nansha. The Chongqing Accord was on the exchange of notes concerning the replacement of Chinese garrison troops in north Vietnam by French troops. Based on the Potsdam Declaration signed on July 26, 1945, there were two areas for the acceptance of the Japanese surrender: ROC troops

²⁴ *Waijiaobu nanhai zhudao dangan huibian* (A collection of Foreign Ministry documents on islands in the South China Sea), volume 1 (Taipei: Ministry of Foreign Affairs, 1995), file no. II (2)-081:280; file no. II (2)-089:283.

²⁵ *Ibid.*, file nos. II (2)-148/149:399-401.

²⁶ Fu Chun, *Nanhai sisha qundao* (The four archipelagoes in the South China Sea) (Taipei: Shiji shuju, 1982), 133-34.

were to govern the zone north of the 16th parallel, while the British and Indian troops were to govern the zone south of the 16th parallel. On September 6, 1945, the British and Indian troops arrived in Saigon while the Chinese troops reached North Vietnam on September 9 to accept the Japanese surrender. However, since the British troops refused to recognize the Democratic Republic of Vietnam (DRVN) established on September 2 of the same year, the British helped the French to occupy Saigon. To ensure effective control over Vietnam, the French and the Chinese reached an agreement on February 28, 1946 to have the French troops take over garrison work in Vietnam. There was no mention of Xisha and Nansha in the French-Chinese agreement.²⁷ Noteworthy is that after the conclusion of World War II, the Japanese troops in Xisha moved to Hainan Island in order to surrender to Chinese troops.

16. Page 61 of Luu's book said: "According to the 1954 Geneva Agreement, the DRVN governs the zone north of the 17th parallel, while the State of Vietnam (later, the Republic of Vietnam, RVN) governs the [southern] zone, including the two archipelagoes, Hoang Sa and Truong Sa, pending the reunification of Vietnam through free elections." However, although in the Geneva Agreement there is a stipulation on dividing the area of jurisdiction by the 17th parallel, nothing is mentioned about the Xisha and Nansha areas.

17. On pages 74-75 of his book, Luu made a clarification of the statement that Vietnam previously recognized China's sovereignty over Xisha. He said that on September 4, 1958, China announced twelve-mile territorial waters, and shortly after that, on September 14, the North Vietnamese Prime Minister Phan Van Dong addressed to the PRC's then Premier Zhou Enlai a note saying that the DRVN acknowledged and approved the PRC government's declaration fixing the width of Chinese territorial waters, but without mentioning Hoang Sa (Xisha) and Truong Sa (Nansha).

However, mainland Chinese scholars presented much evidence to justify their argument that Vietnam had recognized China's sovereignty

²⁷ Academia Historica, *Waijiaobu yisong dangan qingce* (List of documents transferred from the Foreign Ministry Department of Asia-Pacific Affairs), file no. 0621: "The Sino-French Agreement on the Sino-Vietnamese Relations."

over Xisha and Nansha. They said that North Vietnam's vice-minister of foreign affairs told Chinese charge d'affaires ad interim to Vietnam on June 15, 1956 that historical documents indicate that Xisha and Nansha are part of China's territory. At that time, the Asian Department director of the Vietnamese Foreign Ministry pointed out that as early as the Song dynasty, Xisha and Nansha were China's territory.²⁸ They also pointed out that the following Vietnamese documents and maps can be viewed as evidence that Vietnam already recognized China's sovereignty over Xisha and Nansha: *The Geography of Vietnam* published by Hanoi in 1957; *The World Map* published by the General Staff of Vietnam's People's Army in 1960; a report of the Vietnamese *People's Daily* on May 13, 1969; *The Collection of World Maps* published by Vietnam's Bureau of Surveying and Mapping in 1972; and a geography textbook published by Vietnam's Ministry of Education in 1974.²⁹

Hanoi and Beijing have held different views regarding Beijing's 1958 territorial waters declaration. The Vietnamese acknowledged and approved the PRC government's declaration fixing the width of Chinese territorial waters, but did not mention Hoang Sa (Xisha) and Truong Sa (Nansha). Beijing, however, maintained that Hanoi acknowledged and approved the PRC government's declaration on territorial waters.³⁰ Based on Art. 1 of Beijing's declaration, the twelve miles of territorial waters included the islands in the South China Sea. Mainland scholars also cited Han Zhenhua's argument in his *Woguo nanhai zhudao shiliao huibian*. The scholars said that in a letter to Zhou Enlai, Phan Van Dong said that he would instruct the relevant Vietnamese departments to respect the fact that China's territorial waters are twelve miles in width.³¹ Obviously, Vietnam

²⁸ Wang Keju, "Vietnam's Contradictory Stand on Questions Concerning Islands in the South China Sea as Viewed by the International Law," in *Nanhai zhudao xueshu taolunhui lunwen xuanbian* (A collection of papers presented at the symposium on islands in the South China Sea) (Beijing: State Oceanography Bureau, 1992), 3-7.

²⁹ Lin Jinzhi and Wu Fengbin, *Zuguo de nanjiang: Nanhai zhudao* (Our motherland's southern territory: Islands in the South China Sea) (Shanghai: Shanghai renmin chubanshe, 1988), 118-22.

³⁰ See note 28 above.

³¹ Han, *Woguo nanhai zhudao shiliao huibian*, 543.

attached importance to the twelve-mile territorial waters statement while Beijing emphasized sovereignty over islands in the South China Sea.

18. On pages 75-76, Luu further augmented his argument. In its 1965 declaration regarding the fixation of the limits of combat zones by the U.S. military, the DRVN government did admit that Xisha used to belong to China. Luu argued, however, that the declaration did not abandon Vietnam's sovereignty vis-à-vis the Hoang Sa or Truong Sa archipelagoes. He continued by saying that one must place these facts in historical context, as the Vietnamese people had to struggle against the U.S. intervention and aggression in the two zones in the period 1956-65. In his opinion, Vietnam's situation at that moment should be viewed in the light of two factors. From an administrative point of view, under the provisions of the 1954 Geneva Agreement, Vietnam was temporarily divided into two zones on either side of the 17th parallel—which was considered the provisional military demarcation line—pending reunification. The RVN government took charge of the Hoang Sa and Truong Sa archipelagoes in 1956 and had defended the interests and the sovereignty of Vietnam in different international conferences and organizations. The Provisional Revolutionary Government of South Vietnam, together with that of Saigon, signed the Paris Peace Agreement on Vietnam and reaffirmed the sovereignty of Vietnam vis-à-vis the Hoang Sa and Truong Sa archipelagoes. The responsibility for the administration of the territory is evident here. From the point of view of the defense of territorial sovereignty, Vietnam's 1965 declaration that Xisha belonged to China was based on the consideration of involving China as much as possible in its war of resistance against the United States. In other words, the declarations should be recalled from the Vietnamese viewpoint as well as the events of the 1950s and 1960s in order to understand their true meaning, and also to comprehend the actions of their allies at that time.

On page 77, Luu said that the Vietnamese troops came into the region of the One Hundred Thousand Mountains, the great mountain chain between Guangdong and Guangxi, destroyed many military positions of Nationalist Chinese troops, and finally liberated Tchuksan (a locality on Chinese territory). They then handed over Tchuksan to the Communist troops. When the French completed their evacuation from North Vietnam

in 1954, the North Vietnamese troops had to request that mainland China provisionally ensure the government of Bach Long Vi situated one hundred thirty kilometers from Hai Phong. This was because the troops were busy taking charge and organizing the administration of the land handed over by the French. Mainland China had agreed finally to return Bach Long Vi to the Vietnamese in 1957. Vietnam acted in the same way with regard to Laos. At the start of the war with the United States, the Vietnamese side temporarily put certain Vietnamese territories, such as Na Meo (Thanh Hoa province) and Keng Du (Nghe An province), at the disposal of the Lao patriotic forces as bases. This is similar to the case where the Lao patriotic forces gave their consent to the construction of the Ho Chi Minh trail on part of Lao territory that bordered Vietnam. At the end of the anti-U.S. war, Vietnam and Laos returned to each other such territories.

However, there is evidence to prove that Vietnam recognized China's sovereignty over the Xisha Islands. For example, in a news conference on May 9, 1965, the Information Department director of North Vietnam's Foreign Ministry discussed the U.S. president's announcement on April 24, 1965 that U.S. troops regarded the whole of Vietnam and its adjacent waters as the "battle zone." The adjacent waters included areas within one hundred nautical miles of Vietnam's coast line and part of the Xisha Islands under the jurisdiction of mainland China.³²

Luu said that in 1949 Vietnam rendered assistance to the Chinese Communists in seizing the Nationalist government's military bases. This is tantamount to expressing that Vietnam interfered in China's civil war.

19. Page 86 of Luu's book said that the French government sought three times—in 1932, 1937, and 1947—to either negotiate a friendly settlement with the Chinese government or accept an arbitrated solution of questions concerning the Nansha and Xisha islands. The Chinese government rejected the proposals.

From ROC Foreign Ministry documents, however, I find that the French government actually made such proposals on questions concerning the Nansha and Xisha islands to the Chinese government on four separate

³²Ibid., 544.

occasions: January 1932, November 1934, February 1937, and January 1947 (not July 1947 as Luu mentioned on page 105 of his book).

20. On page 105, Luu said that the Chinese Nationalist troops evacuated Woody Island in April 1950. In fact, the actual date was May 5 of that year.

21. On page 136 of his book, Luu cited *Danan shilu* as saying: "Beyond the coast of the commune of An Vinh, sub-prefecture of Binh Son, province of Quang Nghia, there are more than 130 sand heights separated from one another by one day or a few *canh* by junk. They spread out no one knows how many *dam* and are commonly called 'the Yellow Sand of Ten Thousand *dam*.' They contain wells for drinking water; as resources, there are sea cucumbers, tortoise-shells, flower snails, sea tortoises. . . . The seventy members of the Hoang Sa Company are composed of members of the commune of An Vinh. In March every year, they went there by ship. It took three days to get there where they loaded goods and went back in August."

Published in 1836, *Danan shilu* is a description of the visits of Vietnamese people to Hoang Sa Island. Some points in that book need to be examined further. First, unclear is whether the one hundred thirty sand heights are the Xisha Islands. As we know, Xisha is composed of thirty-odd reefs which are less than fifteen meters above sea level and not one hundred thirty sand heights as is declared in *Danan shilu*. While those sand heights are commonly called "the Yellow Sand of Ten Thousand *dam*," Chinese used to refer to the Xisha Islands as "the Long Sand of Ten Thousand *li*."

In *Danan shilu*, the Vietnamese people are said to have gone to Hoang Sa to gather the merchandise and objects from wrecked ships from March to August every year. On pages 37-39 of Luu's book, there is a description of the Hoang Sa Company's gathering such objects as gold, silver, tin, ivory, rifles, and ammunition. The Company would go back to Vietnam in August to escape the northeast wind. Obviously, the Vietnamese did not live in Hoang Sa but only went there to scavenge treasures.

In Xu Yanxu's *Yuenan jilue*, there is not only a similar description of the Hoang Sa Company's activities, but also a disclosure of the Nguyen government's collaboration with Chinese pirates in plundering ships pass-

ing through the waters of the South China Sea.³³

22. On page 143, Luu cited Le Quy Don's *Miscellanies on the Government of the Marches* (撫邊雜錄) by saying that the Hoang Sa shoals are situated near Lianzhou (廉州府 an island of Hainan) and that the Vietnamese fishermen sometimes meet at sea the fishing junks of Northerners.

Luu said that he has seen a note of the Chief Mandarin of the Wenchang district in Qiongzhou, addressed to Thuan Hoa, which said: "In the 18th year of Qianlong, ten soldiers of the commune of An Vinh, Company of Cat Liem, district of Chuong Nghia of Annam, one day of the 7th month, arrived in Wanlizhangsha for fishing and gathering goods. Eight of them landed, leaving the two remaining to guard the junk. The mooring rope was broken by the wind, the junk was pushed by waves to the port of Quangan where the local authorities were able to verify the facts and sent these men back to their native country. Seigneur Nguyen Phuc Chu (*rather*, Nguyen Phuc Khoat *because the copier mistakenly* wrote Nguyen Phuc Chu, *the latter had died by then*) ordered the *cai ba* of Thuan Hoa, Thuc Luong Hau, to make a note of response."

The following part in the above paragraph is translated incorrectly: "I myself have seen a note of the Chief Mandarin of the Wenchang district belonging to Qiongzhou, addressed to Thuan Hoa." It should be translated as "I myself have seen the reports of the Chief Mandarin of the Wenchang district of Qiongzhou on his inspection of Thuan Hoa." In fact, many ancient Chinese documents indicate that the Chinese navy patrolled waters near the Xisha Islands (including areas near Thuan Hoa). For example, Huang Zuo's *Guangdong tongzhi* (廣東通志 A general history of Guangdong) said that there were water patrol officers in Guangdong to patrol the waters near Guangdong, Qizhouyang, and the waters between Champa (占城) and Kunlunyang (昆侖洋).³⁴ In the revised *Qiongzhoufu zhi* (瓊州府志 A record of Qiongzhou prefecture) in 1841, there are also stipulations

³³Xu, *Yuenan jilue*, 20-21; Wang Zhichun, *Guochao rouyuan ji* (An account of our country's appeasement policy toward foreign countries), vol. 5 (originally published in 1881; reprinted, Taipei: Xuesheng shuju, 1975), 360-61.

³⁴Huang Zuo, *Guangdong tongzhi* (A general history of Guangdong) (N.p.: 1558), vol. 63: 71.

regarding the Chinese navy patrolling in the one thousand *li* of water areas from Dongao (東澳) of Wanzhou in the east to Sigengsha of Changhua (彰化) county in the west, and south to Siam and Champa.

From the paragraph cited by Luu from *Miscellanies on the Government of the Marches*, we can see that the Hoang Sa shoals and Wanlizhangsha are two different places. Here, "Hoang Sa shoals" is a mistake for "Wanli Changsha." China used to refer to Xisha by the name "Wanli Changsha." The cited paragraph indicates that the Vietnamese troops had first visited Wanli Changsha, and then their ships were pushed by waves to the Chinese port of Qinglan (青瀾港). They were later sent back to their country by the Chinese local authorities. In other words, they were expelled by the Chinese navy. From this, we know that China exercised jurisdiction power over Xisha and its adjacent areas. The response of the Vietnamese authorities to the repatriation is also an indication that Vietnam accepted China's jurisdiction over that area.

The official title of *caiba* (該簿), as is mentioned in the *Fubian zalu* (Miscellanies on the government of the marches), was given to those responsible for documentation work. At that time, Vietnam was divided into twelve military districts. In each district, there were such official posts as *zhenshou* (鎮守), *caiba*, and *jilu* (記錄).³⁵

23. A most important question to be examined is whether the "long sands," the "great long sand islands," and the "Hoang Sa shoals" mentioned in *Zuanji tiannan sizhi lutu* (A collection of road maps of the southern countries) which was published in the seventeenth century and the *Fubian zalu* published in the eighteenth century are the Xisha and Nansha archipelagoes referred to by the Chinese.

In *Zuanji tiannan sizhi lutu*, there are the following annotations: "There is a long sand bar in the sea called Bai Cat Vang which is about 400 *li* in length and 20 *li* in width. . . . It takes one and a half days to get here from Dazhanmen [大占門] and half a day from Shaqimen [沙淇門]." From the above description of the topography and the time of shipping from the seaport to Bai Cat Vang, the sand bar in question is obviously not the Xisha

³⁵Chen, *Yuenan tongshi*, 247.

Islands. From *Guangnan chutu: Jiaozhou zhi* (廣南處圖：交州志), we can see that Bai Cat Vang is very close to the seaport of Dazhanmen.

Based on *Fubian zalu*, there is a mountain called Goulaozhi outside the seaport of Anyong commune of Pingshan county in Guangyi prefecture. The mountain spreads over thirty *li*, and three days are required to get to the Great Long Sand Islands from there. Members of the Hoang Sa Company used to gather sea products and other goods on that island.³⁶ On other pages, *Fubian zalu* also says that in the sea northeast to the Anyong Commune of Pingshan county in Guangyi, there are over 110 mountains and within these mountains there are the Hoang Sa shoals, with a length of about thirty *li*. It takes three days to get to those shoals, and the Hoang Sa Company gathered sea products and other goods there.³⁷

From these descriptions, we know that these places are different from Xisha in their topographical characteristics. The Hoang Sa shoals and the Great Long Sand Islands must be the same place.

Mainland scholar Han Zhenhua maintains that the Hoang Sa shoals should be the Lishan Islands (理山群島 or the Wailuo Mountains [外羅山] which are now called "Guangdong Islands") near the Vietnamese coast.³⁸ Another scholar, Dai Kelai, said that the 110-odd mountains described in *Fubian zalu* are generally called the Wailuo Mountains which are composed of islands and shoals in an area between Dazhanmen in the north and Sharongmen (沙榮門) in the south.³⁹

From the above, we can reach the following conclusions: First, the Bai Cat Vang mentioned in *Zuanji tiannan sizhi lutu* should be the Lishan Islands (or Guangdong Islands) but not the Great Long Sand Islands or the Hoang Sa shoals as it requires only one and a half days to get to the first place but three days to the second and the third places. Second, there are still doubts whether the Great Long Sand Islands are the Xisha Islands.

³⁶Le Quy Don, *Fubian zalu* (Miscellanies on the government of the marches) (Reprinted, Saigon: 1972), vol. 2:78-79.

³⁷*Ibid.*, 82-83.

³⁸Han, *Woguo nanhai zhudao shiliao huibian*, 19-20; Han Zhenhua, "A Study on the Location of Bai Cat Vang and Bai Chang Sha," in Lu, *Nanhai zhudao*, 170-93.

³⁹Dai Kelai, "The 'Huangsha' [Hoang Sa] and 'Changsha' [Truong Sa] in Ancient Vietnamese Books Are Not China's Xisha and Nansha Archipelagoes," in Lu, *Nanhai zhudao*, 194-207.

Based on Zhang Xie's *Dongxiyang kao* which was published in 1618, people traveling from China to the Indian Ocean must pass through the waters between the Vietnamese seacoast and the Wailuo Mountains⁴⁰ which are much higher above the sea level than Xisha. Because of their topographical features, the Wailuo Mountains can provide shelter to passing ships. In contrast, the waters of Xisha are replete with submerged reefs and drifting sand bars which are dangerous for navigation. Moreover, islands in this area are of mostly smooth terrain which cannot provide shelter to passing ships. Third, not until 1882 when *Danan yitong zhi* (大南一統志 An account of the unification of Dai Nam) was published did the Vietnamese make a clearer description of the islands off the Vietnamese seacoast. According to that book, the Hoang Sa Island which is east of the Lishan Islands can be reached in three to four days from the Vietnamese seacoast. On that island, there are over 130 mountains and several *li* of yellow sand shoals which are collectively known as "Wanli Changsha."⁴¹ The Hoang Sa Island is very possibly the Xisha Islands considering the shipping route and the time required to reach there. In many Chinese books, Xisha is called the "Wanli Changsha." See, for example, Yan Sizong's *Nanyang lice* (南洋蠡測 An introductory understanding of Nanyang) which was published in 1830, Wei Yuan's *Haiguo tuzhi* (海國圖志 Notes on overseas countries and navigation) in 1844, and Xu Jiyu's *Yinghuan zhilue* (瀛環志略 Brief geography of the globe) in 1866.

II

As part of the process of jurisdictional disputes over the islands in the South China Sea, the Vietnamese side made four official declarations—in 1975, 1979, 1982, and 1988. In 1995, mainland China and Vietnam engaged in a heated debate regarding the sovereignty over these islands

⁴⁰Zhang Xie, *Dongxiyang kao* (Studies on the ocean in the East and West) (originally published in 1618; reprinted, Taipei: Taiwan Shangwu yinshuguan, 1971), 119.

⁴¹Matsu Moto, *Danan yitong zhi*, volume 6 (originally published in 1882; reprinted by the Indochina Society on March 15, 1941), 743.

after exploration rights to the Vanguard Bank area had been licensed by Beijing to Crestone Energy Corporation and the Blue Dragon area to Mobil Oil and other companies by Vietnam. The Vietnamese government then commissioned a lawyer in Washington D.C. named Brice M. Clagett to undertake a research on the question concerning Vietnam's sovereignty over these blocks. Clagett then worked out a report under the title "Competing Claims of Vietnam and China in the Vanguard Bank and Blue Dragon Areas of the South China Sea." In Clagett's report, China is most often referred to as mainland China although sometimes China can also mean the Republic of China on Taiwan.

Clagett addresses the question of how the International Court of Justice (ICJ) or an international arbitral tribunal, applying the international law of the sea, would delimit maritime boundaries in the South China Sea with respect to the seabed and subsoil resources of the areas in the Vanguard Bank and Blue Dragon. He reached the conclusion that Vietnam has sovereignty over these two places.

Since that report is adapted from an opinion commissioned by the Vietnamese government to defend Vietnam's claim over these places, there are some biased judgments. Following are some examples.

1. In note 2 of his report, Clagett defined the term "Nan Hai" simply as the Southern Sea. In fact, both the terms "Nan Hai" and "Nan Yang" refer to the land and the water areas south to China. Not until recently has the term "Nan Hai" been defined as the waters south of China.

2. Clagett says that the Taiping Island is less than 0.4 square miles (about 0.6436 square kilometers) in size (part I:377). According to Zheng Ziyue's *Nanhai zhudao dili zhilue* (Geographical sketch of islands in the South China Sea), however, it is 0.432 square kilometers in size.⁴² In Fu Chun's *Nanhai sisha qundao* (The four archipelagoes in the South China Sea), it is noted as being 0.498 square kilometers.⁴³

3. Clagett says that since World War II, mainland China, Taiwan, the

⁴²Zheng Ziyue, *Nanhai zhudao dili zhilue* (The geographical sketch of islands in the South China Sea) (Shanghai: Shangwu yinshuguan, 1947), 41, 45-46.

⁴³Fu, *Nanhai sisha qundao*, 153.

Philippines, Malaysia, Brunei, and Vietnam have all made claims to the islets (part I:378). In fact, Malaysia did not stake any claim until the end of the 1970s, and Brunei only made claims to territorial waters but not the nearby islets. Also to be noted is that before the end of the 1960s, countries in the area made claims only to the islets. Later, they began to make claims also to the offshore waters, especially in the continental shelf area.

4. Clagett says: "The modern debate over the Spratlys and Paracels begins with the French occupation of Indochina in the 19th century and the British governments' claimed annexation of Spratly Island. The French and the British exchanged diplomatic notes over rights to the islets in the late 19th century. France both claimed and exercised control over the Spratlys during the 1930s, apparently without any protest by China, which had not asserted any claim of its own. During World War II the Japanese occupied several Spratlys, using them as military outposts. Japan renounced its claim to the islets at the end of the war. Since that time, China, Taiwan, the Philippines, Malaysia, and Vietnam have all made claims to the islets" (part I:378).

In fact, there is no historical documents to show that the British government has really annexed or occupied the Spratly Islands. At most, the British undertook surveys in some of the islets. Nor is there any evidence to show that the French and the British exchanged diplomatic notes over rights to these islets. Clagett did not reveal to us the result of the exchange either. In the 1930s, the French controlled only nine of the islets. Clagett's claim that China did not protest to France's occupation of the nine islets in the South China Sea is groundless. In fact, on July 26, 1932, the ROC Foreign Ministry sent a note to the French Foreign Ministry, saying that the Xisha Islands belong to China. On August 4, 1933, the ROC Foreign Ministry registered a protest to France's envoy to China,⁴⁴ and instructed China's envoy to France to lodge a protest with the French government. In

⁴⁴For the ROC Foreign Ministry's protest to the French government, see: Zhongguo dier lishi danganguan (The Second Historical Archives of China), ed., *Zhonghua minguo shi dangan ziliao huibian* (A collection of historical archives of the Republic of China), vol. 5, part 1: Foreign Relations (II) (Nanjing: Jiangsu guji chubanshe, 1994), 1501-02; *Waijiaobu nanhai zhudao dangan huibian*, file no. II (I)-022.

addition, Chinese people in various provinces launched movements at that time to defend China's territory in the South China Sea.

5. Based on the following cases in international law, Clagett said that to judge whether an island should be considered as a basepoint for delimiting a nation's maritime boundary, its size, population, economic viability, and distance from the coast will be considered: the *North Sea Continental Shelf Cases*, the *Libya/Malta* case, the *Gulf of Maine* case, the *Guinea/Guinea-Bissau* case, the *Anglo/French* case, and the *Libya/Tunisia* case. He also emphasized the rule that small islands—especially if uninhabited and economically insignificant and if located far from the mainland of the state claiming ownership—will be ignored as basepoints for an equidistance delimitation as has been codified in part in Art. 121 (3) of the UN's Law of the Sea Convention (LOSC), which states: "Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf." Such "rocks" are limited, so far as their ability to command exclusive rights to seabed and subsoil is concerned, to twelve-mile territorial waters. To use such rocks as basepoints for delimiting maritime boundary would have a disproportionate effect. Clagett concluded that China's claims of use of the Spratlys and Paracels in such delimitation would be unacceptable under the UN's LOSC or customary international laws (part I:378).

However, the above arguments are contradictory to Vietnam's delineation of its territorial waters and continental shelf. Art. 4 of Vietnam's declaration on November 12, 1982 concerning the baselines of its territorial waters stipulates that the baselines for the territorial waters of the Hoang Sa Islands (Paracels) and Truong Sa Islands (Spratlys) are to be delimited in accordance with the principle set in Section V of Vietnam's declaration of May 12, 1977. According to that section, the islets and archipelagoes outside of Vietnam's territorial waters have their own territorial waters, adjacent areas, exclusive economic zones, and continental shelves. Thus, Vietnam asserts that the islets under Vietnam's jurisdiction have their own territorial waters, adjacent areas, exclusive economic zones, and continental shelves. This is in contradiction to Clagett's argument.

6. Clagett says that possession and administration are the two essential factors that constitute an effective occupation. He therefore says

that discovery must be followed in a reasonable amount of time by effective occupation and by state administration; visits or use by individuals not accompanied by the exercise of governmental authority are insufficient. He also says that "if an international tribunal held that both China and Vietnam had failed to meet this test in earlier times with respect to the Spratlys and Paracels, the result could be a holding that the islets were *terra nullius* as recently as 1930 or even 1973. If that position prevailed, then each Spratly and Paracel (that is, each high-tide elevation) would be held to belong to the state which first established effective occupation of it in this century" (part I:388).

Taking practical control and effective administration as the essential factors for the effective occupation of the islets in the South China Sea is a purposeful neglect of the historical fact that Chinese fishermen already discovered and occupied these islets in remote times. The Western countries drove away Chinese fishermen and controlled some of the islets by force. Armed occupation should not be allowed by international law.

It is not fair to say that the Chinese government has not exercised administration over the Spratlys and Paracels. As compared with other neighboring countries, China had long exercised administration over these islets. In *Qiongzhoufu zhi* which was revised in 1841, there are accounts that the Chinese navy administered a one thousand *li* expanse of water from the Dongao Port of Wanzhou in the east, to Sigengsha of Changhua county in the west, and to Siam and Champa in the south. Champa was at that time a country in central Vietnam. Since Vietnam was then a vassal state to China, the areas under the patrol of the Chinese navy included the waters surrounding central Vietnam, the Spratlys, and the Paracels. In 1883, the Chinese government launched protests to Germany when a German fleet conducted survey activities on the Chenhang (琛航島) and Jinyin (金銀島) islands in Xisha. In 1909, the navy commander Li Zhun made an inspection tour of Xisha and he gave names to some of the islets there, carving them on stone tablets, and erected China's flag. Later, the Chinese government issued licenses to civil companies to prospect for mineral resources. In 1932, the Chinese government lodged a protest with the French government over the French intrusion into the Xisha Islands. In 1933, the Chinese government also lodged a protest through diplomatic channels to the

French government for the French intrusion into the Nansha Islands.⁴⁵ In 1935, the ROC government published the names and a map of the islands in the South China Sea. On a map of the Republic of China published in 1947, the islands in the South China Sea are included in ROC territory.⁴⁶

About half of the islands claimed by the Philippines and Indonesia are small uninhabited islets, which have never come under the administration of either country. Some of these islets do not even have a name. If Clagett's argument is acceptable, can other countries take these islands as *terra nullius* and occupy them? Of course, this is not acceptable by general international practice. China has claimed its sovereignty over islands in the South China Sea and has stationed troops on the major ones. The situation is exactly the same as what is done by the Philippines and Indonesia. If the islets claimed by the Republic of China can be occupied by other countries, the islets of "*terra nullius*" claimed by the Philippines and Indonesia can also be occupied by other countries.

Note 124 of Clagett's report said that mainland China may claim entitlement not only to use the Spratly and Paracel islands as a basepoint but also to connect them by an archipelagic straight. In fact, in its September 4, 1958 "Declaration on Territorial Waters," mainland China argued that the straight baselines should be used to delimit territorial waters in the South China Sea.⁴⁷ Applying the principle of straight baselines instead of the principle of the archipelagic baselines, mainland China published twenty-nine basepoints in Xisha on May 15, 1996.

7. Quoting the following statements in Art. 60 (8) of the UN's LOSC, Clagett says that most of the islets occupied by mainland China in the South China Sea are submerged reefs or, at most, low-tide elevations, which under international law are entitled to command no maritime space: "Artificial islands, installations, and structures do not possess the status of

⁴⁵Chen Tianci, *Xishadiao Dongshadiao chengan huibian* (A collection of cases on the Xisha and Dongsha islands) (Shanghai: Shangwu yinshuguan, 1928).

⁴⁶For the Chinese government's claim to islands in the South China Sea, see Chen Hurng-yu, *Nanhai zhudao zhi faxian, kaifa yu guoji chongtu* (The discovery and development of, and international conflict in, islands in the South China Sea) (Taipei: Guoli bianyiguan, 1997), chaps. 2-5.

⁴⁷Han, *Woguo nanhai zhudao shiliao huibian*, 445-46.

islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone, or the continental shelf." He also says that to the extent that China has transformed any of these locations into high-tide elevations, such fixtures are not recognized or given any effect by international law. But his report also admits that it has not yet been a subject of any interpretation by courts or other authoritative bodies with regard to the question whether rocks can be given the effect of maritime space after they have been built up into bigger islands (part II:420). Under such circumstances, it remains to be seen whether mainland China can claim the maritime space of the Yongshu (永暑礁) and Zhubi (渚碧礁) reefs. By far, the former has been built up into an island of 1,800 square meters with a 300-meter high wharf, and the latter has also been expanded and outfitted with wharfs.

8. In his report (part II:422-23), Clagett says that when the coordinates for the Blue Dragon and Vanguard Bank areas are plotted onto mainland China's 1984 bathymetric chart, the implausibility of a claim based on a shared continental shelf between Spratly Island and the Blue Dragon or Vanguard Bank area is clear. This is because the Blue Dragon block lies between the 100- and 150-meter isobaths and rests squarely on Vietnam's continental shelf even in the narrow sense of the term. China cannot plausibly argue that it is entitled to Blue Dragon based on any claim to ownership of Spratly Island (南威島). He also pointed out that Blue Dragon is much closer to Vietnam's Catwick Islands than to Spratly Island. In his view, Spratly Island is the tip of an underwater plateau that rests on an 1,800-meter abyssal plain, and in order to trace the bathymetric path between Spratly and Blue Dragon, one would need to start on the Spratly shoreline, descend 1,800 meters to the abyssal plain, cross the abyssal plain, and then climb 1,600 meters past Vietnam's continental rise, up Vietnam's continental slope, and onto Vietnam's continental shelf to reach Blue Dragon. He thus concluded that, on any definition of a continental shelf, or on any reasonable view of international law, China's claim to Blue Dragon is absurd.

It can be concluded that China's claim to the Vanguard Bank area is only slightly less implausible than its claim to Blue Dragon. The Vanguard Bank area, which abuts Blue Dragon to the east, lies primarily on Vietnam's

continental slope and (perhaps) its continental rise. The Vanguard Bank area begins approximately at the 150-meter isobath and descends to and terminates on the 1,800- to 2,000-meter abyssal plain shared with Spratly Island. China can scarcely derive any support from the fact that Spratly Island and the Vanguard Bank area share the same abyssal plain. The Spratly slope is opposite, not adjacent to, the Vietnamese slope.

It is Clagett's viewpoint that the boundary of the continental shelf cannot be extended from Spratly Island to the Vanguard Bank and Blue Dragon areas. But according to Clause 5, Art. 76 of the UN's LOSC, the continental shelf of Spratly Island could cover the Vanguard Bank and Blue Dragon areas. To purposefully divide Spratly Island from the Vanguard Bank and Blue Dragon areas is to give China no position to make claims to the latter two areas which are rich in petroleum. To divide Spratly Island from the other two is against the UN's LOSC. Based on Clause 5 of Art. 76 of that law, the continental shelf can be extended to a maximum of 100 nautical miles beyond the 2,500-meter isobath. By that standard, the continental shelf delimited from Spratly Island should include the Vanguard Bank and Blue Dragon areas.

9. Clagett criticized at length China's "historic waters" claim to the South China Sea. According to Clagett, at a September 1994 conference in Washington, D.C., Pan Shiying, a mainland Chinese scholar, presented an assertion of China's "historic waters" claim. Clagett also disclosed that in Mark J. Valencia's telephone conversation with Taipei authorities on July 13, 1994, the ROC also asserted that the South China Sea is a "Chinese historic water." Indeed, before its revision in January 1998, the draft of the ROC's "Law on Territorial Waters and Their Contiguous Areas" had also viewed the South China Sea as Chinese historic waters. However, this idea was deleted when that act was passed by the Legislative Yuan. By far, no official statement on the mainland Chinese side has ever made such a claim, with the exception of related assertions presented only by individual mainland scholars. Note also that Pan Shiying later even stated that China has historic ownership of the South China Sea (part II:423-27).⁴⁸

⁴⁸Pan Shiying, *Nansha qundao, shiyou zhengzhi, guojifa* (Islands in the South China Sea, petroleum politics, and international law) (Hong Kong: Economic Reporter, 1996), 44-64.

10. Clagett said that although the nine broken lines are noted on the map of the South China Sea published by the Republic of China in 1947, the fact that other states have not protested cannot possibly be viewed as establishing acquiescence to China's claim, because China has never assented to such a claim. The publication of the nine broken lines on various maps, without any articulation of what they were intended to mean (and even without precise coordinates), falls far short of the sort of unambiguous assertion of a claimed right that would require other states to protest in order to avoid acquiescing to any such claim (part II:426). Such an assertion is not in line with the practical situation. After the ROC published the names and the map of the islands in the South China Sea in December 1934⁴⁹ as well as the Map of the South China Sea in 1947, the maps published by many countries have indicated that the four archipelagoes in the South China Sea belong to China. This can be found in *The Standard Atlas of the World* published in Japan in 1952, *the Grosser Jro Weltatlas* published in West Germany in 1954, *The Penguin Atlas of the World* published in Britain in 1956, and the *World Atlas* published in Vietnam in 1960. The maps published by the Philippines after its independence in July 1946 have not included the Nansha Islands in its territory either. Thus, many countries, including Vietnam, have indeed noticed China's claim to the South China Sea and some have even extended tacit consent to this claim.

11. It is Clagett's opinion that three bases exist in a legal sense under which Vietnam can claim exclusive rights to maritime areas in the South China Sea, including the Vanguard Bank and Blue Dragon areas (part II: 427-33). First, at a minimum, Vietnam is entitled to the maritime area within 200 miles of its territory. The great majority, although not all, of the Vanguard Bank area is within the 200-mile line. All of the Blue Dragon block falls unequivocally within the line. Second, a glance at any bathymetric chart is sufficient to demonstrate that, in the area south and southeast of Vietnam, the natural prolongation of the Vietnamese mainland extends considerably farther seaward than 200 miles. Vietnam, therefore, may

⁴⁹For the English and Chinese names of the islands in the South China Sea, see *Shuilu ditu shencha weiyuanhui huikan* (Journal of the Examination Committee on the Mapping of the Sea and the Land), December 1934, no. 1:66-69.

claim considerable additional seabed and subsoil beyond the 200-mile line. Under Art. 76 of the LOSC, Vietnam may claim up to 60 miles beyond the foot of the continental slope as defined in Art. 76 (4) (b), to a maximum of 350 miles or 100 miles beyond the 2,500-meter isobath. Third, based on the principle of equidistance between opposite coasts, there is substantial support for the proposition that the seabed and subsoil of the entire South China Sea should be regarded as included within the continental margin of the surrounding states, and that the true foot of the continental slope occurs outside the Sea altogether, in the very deep waters to the east of the Philippines. The tentative boundaries, based on the principle of equidistance between opposite coasts bordering the South China Sea, leave the entire Blue Dragon and Vanguard Bank areas within Vietnam's continental shelf.

While Vietnam can apply the 1958 Convention on Continental Shelf and the 1982 UN's LOSC to make territorial claims to the Vanguard Bank and Blue Dragon areas, can these two laws be applied to cases which already existed before their publication? When the ROC made declarations and published maps to assert their claim to islands in the South China Sea, the continental shelf concept had not been used in international law. How can the new law be used to change the previous international order?

Also, while a country can apply to the LOSC to protect its continental shelf, the law cannot be applied to assert that the islets under the jurisdiction of other countries should be returned to countries adjacent to them. Thus, Vietnam cannot justify its assertion of sovereignty over the Vanguard Bank and Blue Dragon areas simply because these two places are located on its continental shelf. According to a scientific survey of the South China Sea, there are some areas over 2,500 meters in depth. Therefore, Vietnam cannot regard the basin area of the South China Sea as a continental shelf area; consequently, Vietnam cannot delimit the continental shelf boundary line from the coasts of the South China Sea.

III

In conclusion, the American lawyer commissioned by the Vietnamese government has obviously used the UN's LOSC and the concept of the con-

tinental shelf to defend Vietnam's claim to the Vanguard Bank and Blue Dragon areas. However, he has purposefully twisted those concepts to meet the need of the Vietnamese side.

Vietnam has not only licensed the Blue Dragon area to Mobil Oil Company and others but also exerted pressure on and lured Crestone Energy Corporation, with the hope that the latter may join Vietnam in other petroleum prospecting projects after its contract with mainland China is terminated.

The fact that Vietnam has commissioned the American lawyer to fight for its sovereignty over islands in the South China Sea is worthy of our attention. In the conclusion of his report, Clagett stated that the United States will attempt to exercise influence if there were any threat of disruption to the vital navigation lanes in the South China Sea. Clagett also said that if China were to flout a regional consensus backed by the United States, Beijing would risk the possibility of ostracism, conflict, and economic retribution (part II:434). Obviously, in their efforts to possess sovereignty over islands in the South China Sea, Vietnam has followed the Philippines in currying favor with the United States for support.

When making judgments, Brice M. Clagett behaved as if he were a judge of the international court, and his viewpoint is quite subjective. This is partly because he was commissioned by the Vietnamese government and partly because he has not read the Republic of China's official documents.

As compared with Vietnam, China can present a wider variety and much earlier historical sampling of documents to support its claims to Xisha and Nansha. Before the Vietnamese Hoang Sa Company gathered goods in the so-called Hoang Sa Archipelago, the Chinese people had already traveled there. Moreover, the Hoang Sa Company only made seasonal visits to the Hoang Sa Archipelago which cannot be construed as effective occupation and administration. The Vietnamese terminated their activities in the Hoang Sa Archipelago for a long period following the French intrusion in the mid-nineteenth century. In the 1930s, there were conflicts between the French and the Chinese over the sovereignty of Xisha and Nansha. As Vietnam at that time was a French colony and France used military force to occupy Xisha and Nansha, it is not justifiable for Hanoi to make territorial claims to these archipelagoes.