CENTRE FOR INTERNATIONAL LAW

CIL Roundtable on the South China Sea, International Law and UNCLOS

Orchard Hotel, Singapore
27 - 28 June 2013

www.cil.nus.edu.sg
The **South China Sea** has long been a source of tension and potential conflict in the Asia-Pacific region. The underlying source of the tension is the territorial sovereignty disputes over the Spratly Islands (claimed partially or wholly by China/Taiwan, Viet Nam, the Philippines, Malaysia and Brunei), the Paracel Islands (claimed by China/Taiwan and Viet Nam), and Scarborough Shoal (claimed by China/Taiwan and the Philippines). The disputes on who has the better claim to territorial sovereignty over the disputed islands can only be resolved if the claimants can agree to settle them through direct negotiations or if all the claimants agree to some form of binding third party dispute settlement. Neither prospect is likely. This is why many observers believe that the only viable option is to set aside the sovereignty disputes and pursue joint development and other cooperative arrangements.

Discussions on setting aside the disputes and joint development are hindered by the fact that there is significant ambiguity on the maritime claims of the claimants. This is so despite the fact that all of the claimants (with the exception of Taiwan) are parties to the 1982 UN Convention on the Law of the Sea (UNCLOS), the international legal framework that governs claims to ocean space.

To this end, the CIL Roundtable will bring together leading experts on law of the sea to examine the relevant principles under UNCLOS and provide objective and impartial analysis on how such principles apply to the South China Sea disputes. The issues discussed will include:

1. Whether the only off-shore features which can be subject to a claim of territorial sovereignty are features which meet the definition of an island in article 121 of UNCLOS;
2. The rules on the drawing of baselines from off-shore features, especially if such features consist of reefs which are partly above water at high tide, partly above water at low tide or partly submerged at low tide;
3. The significance for the maritime claims in the South China Sea of article 121(3) which provides that “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf”;
4. Whether maritime claims to explore and exploit the resources of the waters and of the seabed and subsoil can only be made from mainland territory or from off-shore features which meet the definition of an island;
5. The principles governing the delimitation of maritime boundaries, especially the effect of small offshore features on the delimitation of overlapping maritime zones;
6. The rights and obligations of States in areas of overlapping maritime claims, especially in cases where some of the maritime claims are from islands subject to a territorial sovereignty dispute;
7. The rights and jurisdiction of coastal States under UNCLOS to explore and exploit the natural resources beyond their EEZs, including the extended continental shelf;
8. How the dispute settlement mechanisms in UNCLOS might apply to disputes between claimants concerning the interpretation or application of the provisions in UNCLOS.

The **CIL Roundtable** hopes to enhance understanding of law of the sea issues relevant to the South China Sea. It is hoped that a better understanding of the law of the sea issues will allow the claimants to advance their South China Sea claims in a manner consistent with UNCLOS and facilitate meaningful discussions on a long-term resolution of the South China Sea disputes.
The CIL Roundtable will be structured as follows:

1. The Roundtable will begin with welcome remarks. These will be followed by 8 sessions of Roundtable discussions of 90 minutes.
2. Each of the 8 sessions of Roundtable discussions will feature a Chair Person, a Paper Author, a Commentator and the other members of the Roundtable.
3. The Paper Author for each Roundtable session will begin the session by summarizing his paper in 20 – 30 minutes.
4. After each presentation, one member of the Roundtable will give his response to the presentation for 5 – 10 minutes (the Commentator).
5. The Chair Person will then facilitate a discussion for 30 minutes among other members of the Roundtable to critically evaluate the issues raised in the Paper and discuss these issues might be applicable to the maritime disputes in the South China Sea.
6. During the final 20 minutes in each session the Chair will open the floor for questions and comments from the Participants.

The CIL Roundtable is open to the public. Seats are limited and subject to approval.
Orchard Hotel Singapore (442 Orchard Road, Singapore 238879)

Ideally located on the world famous Orchard Road, a key shopping and entertainment district. Orchard Hotel Singapore is just a 5-minute walk to the train (mass rapid transit) station. For more information about the hotel, please log on to http://www.millenniumhotels.com.sg/orchardhotelsingapore/

Welcome Drinks Reception @ ION Sky

27 June 2013, Thursday, 6.30pm – 9.00pm
ION Sky is located on Level 55 / 56 of ION Orchard (ION Orchard, 2 Orchard Turn Singapore 238801).

The Welcome Drinks Reception is for all CIL Roundtable Speakers & Participants.

ION Orchard is 550m away from Orchard Hotel or a 7-min walk from Orchard Hotel.
08.30 - 09.00 Arrival and Registration of Participants
09.00 - 09.30 Welcome Address by Professor Tommy Koh, Chairman, CIL Governing Board

09.30 – 11.00 SESSION 1: OFFSHORE FEATURES SUBJECT TO CLAIMS OF SOVEREIGNTY

There are a variety of different off-shore features in the South China Sea, including islands, islets, rocks, low-tide elevations, atolls, reefs, shoals, banks and submerged reefs. This Session will examine the significance of the status of off-shore features to claims to territorial sovereignty as well as to claims to maritime zones. In particular, it will examine whether off-shore features which do not meet the definition of an “island” in UNCLOS can be the subject of a claim to sovereignty.

Speaker
Professor Bernie Oxman, Richard A. Hausler Professor of Law, University of Miami
Chair Person
Professor S Jayakumar, Chairman, CIL International Advisory Panel, NUS
Commentator
Professor Alfred Soons, Director, Netherlands Institute for the Law of the Sea

11.00 – 11.30 Coffee Break

11.30 – 13.00 SESSION 2: BASELINE ISSUES IN THE SOUTH CHINA SEA

Under UNCLOS, all claims to maritime zones must be measured from baselines. This Session will examine the provisions in UNCLOS on baselines, bays, low-tide elevations and fringing reefs in order to determine how to construct baselines from offshore features. It will also consider the practice of States in interpreting and applying the provisions in UNCLOS.

Speaker
Professor Clive Schofield, Director of Research, Australia National Centre for Ocean Resources and Security (ANCORS), University of Wollongong
Chair Person
Professor S Jayakumar, Chairman, CIL International Advisory Panel, NUS
Commentator
Professor Robert Beckman, Director, Centre for International Law, NUS

13.00 – 14.00 Lunch
14.00 – 15.30 SESSION 3 : MARITIME ZONES FROM ISLANDS AND ROCKS

This Session will discuss the maritime zones (i.e. territorial sea, exclusive economic zone and continental shelf) that can be drawn from offshore islands. It will examine the debate over “islands” and “rocks” in Article 121 of UNCLOS and how this might apply to the features in the South China Sea. This discussion will include the practice of States and the jurisprudence of international courts and tribunals when dealing with maritime claims from small, uninhabited off-shore islands.

Speaker
Dr Clive Symmons, Trinity College Dublin

Chair Person
Professor Tommy Koh, Chairman, CIL Governing Board, NUS

Commentator
Dr Alex Oude Elferink, Deputy Director, Netherlands Institute for the Law of the Sea

15.30 – 16.00 Coffee Break

16.00 – 17.30 SESSION 4 : MARITIME DELIMITATION AND OFFSHORE FEATURES

This Session will examine general principles on maritime delimitation under international law, including Articles 15, 74 and 83 of UNCLOS and how international courts and tribunals have interpreted these articles. It will then examine the treatment of offshore features in maritime delimitation, including the effect that international courts and tribunals have given to islands in the delimitation of the territorial sea, EEZ and continental shelf.

Speaker
Professor Tullio Treves, Universita di Milano, Milan, Italy

Chair Person
Professor Tommy Koh, Chairman, CIL Governing Board, NUS

Commentator
Professor Clive Schofield, Director of Research, Australia National Centre for Ocean Resources and Security (ANCORS), University of Wollongong

17.30 End of Day One

WELCOME DRINKS RECEPTION @ ION Sky Observatory
2 Orchard Turn, Level 55 & 56, ION Orchard, Singapore 238801, from 6.30pm – 9.00pm.
Canapés & 1st Drink with compliments by the Centre for International Law
08.30 – 10.00 SESSION 5: RIGHTS AND JURISDICTION OVER RESOURCES UNDER THE UNCLOS REGIME

This Session will examine the rights and jurisdiction of coastal States to resources in the EEZ as provided for in UNCLOS and the validity of historic waters, historic title and historic rights claims under international law. It will then examine the relevance of historic waters, historic title and historic rights as a basis of rights and jurisdiction over resources in the South China Sea.

Speaker
Professor Ted McDorman, University of Victoria
Chair Person
Professor S Jayakumar, Chairman, CIL International Advisory Panel, NUS
Commentator
Dr Clive Symmons, Trinity College Dublin

10.00 – 10.15 Coffee Break

10.15 – 11.45 SESSION 6: LEGAL ISSUES ARISING FROM THE EXTENDED CONTINENTAL SHELF CLAIMS

This Session will examine the implications of the extended continental shelf claims of Vietnam and Malaysia and potential extended shelf claims of other South China Sea coastal States, including an analysis of whether the CLCS can consider the submissions made by Vietnam and Malaysia as well as the status of such claims if the CLCS is unable to consider their submissions.

Speaker
Dr Alex Oude Elferink, Deputy Director, Netherlands Institute for the Law of the Sea
Chair Person
Professor S Jayakumar, Chairman, CIL International Advisory Panel, NUS
Commentator
Professor Ted McDorman, University of Victoria

11.45 – 12.45 Lunch
12.45 – 14.15 SESSION 7: RIGHTS AND OBLIGATIONS IN AREAS OF OVERLAPPING MARITIME CLAIMS

This Session will discuss the significance of overlapping maritime claims in the South China Sea. It will examine in particular the issues raised when the 200 nm EEZ claim of a coastal State overlaps with claims of other States to maritime zones from offshore islands or other geographic features as well as the issues raised when two or more States have claimed maritime zones from a disputed island.

**Speaker**
Professor Alfred Soons, Director, Netherlands Institute for the Law of the Sea

**Chair Person**
Professor Tommy Koh, Chairman, CIL Governing Board, NUS

**Commentator**
Professor Bernie Oxman, Richard A. Hausler Professor of Law, University of Miami

14.15 – 14.30 Coffee Break

14.30 – 16.00 SESSION 8: UNCLOS DISPUTE SETTLEMENT MECHANISMS

The final session will provide an overview of the compulsory dispute settlement regime under Part XV of UNCLOS. It will focus in particular on the significance of the case instituted by the Philippines. It will analyse the possible impact of the case on the disputes concerning maritime claims in the South China Sea, including China’s claim to rights and jurisdiction in the maritime space inside the infamous nine-dash line on the Chinese map of the South China Sea.

**Speaker**
Professor Robert Beckman, Director, Centre for International Law, NUS

**Chair Person**
Professor Tommy Koh, Chairman, CIL Governing Board, NUS

**Commentator**
Professor Tullio Treves, Universita di Milano, Milan, Italy

16.00 – 16.30 Concluding Remarks

16.30 End of CIL Roundtable
Details of Participant

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<td>Full name (As in Passport) (Underline Surname):</td>
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<td>Organisation:</td>
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Registration Fee & Payment Methods

(Please Tick Accordingly)

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<th>General Public</th>
<th>SGD 1,000 nett per person</th>
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<tr>
<td>Academia/Government Officials/Students</td>
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1. Rates are inclusive of the Welcome Drinks Reception on 27 June 2013
2. All registrations are subject to approval. Confirmation will be provided via email.

CHEQUE

Crossed cheque in Singapore Dollars made payable to NATIONAL UNIVERSITY OF SINGAPORE. Please mail your payment together with this registration form to Ms Geraldine Ng, Centre for International Law, 469 Bukit Timah Road, Block B, Level 2, Singapore 259756.

CREDIT CARD

Cardholder’s Name ________________________________________________________________
Card Number________________________________________ CVV __________________
Expiry Date ___________________________________________ Amount (SGD) _______________
Signature __________________ Date __________________ VISA / MasterCard / AMEX (Please circle)

Meals

1. Buffet lunches are arranged for both conference days.
2. All meals and refreshments served contain no pork or lard.

WELCOME DRINKS RECEPTION ON 27 JUNE 2013, THURSDAY (Please circle accordingly)

I am attending / I am not attending

If you have special dietary requirements: ________________________________ (please state)

Please complete this form and return it to Ms Geraldine Ng (cilnwfg@nus.edu.sg) by 14 June 2013.