The South China Sea Disputes: (Evolving) Prospects for Adjudication or Arbitration

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Background Readings

For background readings on the issues to be discussed in this seminar, see Prof Beckman’s paper and PowerPoint presentation for the International Law Association Conference in Chinese Taipei from 29 May to 1 June 2011, which are available on the CIL home page under Members’ Activities or at http://cil.nus.edu.sg/cil-members-activities/cil-director-at-ilf-conference-in-taipei/

INTRODUCTION

In recent weeks, tensions between China and Vietnam as well as China and Philippines over oil exploration activities in the Spratly Islands in the South China Sea have flared, highlighting the intractable nature of the South China Sea disputes.

It has been a long-held assumption that the disputes relating the Spratly Islands will not be resolved by an international court or arbitral tribunal. To this end, this Seminar will examine the evolving dispute between China and the Southeast Asian Claimants (particularly Vietnam and Philippines) and will discuss whether any of the legal issues arising from this evolving dispute can be unilaterally referred to arbitration or adjudication under the compulsory binding dispute settlement procedures in the 1982 UN Convention on the Law of the Sea (UNCLOS).

First, the relevant provisions of UNCLOS will be explained, particularly how States can claim various maritime zones under UNCLOS such as the territorial sea, exclusive economic zone (EEZ) and continental shelf. The importance of the classification of geographic features as islands, rocks, low-tide elevations, reefs or artificial islands will also be explained.

Second, the Seminar will explain the evolving issues between China and the Southeast Asian claimants over which areas in the South China Sea are in dispute and which areas are not in dispute. This will include an explanation of how the submissions made to the Commission on the Limits of Continental Shelf in 2009 have clarified the claims of the Malaysia, Vietnam and the Philippines in the South China Sea. It will also include an explanation of the significance of China’s nine-dashed line.

Third, the system of compulsory binding dispute settlement in section 2 of Part XV of UNCLOS will be explained.

Finally, the question of the applicability of the compulsory binding dispute settlement system in UNCLOS to the current disputes over activities in the South China Sea will be considered.

This Seminar will be the seventh in a series of invitation-only seminars organized by CIL on the South China Sea disputes.