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RESEARCH STUDY

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SOUTH CHINA SEA: UP FOR GRABS

The Philippine occupation of islets in Dangerous Ground and the Spratlys has focused attention on this troublesome area. Conflicting sovereignty claims and the petroleum potential of the South China Sea make difficult any division of the shelf and seabed among the bordering states. At the moment, the course of action among the disputants is only the gnashing of teeth, but the area is a potential powder keg.

ABSTRACT

Sovereignty over the numerous islets and rocks of the South China Sea is actively contested among the People's Republic of China (PRC), the Republic of China (ROC), South Viet-Nam, and the Philippines. The recent move of the Philippine military onto the islands of Nanshan (Lawak), Flat (Pagasa), and Thitu (Patag), and the demand that the ROC abandon its garrison on Itu Aba, have resulted in recent declarations from all the disputants as to their claims to the various islets.

Occupation of islets in the South China Sea is limited to the ROC on Itu Aba and Pratas Island, the PRC on islets in the Amphitrite Group of the Paracels, and the South Vietnamese in the Crescent Group of Paracels. Currently, it appears that the status quo will prevail and that no further military incursions

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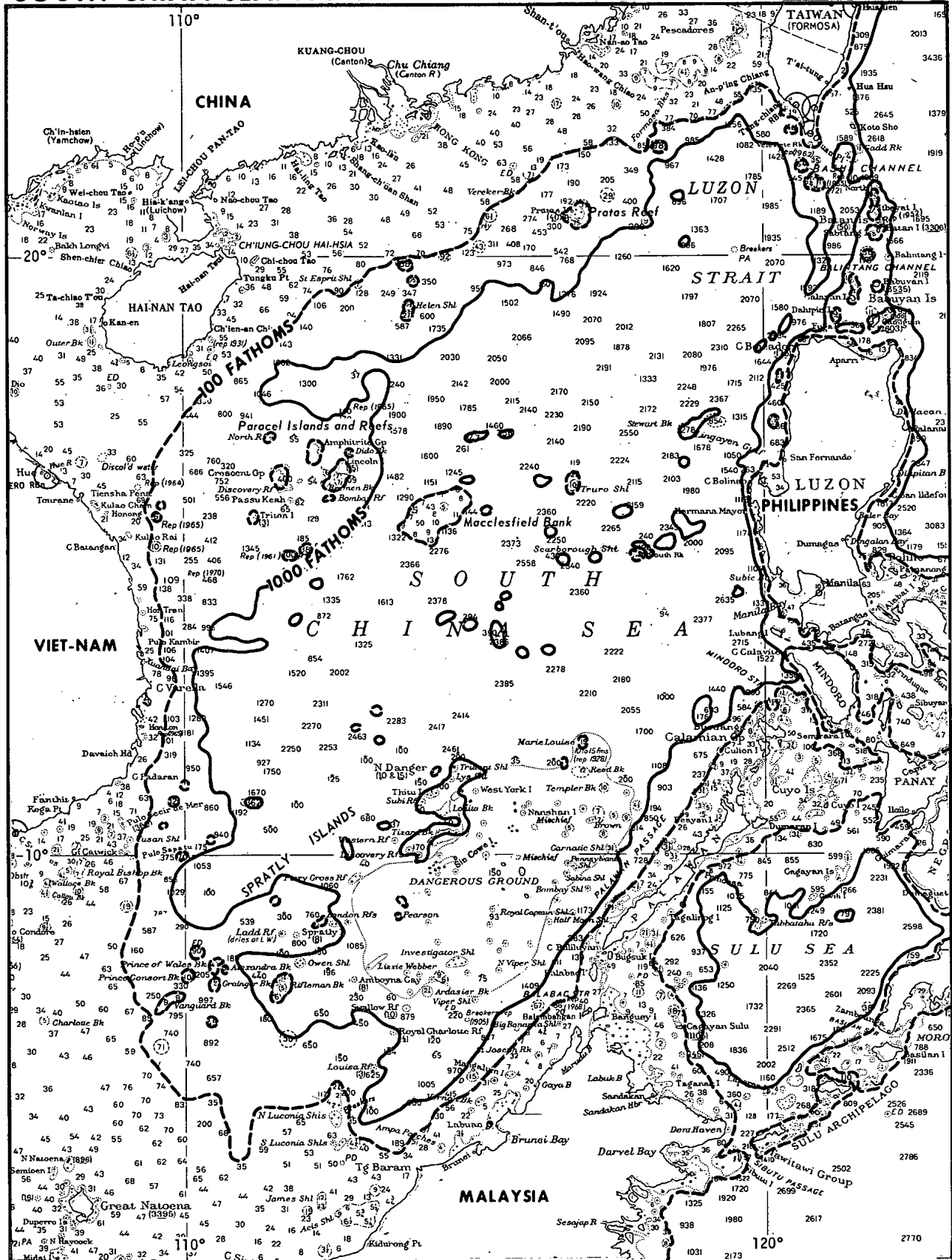
from any of the bordering states will take place. The PRC undoubtedly has to be considered the dominant power in the area, and its desires will likely dictate the future course of events.

The United States takes no position on the conflicting sovereignty claims. Further, the United States Government advises against any American geophysical and petroleum company activity in the disputed area. The Government also informed the companies that it will not be responsible for any apprehended vessels.

Macclesfield Bank, a submerged feature, has the potential to be the site of extensive petroleum reserves. If such is the case, some type of division of the shelf and seabed of the South China Sea must be implemented so the resources can be exploited. This study looks at four potential divisional schemes of the shelf and seabed of the South China Sea.

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SOUTH CHINA SEA: UP FOR GRABS

The South China Sea, a semi-enclosed sea, contains a number of islets, rocks, reefs, shoals, and banks. Dangerous Ground, an incompletely surveyed and charted section, occupies a large area in the southeastern reaches of the Sea.

Sovereignty over the islets in the South China Sea has been both an active and inactive issue between various disputants for some 60 years. The centers of controversy have been mainly the Paracel and Spratly islands. In the past, active claimants to these islands have been South Viet-Nam, the PRC, and the ROC. France has held a latent claim.

Recently, the sovereignty issue has become active as the Philippines has occupied three islets: Nanshan (Lawak) and Flat (Pagasa) in the Dangerous Ground area and Thitu (Patag) in the Spratlys. The Philippines has also requested that the ROC abandon their garrison on Itu Aba in the Spratlys.

The Philippines has never formally claimed the Spratly Islands or any of the area in Dangerous Ground. At this time, the Philippines has not laid claim to the Paracel Islands. The recent action of the Philippines in occupying islets, as well as the awakening of other disputants, may be related to the potentially valuable petroleum resources of the South China Sea, in particular the Macclesfield Bank.

The United States takes no position on the sovereignty issue in the South China Sea.

The division of the continental shelf and seabed of the South China Sea could become a volatile topic. Two general solutions are possible: 1) the shelf and seabed could be divided among the bordering states based on the equidistance principle or a modification thereof because of the "special circumstances" resulting from the existence of distant offshore islets; and 2) the areal division of the shelf and seabed could be such that bordering countries and the offshore islets would be entitled only to that area of the shelf adjacent to them within the 200 meter (109.4 fathoms) isobath, thus resulting in a large area of international seabed.

Sovereignty over the various islets assumes great importance because islets, relatively small geographic features that are high-tide elevations, could be factors in the division of the continental shelf and seabed resources. The successful assertion of sovereignty over the distant offshore islets and the recognition of these islets as basepoints in any continental shelf delimitation would greatly affect the share of the shelf to which the disputant countries may be entitled.

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Additionally, a recognized claim to either the Spratly or Paracel islands could lead to a state constructing a system of straight baselines around the islands, thus increasing the share of the shelf and seabed to which the country could lay claim. This "archipelago concept" has been employed by Indonesia and with modifications by the Philippines and a number of other countries.

The possible divisions of the continental shelf and seabed in the South China Sea are a primary focus of this study. Not all approaches for dividing the shelf and seabed can be considered as they are numerous in this instance because of the conflicting sovereignty claims. However, three shelf boundary possibilities have been charted, based on 1) islands and the mainland as basepoints, 2) ignoring small distant offshore islets as basepoints, and 3) the same line as No. 2, except that the island of Pratas is used as a Chinese basepoint (no differentiation is made here between the PRC and the ROC).

PHYSICAL GEOGRAPHY OF THE SOUTH CHINA SEA

The South China Sea has an area of 895,000 square nautical miles and a maximum depth of about 2,800 fathoms off the western coast of the Philippine island of Luzon. Within the South China Sea is the partially surveyed Dangerous Ground which has an area of about 50,000 square nautical miles. See the chart showing the bathymetry of the South China Sea.

Bathymetry and Marine Geology

The South China Basin is one feature of a complex geologic structure that occupies the marine area of Southeast Asia. The Basin is the second largest in the area, its floor covering about 170,000 square nautical miles. The floor is flat with a slight downslope to the southeast and south. Depths vary from 1,500 fathoms in the north and 2,200 fathoms in the west to about 2,300 fathoms in the east. A seamount province composed of two partially buried volcanic chains crosses the central portion of the basin from northeast to southwest. Gradients in this section are mostly steep (6° - 11°), with some very steep (greater than 11°) regions. This seamount province probably serves as a barrier to sediment moving southward and may have prevented filling of the 2,800 fathom canyon at approximately 14° N. and 119° E.

Generally, Southeast Asia is characterized by very extensive and wide continental shelves, except for the South China Basin which has extensive shelves only in the extreme south and along the south coast of the PRC where the shelf varies from 90 to 150 nautical miles in width. The shelf is relatively narrow along the west coast of the Philippines and the east coast of South Viet-Nam.

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Between the Sunda Shelf, which forms the sea floor between Java, Borneo, and Sumatra, and the continental shelf off the Asian mainland there is no definable structural or topographic break. The Sunda Shelf is structurally an extension of the continental shelf of Asia.

Mean gradients on the continental slope off Asia are mostly mild to gentle except in several places off South Viet-Nam, where gradients are moderate to steep. Some rugged profiles exist across a series of basins and ridges that trend northeast-southwest from the shelf edge to the floor of the South China Basin and are partially to completely buried beneath sediments. There is a submarine canyon at least 200 nautical miles long and 1,000 fathoms deep at its head; this canyon enters the South China Basin at a depth of about 2,000 fathoms.

Two terraces, their seaward edges at 250-300 fathoms, lie on the upper slope adjoining the continental shelf off the PRC and South Viet-Nam.

Shelves around most of the islands are narrow to nonexistent, rarely more than 10 nautical miles wide. The average depth of the shelf edge is between 80 and 100 fathoms. Around many of the islands the shelf surface is highly irregular and marked by coral accumulation on banks and shoals. Some volcanic islands are bordered by fault escarpments having gradients steeper than 1:10 (6°).

The Palawan Trough parallels the island of Palawan and the northwest coast of Sabah (Borneo) for about 300 nautical miles and is 40-50 nautical miles wide. Maximum depths in the trough are between 1,700 and 1,800 fathoms. Slope gradients vary from gentle to steep (1° - 11°).

A large part of the South China Sea floor is a reef platform which is probably a depressed section of the continental shelf. Numerous coral reefs rise above or closely approach sea level. Topography is very irregular, and the gradients are predominantly steep, with some sections very steep (greater than 11°). Dangerous Ground is on the reef platform.

Under the South China Sea, the sediment layer thickens to about 3 kilometers. The sediment is comprised of terrigenous muds and sands covering the shelves, and pelagic (deep sea) muds and mud-sands, composed principally of foraminiferal and siliceous oozes which cover the floor of the basin. The proximity of land to the Basin accounts for large amounts of terrigenous material in the pelagic sediments. Manganese nodules are prominent constituents of the South China Basin.

Island Groups

The principal geographic features of the South China Sea are the Paracel Islands, Spratly Islands, Pratas Reef, Macclesfield Bank, and Dangerous Ground. The island groups and reefs and banks are imprecisely

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delimited; however, through general usage certain areal limits have come to be accepted.

The islets, cays, rocks, and assorted features are coral or sand structures. The maximum elevation on the islets is minimal, ranging up to a height of 40-50 feet on Rocky Island in the Paracels. Pratas Island, part of the reef of the same name, has an area of 2.2 square miles and is the largest island in the study area except for the large Chinese offshore island of Hai-nan Tao, which is considered as mainland in the following analyses.

Outside of providing brief stopover points for fishermen, the intermittent mining of guano and phosphates on the Paracels and Spratlys is the only economic endeavor on the islets. The strategic significance of any of the islets is questionable.

Appendix A lists the islets and provides their geographical coordinates and variant names.

Paracel Islands (Hsi-sha Ch'un-tao)

The Paracels are comprised of two island groups and some nearby islands not associated with the two groups. The Amphitrite Group consists of nine islets and cays with the principal islet being Woody Island. The Crescent Group, a southward-facing crescent shape, has some six islets and scattered isolated rocks located on reefs and banks. The principal islets are Robert and Pattle.

Associated with the Paracels, but not part of the two main island groups, are the islands of Passeu Keah, Lincoln, Triton, and Pyramid Rock. Lincoln is the largest of the group. There are additional small rocks associated with Antelope Reef, Observation Bank, and North Reef.

Triton Island is the closest island to South Viet-Nam, at a distance of some 130 nautical miles. Some very small rocks on North Reef are the nearest features to the mainland Chinese island of Hai-nan. The rocks are at a distance of 122 nautical miles.

Spratly Islands (Nan-sha Ch'un-tao)

There is no internationally agreed definition of precisely what comprises the Spratly Islands. The name was used in the 1951 Japanese Peace Treaty to apply to an undefined group of islands located west of the island of Palawan and held by Japan during World War II.

Spratly Island (Nan-wei Tao) is a single island located at 8°38'N. and 111°56'E. The reason for the name of a single island being applied to a rather extensive group of islets is unknown.

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The Chinese, assumed to be both the PRC and ROC, definition of the Spratlys is very broad and includes the area known as Dangerous Ground and other numerous banks and shoals extending south and southwestward of Spratly Island proper. The parameters of the Chinese delimitation are: 1) the northern limit is North Danger (Shuang-tzo Chiao) 11°28'N., 114°20'E.; 2) James Shoal (Tseng-mu An-sha) 4°N., 112°15'E., marks the southern extent; 3) the eastern margin is Seahorse Shoal (Hai-ma Tan) 10°50'N., 117°50'E.; and 4) the western extent is Vanguard Bank (Wan-an Tan) 7°30'N., 109°55'E.

For purposes of this paper, the Spratly Islands lie on the western margin of Dangerous Ground. Generally, the Spratlys are delimited as extending from Amboyna Cay (7°52'N., 112°55'E.) on the south to North Danger (11°27'N., 114°21'E.) on the north. Some of the more important features of the Spratlys are: Amboyna Cay, Tizard Bank (Itu Aba and Namyit islands and Sand Cay), Loaita Bank (Loaita Island and Lankian Cay), Thitu Reef (Thitu Island), and North Danger (Northeast and Southwest cays).

Dangerous Ground (Wei-hsien Ti-tai)

The incompletely surveyed area of Dangerous Ground has maximum east-west dimensions of 235 nautical miles; north-south, 330 nautical miles. Within the area are a few scattered islets and a number of banks and shoals lying near or at sea level. The principal islets are Sin Cowe, West York, Nanshan, Flat, and a number of rocks that are above high tide.

Pratas Reef (Tung-sha Ch'un-tao)

Pratas Reef is located 165 nautical miles southeast of Hong Kong. Pratas Island (Tung-sha Tao) is the principal feature of the Reef.

Macclesfield Bank (Chung-sha Ch'un-tao)

Located at 15°50'N.; 114°20'E., Macclesfield Bank is an extensive submerged atoll extending 80 nautical miles in a northeast-southwest direction and 35 nautical miles in a northwest-southeast direction. There are no high-tide elevations on the Bank.

The Bank is thought to have an excellent potential for petroleum exploitation. The water depth, the shallowest being 5-6 fathoms, would not prohibit installation of permanent drilling rigs. The maximum depths are around 40-45 fathoms.

Miscellaneous Islands

South Rock (15°07'N., 117°49'E.) is part of the Scarborough Shoal, which is situated on a seamount in the South China Basin. There are no

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known specific claims to South Rock or any of the small rocks on the Shoal; however, the Shoal would be included in the sweeping claims the Chinese have made to the South China Sea.

Louisa Reef (6°20'N., 113°16'E.) and Royal Charlotte Reef (7°00'N., 113°35'E.) have not been specifically claimed other than by the general Chinese claim to the area. These reefs do contain some high-tide elevations, and it is possible that some of the general descriptions of the areal extent of the Spratlys may include them.

SOVEREIGNTY CLAIMS IN THE SOUTH CHINA SEA

The various claims to the islets in the South China Sea are not the main concern of this study. However, a basic understanding of the overlapping claims is necessary in order to appreciate the ramifications of any future division of the shelf and seabed of the South China Sea among the bordering states.

Currently, the active disputants are South Viet-Nam, the PRC, the ROC, and the Philippines. The French have never officially abrogated their claims to area asserted in the 1930's. However, their de facto interest is nil.

Paracel Islands (Hsi-sha Ch'un-tao)

Active claimants to the Paracels are South Viet-Nam, the PRC, and the ROC. It is assumed that the latent French claim, although not officially forfeited, has been de facto ascribed to South Viet-Nam.

Sovereignty over the Paracels has been in dispute since the 1920's. Prior to 1956, the Paracels had been used for 1) seasonal fishing operations by the ROC and South Vietnamese, 2) a meteorological station maintained by the ROC, French, and South Vietnamese, and 3) as a source of guano for the Japanese up to World War II and the PRC thereafter.

Both Chinese claims are based on long historic usage of the area by Chinese fishermen. The Chinese officially claimed the Paracels in 1909. The PRC asserted a separate claim on August 15, 1951.

South Viet-Nam officially claimed the Paracels as early as 1950. Their unofficial claims were based on the sovereignty over the islands attributed to Annam as early as 1701.

Japanese interest in the area was terminated with the Japanese Peace Treaty of 1951. Prior to their defeat in World War II, the Japanese had been active in mining guano in the Paracels since about 1915.

The North Vietnamese have made no claims to the Paracels. It would appear they are deferring to the PRC claim.

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Spratly Islands (Nan-sha Ch'un-tao)

The imprecisely delimited Spratly Islands are actively disputed among South Viet-Nam, the PRC, the ROC, and the Philippines. Again there is the latent French claim to the area, which unofficially may have passed to South Viet-Nam. The French claim dated back to 1930, when a French gunboat visited Spratly Island.

Two additional claims have been made to the Spratlys by individuals. Morton F. Meads has proclaimed the Kingdom of Humanity, and Tomas Cloma has announced the formation of Freedomland. Both claims are little more than figments of the imaginations of the two individuals, but discussion of them is relevant.

The two Chinese claims to the Spratlys date back to the 15th century and the Sino-French Convention of 1887, which delimited territory between Tonkin and China. Chinese maps, both PRC and ROC, show the Chinese claimed area in the South China Sea extending to 4°N. and including all the islands and reefs of the area that are not immediately adjacent to Borneo, Viet-Nam, or the Philippines.

South Viet-Nam has maintained its rights to sovereignty over the Spratlys since the Japanese Peace Treaty of 1951 because of the succession to French rights. A Foreign Ministry spokesman has informally described the Vietnamese claim as applying to the islands which the French claimed in 1933.

The Philippines interest in the Spratlys, as well as the islands in Dangerous Ground, was stimulated by the sovereignty claims of two individuals operating from the Philippines (Tomas Cloma, a Philippine citizen, and Morton F. Meads, an American citizen). However, the Philippines have never formally claimed the islands, even though an elaborate justification for a claim was proposed in 1957.

Morton F. Meads laid claim to the general area of the Spratlys and Dangerous Ground shortly after World War II and proclaimed the area the "Kingdom of Humanity," also known as the "Republic of Moroc-Songhrati-Meads." Meads stated that he purchased the residual rights to the Kingdom from the Sultan Songhrati, whose claim supposedly went back beyond the 20th century. In a letter of June 28, 1954, Victor Anderson, so-called Secretary of the Department of External Affairs, Kingdom of Humanity, addressed the President of the United States seeking recognition and support for the Kingdom. Anderson stated that "the Kingdom has come to pass through the efforts of our King, formerly an American citizen, and several other Americans who have also given up their American citizenship in order to assist in preserving our present-day civilization." (See Appendix B for an "Information Sheet," dated May 1955, from the Kingdom of Humanity.)

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The Kingdom of Humanity is a well-documented figment of one man's imagination, replete with a government bureaucracy and foreign emissaries. Correspondence from the Kingdom bears a Manila postmark, but is often stamped with the Kingdom's own postage. Meads has established himself as the liaison between the outside world and the Kingdom.

On June 20, 1955, in a letter to the American Ambassador in Manila, Meads stated that in the event of his death he bequeathed to the United States Government 49 per cent of his interest in the Kingdom and the remainder to his immediate relatives. Again Meads asked the United States to support his claim to the Kingdom. Subsequent correspondence on September 27, 1968, under the letterhead of "Flying Tigers International" (not to be confused with Flying Tiger Line, Incorporated), requested United States support of Meads' claim.

On April 8 and May 17, 1971, in letters to Mobil Oil Corporation, Flying Tigers Oil Company, Incorporated, stated that it had been granted petroleum concessions in the area west of the southern part of the Treaty Limits of the Philippines and extending 250 miles to the west. Flying Tigers Oil further stated that the concessions had been granted by the controlling government authority, i.e., the Kingdom of Humanity, and that any intrusion into the area by other oil companies would not be tolerated and offenders would be apprehended and turned over to the governing authority. (See appendices C and D for this correspondence.)

In a letter to the Legal Adviser of the Department of State, Tifco Inter-America Corporation of Houston, Texas, noted that it had an interest in a concession in the South China Sea (see Appendix E for the letter of August 2, 1971). Meads is believed to have granted an oil exploration contract to Triton Oil and Gas Corporation of Dallas, Texas, and Tifco may be the principal stockholder in Triton Oil and Gas. The addition of Triton Oil and Gas and Tifco, in conjunction with the Flying Tiger Oil purported interest, further complicates matters in Meads' hypothetical kingdom.

The Legal Adviser's Office of the Department of State has informed Tifco and others interested in exploitation in the South China Sea that they should avoid the disputed area and that if they do venture into it they cannot expect assistance from the United States.

Another of the "follies" of the South China Sea is the so-called Freedomland, the claim of the Philippine attorney Tomas Cloma. Cloma is said to have explored the area of the Spratlys and Dangerous Ground from 1947 to 1956. On May 15, 1956, Cloma issued the Freedomland Proclamation setting forth his claim with the following parameters: 7°40'S. to 11°50'N.; the Treaty Limits of the Philippines on the east; and the western boundary from the point 7°40'N., 113°00'E., to 8°35'N. and thence to the point 11°50'E., 114°10'E.

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Cloma's claim to Freedomland had the support of the Philippine Department of Foreign Affairs and the Foreign Affairs Association of the Philippines, the latter comprised of retired Philippine foreign service officers. The Foreign Affairs Department regarded the islets within Freedomland, with the exclusion of the seven-island group known internationally as the Spratlys, as res nullius, and therefore open to economic exploitation and settlement by Philippine or any other nationals.

The Spratlys, which were excluded from the definition of Freedomland, were considered by the Department of Foreign Affairs to be a de facto trusteeship of the victorious Allied Powers of World War II, since Japan had renounced all rights to them under the Japanese Peace Treaty, and since there had been no territorial settlement by the Allied Powers up to the present (1956) with respect to their disposition. Therefore, the Spratlys, in addition to Freedomland, were open to settlement and development by nationals of any of the Allied Powers including the Philippines.

Following Cloma's claim to Freedomland, Vice President Carlos Garcia of the Philippines worked actively toward advancing Cloma's interests. On June 26, 1956, Garcia, in a discussion with an American Embassy official, discussed the Philippine claim to the Spratlys and Dangerous Ground and the immediate surrounding area.

The Philippine Government had built a case for sovereignty over the Spratlys and Dangerous Ground but apparently had never made any overt public declarations. Justifications for the claim are based on geographic proximity of the area to the Philippines, the historical and geological relations to the Philippine Archipelago, and the strategic value of the islets to the Philippines.

Garcia presented a scheme whereby the Spratlys and Dangerous Ground were divided into three zones--reading from east to west, zones Y, X, and Z. Zone Y comprises the area between 116°E. and 118°E., and 7°N. and 11°N. This zone, which is the closest to the Philippines, has little value except for its strategic significance. The Philippine position was that since the area had never been occupied or claimed by other states, the Philippines could advance a claim to zone Y.

Zone X, 7°N. to 11°N., and 114° to 116°E., contains Itu Aba and the major portion of the area defined as the Spratlys. Garcia recommended that the Philippine Government should request the signatories to the Japanese Peace Treaty to recognize the Philippine claim and assign the territory to the Philippines. If this failed the area should be made a United Nations trusteeship under Philippine control.

Zone Z, located between 7° and 11°N., and 111° and 114°E., although admittedly not of much interest to the Philippines, nevertheless should be claimed.

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This description of the proposed claims to the Spratlys and Dangerous Ground appears now to have been little more than a contingency plan that was never implemented.

On December 20, 1956, the Foreign Affairs Association of the Philippines supported Cloma's position in Freedomland and urged presidential approval of the recommendations allegedly made by the Secretary of Foreign Affairs in regard to Freedomland; failing such support it urged that the President place Freedomland and the Spratlys under a United Nations Trusteeship with the Government of the United States as the administering authority. This declaration was of interest because of the fact that the administrative authority over the proposed trusteeship was to be the United States, whereas the Government view was that the Philippines should be the trustee.

The notion of Freedomland and the related Philippine claims were not actively pursued after the bustle of the mid-1950's, until the recent Philippine incursions into the area.

Pratas Reef (Tung-sha Ch'un-tao)

There were no inhabitants on Pratas Island (Tung-sha Tao), the principal feature of the reef, before World War II; however, the area was frequently visited by Chinese, Japanese, and Formosan fishermen. Chinese sovereignty was recognized by Japan in about 1909. Chinese Nationalists have occupied the island and have operated a meteorological station there since the 1950's.

The PRC lays claim to the reef by virtue of its assertion that it is the only China.

Macclesfield Bank (Chung-sha Ch'un-tao)

A formal sovereignty claim to Macclesfield Bank cannot be made because there are no high-tide elevations to which sovereignty can be attached. Customary international law dictates that a feature must be above water at all times to qualify as a feature which can be claimed. Jurisdiction over the Bank could only be achieved relative to the resources of the shelf and seabed based on the areal division of the South China Sea by the implementation of a continental shelf boundary among the bordering states. It is conceivable that the Bank may remain in international waters.

In spite of the restrictions of customary international law that claims can not be made to submerged features, both the PRC and ROC have laid claim to all the banks, reefs, etc., in the South China Sea. Thus, under Chinese claims, Macclesfield Bank would be within their area of jurisdiction.

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OCCUPATION OF ISLANDS IN THE SOUTH CHINA SEA

In spite of the various disputed claims to the islets in the South China Sea, there is really little occupation of the islets. Itu Aba in the Spratlys and some of the islets in the Paracels are the only sites of any relatively long period of occupancy.

People's Republic of China

As of August 1970, and still assumed to be correct, the PRC was occupying Tree, North, Middle, South, and Woody islets in the Amphitrite Group of Paracels. Lincoln Island in the Paracels is also PRC-occupied. The Chinese have been seen on Duncan (1958), Robert (1957), and Drummond (1950's) islets on the above dates and possibly since then. These latter three islets are in the Crescent Group of the Paracels which is the area of most of the South Vietnamese activity. The Chinese issue "serious warnings" to the United States whenever our aircraft or vessels encroach upon the area.

No effort has been made by the PRC to occupy any other islets in the South China Sea.

South Viet-Nam

~~Currently, it appears that the South Vietnamese are occupying Pattle and Robert islets in the Crescent Group of the Paracels. Triton Island is controlled but not occupied by the South Vietnamese. In the past, South Viet-Nam has had token garrisons on Duncan and Drummond islets of the Crescent Group.~~

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As in the case of the PRC, the South Vietnamese have made no effort to occupy any islets in the Spratlys or Dangerous Ground.

Republic of China

The ROC occupies Pratas Island and Itu Aba (Tai-ping Tao). Itu Aba has been occupied since 1956, and as of July 1971 the island was being used as a storage dump for excess United States defense materiel procured in Viet-Nam.

It has been reported (July 1971) that the ROC is planning to build a radar station on Itu Aba as part of a seven-nation typhoon warning system. The Chinese base their claims to the Spratlys on their exploitation of guano, the Itu Aba military garrison, and the planned radar station.

Philippines

In July 1971 the Philippines, without making a formal claim, denied Chinese claims to the Spratlys and stated that Chinese occupation was a

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threat to Philippine security. On July 10, 1971, Marcos requested the ROC to remove its troops from Itu Aba. This was followed, on July 15, by the Philippine occupation of Nanshan (Lawak), Thitu (Patag), and Flat (Pagasa) islets, with probably no more than 20 personnel on each islet.

As a result of this recent Philippine action, the ROC is investigating a reported piracy incident in which three fishermen were killed near the Spratlys. Accompanying this ROC concern have been statements by the aforementioned, as well as the PRC and South Viet-Nam, denouncing the Philippine action and reaffirming their claim to the Spratlys.

The present state of affairs in the South China Sea is likely to prevail for the immediate future. Increased military activity is unlikely and a "war of words" will probably be the tenor of the dispute.

The instability in the South China Sea makes difficult any meaningful discussion among the disputants relative to the division of the continental shelf and seabed among the bordering states. The following section points out the difficulties inherent in delimiting the shelf boundary even if the sovereignty disputes were not at issue.

A basic issue to be considered in dividing the continental shelf and seabed of the semi-enclosed South China Sea is the status of distant offshore islands in the delimitation scheme: What weight should islands be given as basepoints in shelf and seabed delimitations?

DIVISION OF THE CONTINENTAL SHELF AND SEABED

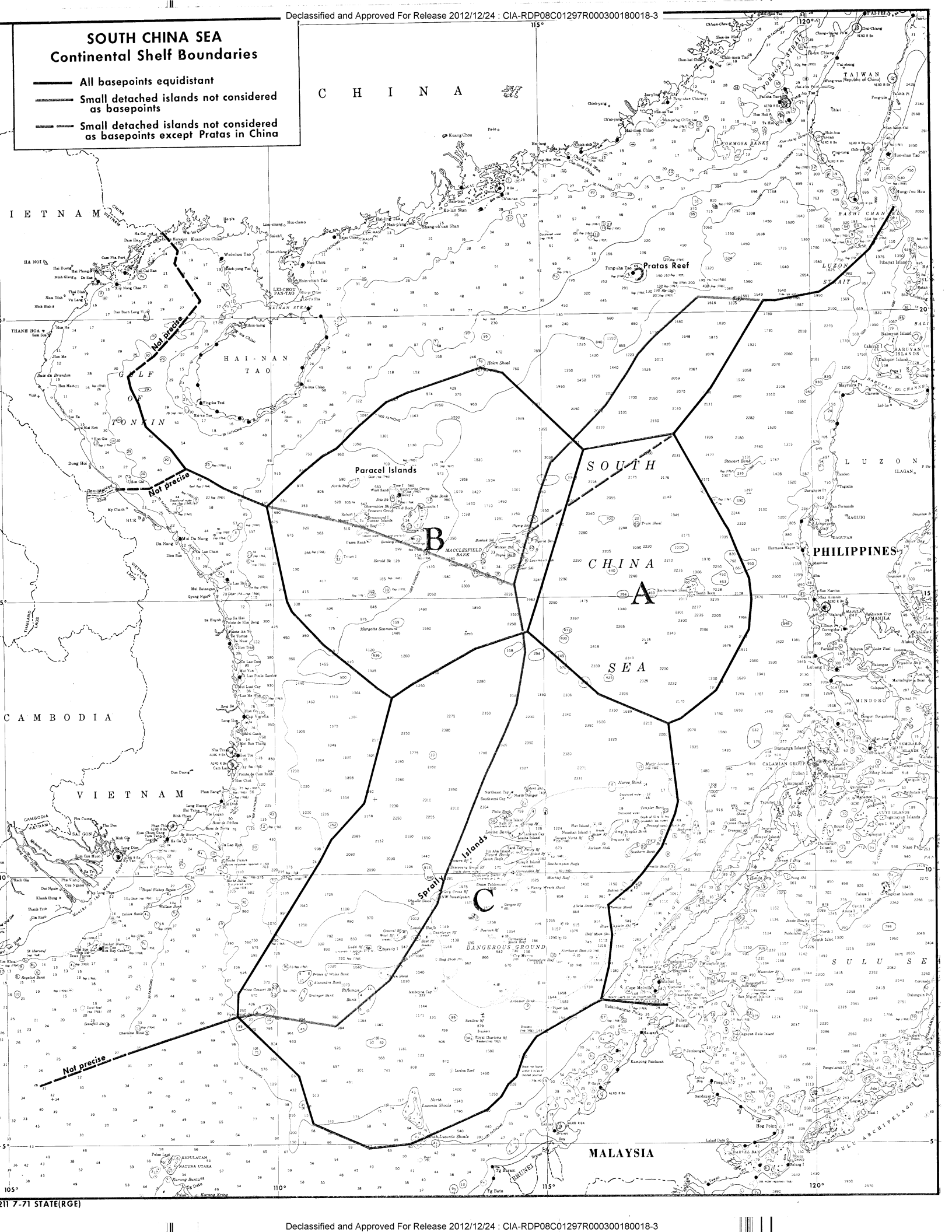
A key point to be considered is the treatment of the South China Sea. Should the South China Sea be considered an international body of water with rights to the area beyond the continental shelf being declared res communis? Or, is the South China Sea a semi-enclosed sea with jurisdiction over the resources to be assigned to the bordering states? The latter assumption appears to be the most likely considering how customary international law has dealt with the divisions of the North Sea, Adriatic Sea, and Persian Gulf, and the considerations being currently discussed relative to the division of the East China Sea.

The South China Sea has many small islets that are insignificant strategically or economically. The "special circumstances" created by the location of these islets must be treated, especially when the islets grossly distort the position of the equidistance line. While not quantifiable yet, recent state practice has been to ignore or diminish

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SOUTH CHINA SEA Continental Shelf Boundaries

- All basepoints equidistant
- Small detached islands not considered as basepoints
- Small detached islands not considered as basepoints except Pratas in China



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the importance of small uninhabited islands situated near the center of a semi-enclosed sea.¹ In any treatment of islands in the delimitation of maritime boundaries, islands are entitled to their own territorial sea and continental shelf. However, the basic issue is how much effect should small islets have as basepoints in relation to a larger mainland mass, while preserving the concept of equity.

The attached chart shows three divisional schemes of the South China Sea: 1) an equidistant line using all basepoints whether islands or mainland; 2) an equidistant line ignoring all small detached islands as basepoints; and 3) an equidistant line based on scheme No. 2, except that Pratas Reef is included as a basepoint and part of China.² In addition to the above divisional possibilities, there is the division of the shelf based on the depth criteria of 200 meters (109.4 fathoms).

The divisional schemes delimited for the shelf and seabed of the South China Sea do not include all high-tide elevations as basepoints because many of the rocks are so small they do not appear on anything but very large-scale charts.

Continental Shelf Entitlement Based on Depth Criteria

The chart, "South China Sea: 100 and 1,000 Fathom Isobaths," shows the edge of the continental shelf from mainland points as well as a selected few island groups. If the South China Sea, for the purposes of dividing the shelf and seabed, is treated as an international body of water, each of the bordering states and islets would have jurisdiction out to the depth of 200 meters (109.4 fathoms).³ The remainder of the South China Sea would be international waters res nullius or res communis under an international trusteeship.

Under this proposal, China, North Viet-Nam in the Gulf of Tonkin, the southern part of South Viet-Nam, and Malaysia would receive the largest share of the shelf. These entitlements would be to the disadvantage of the

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1. U.S. Department of State, Office of the Geographer, Continental Shelf Boundary: Italy-Yugoslavia, Limits in the Seas, No. 9 of February 20, 1970; Continental Shelf Boundary: Abu Dhabi-Qatar, Limits in the Seas, No. 18 of May 29, 1970; Continental Shelf Boundary: Iran-Saudi Arabia, Limits in the Seas, No. 24 of July 2, 1970. Effect of the Senkakus on the Division of the East China Sea Continental Shelf, RGES-4 of October 27, 1970 (CONFIDENTIAL/NO FOREIGN DISSEM).
 2. The proposed divisions of the shelf in the South China Sea treat the PRC and the ROC as one entity.
 3. Jurisdiction beyond 200 meters can be extended to include the area which admits of the exploitation of natural resources.

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Philippines and northern South Viet-Nam which both have narrow shelves. Shelves around the various islets generally are no wider than 10 nautical miles. The area around Macclesfield Bank is the exception and has the largest shelf area in the middle of the South China Sea. However, sovereignty can not be attached to the Macclesfield Bank as it is a submerged feature.

Shelf Division Ignoring Islands as Basepoints

On the chart, the divisional proposal is based on the assumption that small distant islands are not considered as basepoints. Each of the bordering states would then receive a large share of the shelf and seabed.

Malaysian interests in the division of the shelf and seabed have not been delimited only for the reason that they are currently not an active disputant in the sovereignty questions relating to the South China Sea. However, under this proposal Malaysia would be entitled to an extensive area lying roughly south of the westward extension of the Treaty Limits of the Philippines that separates the Philippines and Malaysia. The western terminus of Malaysian jurisdiction would be an equidistant line between South Viet-Nam and Malaysia. Additionally, the British dependency of Brunei and its share of the shelf has been omitted for simplicity.

Under this proposal, the distant offshore islands would be entitled to a territorial sea of 12 nautical miles based on the assumption that all parties would agree to this territorial sea jurisdiction. At present, the PRC, Malaysia, and North Viet-Nam (a disinterested party) have 12-nautical-mile claims. South Viet-Nam has a three-nautical-mile claim, whereas the Philippines modified archipelago claim has a territorial sea range of from 0-300 nautical miles.

A slight modification of the division of the shelf and seabed based on the principle of ignoring islands as basepoints is also shown. The alteration is that Pratas Reef is considered as a basepoint and an integral part of China. The effect of Pratas Reef as a basepoint is to reduce the potential Philippine claim to the shelf and seabed off the western coast of Luzon.

Shelf Division Using Mainland and Island Basepoints

A division of the shelf and seabed based on the all-basepoint principle makes a decided difference in the areal entitlement of the bordering states. Again, as stated above, Malaysia and Brunei have not been considered in this divisional scheme even though they would receive a share of the shelf and seabed.

Of particular note is the reflection on the chart of the impact that the Spratlys (area C), the Paracels (B), and South Rock (A) have on the allocation of the shelf and seabed. This readily confirms the importance that the bordering states attach to substantiating their claims to the disputed island, islets, and rocks.

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The all-basepoints equidistant line treats the Spratlys (including Dangerous Ground) and the Paracels as being each under one sovereignty. This in fact is not true; if it were, there would result some alterations in the lines as represented on the chart.

It is hard to speculate, at this time, just what the sovereignty pattern would be if the sovereignty issues were solved. The possible divisional schemes for the shelf and seabed would be numerous. It seems that the Chinese, South Vietnamese, and Philippine interests in the area are not going to diminish, at least for the present. Thus, the sovereignty issues remain confused.

CONCLUSION

No resolution of the division of the continental shelf and seabed of the South China Sea can even be considered until the disputants in the area establish some agreement as to the status of the various islets and their use as basepoints. The occupations of the Crescent and Amphitrite groups of the Paracels by the South Vietnamese and the PRC, respectively, at least provide a starting point for considering some division of the shelf and seabed in the area of the Paracels.

South Rock (area A) has not been specifically claimed by anyone, except that it is included within the area encompassing the claim of both the PRC and ROC to the islets in the South China Sea. However, because of proximity the Philippines may have at least a "paper claim" to the Rock. Again there is the issue of whether or not such a small rock should be assigned anything more than a territorial sea, or whether the Rock should be removed from any consideration as a basepoint.

The Spratlys and Dangerous Ground (area C) are the most unsettled areas of the South China Sea at the moment. Until recently, the only effective occupation of the area was that of the island of Itu Aba by the ROC. Now with the Philippine intervention onto the islands of Flat, Nanshan, and Thitu, the jurisdictional problem becomes even more complex.

The ROC-Philippine confrontation, plus the active claims of the PRC and South Vietnamese and the abundance of small islets in the area of the Spratlys and Dangerous Ground, make difficult any areal allocations of the shelf and seabed.

Macclesfield Bank is thought to have a rich petroleum potential. From the chart it can be seen that the bulk of the Bank would belong to the Chinese assuming that islands are not used as basepoints. If islands are used as basepoints, the Chinese would gain the lion's share because of their occupation of Lincoln Island in the Paracels. On the other hand, Macclesfield Bank may be delimited as an international area, in which case turmoil would be sure to follow unless the area were strictly controlled by an international authority.

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In the absence of an agreement among the disputants, each may choose to exploit the seabed and shelf resources in the area adjacent to its claims, hoping that no heated controversy would develop because of its actions. It goes without saying that the PRC will hold the upper hand in any future settlement of the various problems confronting the South China Sea.

RGE-INR/Geographer

Director : RDHodgson
Analyst : TVMcIntyre
Extension : 22021
Released by: *Wm*

Dated: September 9, 1971

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ISLETS OF THE SOUTH CHINA SEA

The list includes only those features that are high-tide elevations.

English	Chinese	Other	Coordinates
<u>PARACEL ISLANDS AND REEFS</u>		(Chinese) West Sand Islands	16°30'N., 112°15'E.
<u>Amphitrite Group</u>	Hsuan-te Ch'un-tao		16°53'N., 112°17'E.
Tree Island	Chao-shu Tao		16°59'N., 112°16'E.
West Sand	Hsi-sha Chou		16°58'N., 112°12'E.
North Island	Pei Tao		16°58'N., 112°18'E.
Middle Island	Chung Tao		16°57'N., 112°19'E.
South Island	Nan Tao		16°57'N., 112°19'E.
Woody Island	Ying-hsing Tao		16°50'N., 112°20'E.
Rocky Islet	Shih Tao		16°51'N., 112°21'E.
North Sand	Pei-sha Chou		16°58'N., 112°20'E.
South Sand	Nan-sha Chou		16°56'N., 112°20'E.
Middle Sand	Chung-sha Chou		16°57'N., 112°20'E.
<u>Crescent Group</u>	Yung-lo Ch'un-tao		16°31'N., 111°38'E.
Money Island	Chin-vin Tao		16°27'N., 111°30'E.
Antelope Reef	Lin-yang Chiao		16°28'N., 111°34'E.
Robert Island	Lo-pai-t'o Tao		16°31'N., 111°34'E.
Pattle Island	Shan-hu Tao		16°32'N., 111°36'E.
Observation Bank	Shen-ping Tan		16°35'N., 111°42'E.
Drummond Island	Chin-Ching Tao		16°28'N., 111°44'N.
Duncan Islands	Tao-chien Ch'un Tao		16°27'N., 111°42'N.
North Reef	Pei Chiao		17°06'N., 111°30'E.
Triton Island	Chung-chien Tao		15°47'N., 111°12'E.
Passu Keah	P'an-shih Hsu		16°03'N., 111°47'E.
Discovery Reef	Kuang-hua Chiao		16°14'N., 111°41'E.
Vuladorre Reef	Yu-cho Chiao		16°20'N., 112°01'E.
Bombay Reef	P'eng-p'o Chiao		16°02'N., 112°32'E.
Lincoln Island	Ho-wu Tao		16°40'N., 112°44'E.
Pyramid Rock	Kao-chien Shih		16°34'N., 112°38'E.
<u>PRATAS ISLAND AND REEF</u>		(Chinese) East Sand Islands	20°41'N., 116°48'E.
Pratas Island	Tung-sha Ch'un-Tao Tung-sha Tao		20°42'N., 116°43'E.
<u>MACCLESFIELD BANK</u>	Chung-sha Ch'un-Tao	Middle Sand Islands	15°50'N., 114°20'E.
<u>SCARBOROUGH SHOAL</u>	Min-chu Chiao		15°08'N., 117°45'E.
South Rock			15°06'N., 117°46'E.
<u>DANGEROUS GROUND</u>	Wei-hsien Ti-tai		10°00'N., 115°00'E.
First Thomas Shoal	Hsin I An-sha		9°20'N., 115°56'E.
Alicia Annie Reef	Sien-ngo Chiao		9°25'N., 115°25'E.
Commodore Reef	Szu-ling Chiao		8°21'N., 115°17'E.
Investigator Shoal	Yu-yu An-sha		8°09'N., 114°44'E.

ISLETS OF THE SOUTH CHINA SEA (continued)

DANGEROUS GROUND (continued)

Mariveles Reef	Nan-hai Chiao		7°59'N.,	113°50'E.
Barque Canada Reef			8°12'N.,	113°19'E.
Fiery Cross Reef	Yung-shu Chiao	N.W. Investigator Reef	9°33'N.,	112°53'E.
Pearson Reef	Pi-sheng Tao		8°58'N.,	113°40'E.
Union Banks and Reefs			9°48'N.,	114°22'E.
--Johnson Reef			9°42'N.,	114°16'30"E.
--Collins Reef			9°43'N.,	114°16'E.
--Sin Cowe Island	Ching-hung Tao		9°41'N.,	114°22'E.
--Grierson Reef			9°55'N.,	114°48'E.
--Landowne Reef			9°46'N.,	114°17'E.
Eldad Reef	An-ta Chiao		10°20'N.,	114°40'E.
West York Island	Si-yueh Tao		11°04'30"N.,	115°00'E.
Iriving Reef			10°55'N.,	114°56'E.
Livock Reef			10°11'N.,	115°19'E.
Hopps Reef			10°15'N.,	115°23'E.
Flat Island	Fei-hsin Tao	Pagasa (Philippine)	10°49.7'N.,	115°49.2'E.
Nanshan Island	Ma-huan Tao	Lawak (Philippine)	10°43'N.,	115°49'E.
<u>SPRATLY ISLANDS</u>	Nan-sha Ch'un-tao	South Sand Islands (Chinese)	8°38.4'N.,	111°55.7'E.
		Storm Island (French)		
Amboyna Cay	An-po Sha-chou		7°52'N.,	112°55'E.
West Reef	Si Chiao		8°51.2'N.,	112°10.6'E.
Central Reef	Chung Chiao		8°55.8'N.,	112°21.5'E.
East Reef	Tung Chiao		8°49.8'N.,	112°32.6'E.
Quarteron Reef	Hua-yang Chiao		8°54.3'N.,	112°49'E.
Itu Aba	Tai-ping Tao		10°23'N.,	114°22'E.
Sandy Cay	Tun-chien Sha-chou		10°23'N.,	114°28'E.
Loaita Island	Tao-ming	South Island of Horsburgh	10°41'N.,	114°25'E.
	Ch'un-chiao			
Namyit Island	Hung-hsiu Tao		10°11'N.,	114°22'E.
Gaven Reefs	Nan-sun Chiao		10°12'N.,	114°14'E.
Lankiam Cay	Yang-hsin Sha-chou		10°43'N.,	114°31'E.
Thitu Island	Chung-yeh Tao	Patag I. (Philippine)	11°03'N.,	114°17'E.
Northeast Cay	Shuang-tzu Chiao		11°27'N.,	114°21'E.
Shira Islet			11°27'N.,	114°21'E.
Southwest Cay	Nan-tzu Chiao		11°26'N.,	114°20'E.
<u>OTHER REEFS</u>				
Royal Charlotte Reef	Huang-lu Chiao		7°00'N.,	113°35'E.
Swallow Reef	Tan-wan Chiao		7°22'N.,	113°49'E.
Louisa Reef	Nan-tung Chiao		6°20'N.,	113°14'E.

The Kingdom of Humanity is located in the South China Sea and the Island of Amity does not appear on most maps. It is located approximately in the center of the South China Sea. The small islands of this State are called the Manity Islands.

The name that was chosen to identify its International Personality was selected primarily for two reasons; national defense, and because of the strong religious feelings of the people.

The Kingdom of Humanity has a population of approximately three thousand people. Its trade and commerce consists mainly of copra, pearls and fishing. The religions of consequence are Mohammedanism, Christianity, and Buddhism, with little difference in numbers between the three. The people are of Chinese, French, Indonesian, Japanese and American extraction. Several languages are spoken by the people, but English is gradually gaining universality because of its importance in commerce and its use by persons of authority. English is the official national language.

The form of Government of the Kingdom of Humanity is Constitutional Monarchy. It is composed of The King, who is the head of the Executive Branch of the Government, The King's Council and the Council of Governors. The King's Council is composed of three members, appointed by the King, whose authority and responsibility consists of rendering counsel to the Sovereign on any and all matters. Each of the three religions cited previously must be represented in The King's Council. This council also serves as the Judiciary. Each Councilor is a Judge-at-Large, whose decisions are final unless reviewed by The King which is done only upon the recommendation of the Council of Governors. The Council of Governors is the Legislature of the Government and is composed of five members, elected by the electorate. A chairman is elected by the Council members, whose title is Guiding Hand and who is the equivalent of the Premier in European Republican forms of government.

The King appoints the Department Heads of the Executive Branch of the Government, who are currently as follows:

Executive Secretary - Paul A. Williard, Secretary
Department of External Affairs - Victor L. Anderson, Secretary
Department of National Defense - Ala Mohammed Songhrati, Secy.
Department of Commercial Affairs - Min-yuan Wang, Secretary
Department of Cultural Affairs - Maurice Xavier Berdani, Secy.
Department of Financial Affairs - Charles Van Dongh, Secretary

The Kingdom of Humanity comprising the Manity Islands and its territorial waters is a Sovereign, Self-Governing State. His Majesty, the King of the Kingdom of Humanity, is Willis Alva Ryant.

Though the Government of the Kingdom of Humanity has existed and functioned casually and somewhat unconscious of itself for many years, after World War II and occupation by hostile Japanese forces, the need was realized that better organization and more conspicuous

Government was necessary. These objectives were attained, but still no significant desire was felt to take part in international affairs or make broad contacts with other countries throughout the world until the outcome of the struggle in French-Indo-China became clear and the tiny Kingdom of Humanity witnessed startlingly menacing gestures from Viet Minh gun boats. It was then decided that it would have to take a responsible part in the Community of States in order to prevent itself from being occupied again without compunction and without benefit of a sympathetic world public opinion conscious of such hostile occupation of a free, independant and sovereign State. The Kingdom of Humanity is slowly making its National Personality known.

The State of the Kingdom of Humanity is also inspired by deep religious feelings and it believes and hopes that it can in some significant way contribute to the peace of the world.

Fortunately, the Manity Islands have been too small and inconsequential to attract the serious interest of other more powerful countries up until their occupation by Japanese forces during World War II, thus the people have escaped the evils and oppression of colonialism, and having been free, and independant throughout their entire history, except World War II, they are jealous of their independence and their command over their destiny.

One could compare the Kingdom of Humanity with the Vatican, that has a population of approximately six hundred, or the State of San Marino with a population of approximately ten thousand people, or the State of the Kingdom of Monaco with a population of approximately two thousand.

The King has announced his intention to renounce all his executive power and authority after the Kingdom of Humanity has progressed farther toward its destiny, thus placing the executive authority in the hands of the Guiding Hand and constituting the equivalent of the Parliamentary form of government.

At the present time, the Kingdom of Humanity has appointed a Minister Resident and Consul General to the Republic of the Philippines, but intends to appoint diplomatic representatives to a few selected countries.

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FLYING TIGERS OIL CO., INC.

2540 E. Indian School Road
Phoenix, Arizona 85003Address All Replies to Company
Not to Individuals

April 8, 1971

Mobil Oil Corporation
New York, New York

Gentlemen:

It has come to our attention that you are preparing to explore for oil by magnetic and seismic surveys in Southeast Asia. Please be informed that the areas west of the southern part of the Philippines, but outside the boundaries of the Philippines set by the Treaty of Paris of 1898 and subsequent Philippines legislation, has been contracted and leased to the Flying Oil Company by the controlling government authority.

Please understand that the continental shelf of the Philippines ends within the boundaries set by the Treaty of Paris of 1898 and not beyond as is clearly shown by the deeptroughs surrounding the Philippines a few miles from its coastal areas, particularly in the southern part thereof.

Please be informed that we will not tolerate nor permit any drilling, exploration or surveying, magnetic or seismic or otherwise, in our aforesaid concession and leased area and will apprehend all intruders and trespassers and turn them over to the Government controlling and having sovereignty over said area leased to this company -- and file appropriate suit for damages where justified and consequently apply any such claims that may arise as a lien on any equipment, marine or otherwise, brought into our area, which we will duly take possession of.

And furthermore, any losses or damages that we may suffer because of loss of or reduced speculative value of our leased area, which is more than one hundred thousand square miles, because of any action or surveying by you without our specific consent and approval will constrain us to file suit against you for such loss or reduced speculative value.

We do not give you permission to enter our leased area nor to make any exploration of any type, or surveys, magnetic, seismic or otherwise, in our said concession area. If the Fread A. Moore trespasses upon our said leased area, it will be turned over to the Government under our own attachment. We will not be responsible for any inconvenience, fines or imprisonment ensuing upon your company or its employees. If you are interested in exploring for oil in our aforesaid area, you may make application, which will be considered by us but not necessarily approved if your proposal is unsatisfactory.

Yours truly,

Copy furnished:
United Nations, ECAFE, New York
Chief Geographer, Office of
Strategic and Functional Research

FLYING TIGERS OIL CO. INC
/s/ John Hivner
Vice President

Flying Tigers Oil Co., Inc.

~~XXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXX~~

2540 E. Indian School Road
~~XXXXXXXXXXXXXXXXXX~~
Phoenix, Arizona 85003

Address All Replies To Company,
Not To Individuals

May 17, 1971

Mobil Oil Corporation
P. O. Box 900
Dallas, Texas 75221

Attention: Manager Marine Reconnaissance

Gentlemen:

In answer to your letter dated May 10, 1971 requesting information as to the exact location of the concession area of the Flying Tigers Oil Company, Inc. west of the southern Philippines, please be informed that our concession area begins from the boundary of the Philippines on the west set by the Treaty of Paris of 1898 and extends the length of that boundary for approximately two hundred and fifty miles.

Very truly yours,

FLYING TIGERS OIL COMPANY, INC.


John Hivner
Vice President

Copy furnished:

United Nations, ECAFE, New York
Chief Geographer, Office of
Strategic and Functional Research
U.S. State Department

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TIFCO INTER-AMERICA CORPORATION

International Trade, Industrial Development and Finance
P.O. Box 13361 Houston, Texas 77019

August 2, 1971

U.S. State Department
Legal Department
Wash D.C. 20520

Re: South China Sea

1. We are stockholders in a Texas corporation which is working with a mineral claim in the South China Sea, directly west of Palawan Passage.
2. We have retained counsel to represent our interest, Mr. John Ryan, who is an ex-Texas attorney who is experienced in dealing with off-shore mineral leases.
3. We have developed very extensive files on the issue, and could make a copy of the file available to you. Our claim covers the following area: points A-G

A- 15 00'N	113	30'E
B- 15 00'N	115	00'
C- 11 50'N	118	00'E
D- 10 30'N	118	00'E
E- 7 40'N	116	00'E
F- 6 00'N	113	00'E
G 7 30'N	108	40'E

4. Before we send you the file, it might simplify the matter if you phoned our lawyer, Mr. Ryan, at 713-224-5503, so we may determine the strongest legal theories to support our position.

Yours truly,

/s/ Peter C. Maffitt

Peter C. Maffitt

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