

How Much Can a Rock Get?

—A Reflection from the Okinotorishima Rocks

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Abstract: The paper examines the Okinotorishima Rocks and their entitlement in generating extended jurisdictional zones, together with issues aggravated by Japan's excessive national claims. Based on the Okinotorishima Rocks, Japan claims a 200 nautical mile Exclusive Economic Zone (EEZ) and an extended continental shelf (ECS). The practice has caused disagreement and concerns from the international community.

The paper starts with a brief introduction on the Okinotorishima Rocks and the maritime zone claims composed by Japan based on the tiny rocks against the island regime envisaged in the United Nations Convention on the Law of the Sea (UNCLOS). This is followed by a general review of the Japanese attempts to promote the Okinotorishima Rocks into legal islands (simplified as "islandisation") so as to support its national claims of multiple purposes. The paper continues with an illustration of the Japanese views and arguments in maintaining its claim and islandisation practice over the Okinotorishima Rocks. The paper raises some of the key questions associated with the Japanese islandisation attempts. These include whether or not rocks are distinguishable from islands based on the existing international law. How should the UNCLOS be implemented and how should the concerns of the international community be respected? How will the Commission on the Limits of the Continental Shelf accomplish its role with an applicable decision? After years of heavy, deliberate expansion, are the Okinotorishima Rocks still natural rocks or man-made artificial structures?

The paper concludes that the Okinotorishima Rocks do not qualify as legal

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islands, and are not entitled to extended jurisdictional zones. Moreover, what Japan has constructed around the rocks has changed their natural status and the expanded concrete structures have turned the rocks into artificial islands or artificial structures which deserve only a 500-meter safety zone.

Meanwhile, the paper points out the profound implications and far-reaching impact reflected from the Japanese claims based on the Okinotorishima Rocks. The rush by states to make ECS submissions has created a real crisis for international law and the deep seabed regime. The international community as a whole should work together to deal with this crisis.

Key Words: Rocks; Islands; Okinotorishima; Japan; Extended continental shelf

I . Introduction :Japan's Claims on Okinotorishima Rocks and the Regime of Islands

Japan signed the United Nations Convention on the Law of the Sea (UNCLOS) on 7 February 1983 and ratified it on 20 June 1996.^① After years of preparation, Japan made a submission (the Submission) on 12 November 2008 to the Commission on the Limits of the Continental Shelf (hereinafter referred to as CLCS) regarding the outer limit of its continental shelves, which were calculated as 740,000 square kilometers, or about twice the size of its land territory (378,000).^②

According to the Japanese Executive Summary containing all charts and coordinates, seven regions are included, namely, Southern Kyushu-Palau Ridge Region (KPR), Minami-Io To Island Region (MIT), Minami-Tori Shima (MTS), Mogi Seamount Region (MGS), Ogasawara Plateau Region (OGP),

① The UNCLOS was signed on December 10, 1982 and entered into force on November 16, 1994. For a list of ratifications, at http://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm#, 30 December 2010. 160 States and the European Union had ratified or acceded to the UNCLOS. The Convention entered into force for Japan on 20 July 1996.

② Regarding the work of the CLCS, see its website at http://www.un.org/Depts/los/clcs_new/clcs_home.htm. Japan was the 13th country to submit the data and information to the CLCS in November 2008. The Commission began its examination of Japan's submission at the meeting in August 2009, at <http://www.sof.or.jp/en/activities/index1.php>, 20 June 2011.

Southern Oki-Daito Ridge Region (ODR), and Shikoku Basin Region (SKB).^① The extended continental shelf (ECS) claims of KPR, MIT, and SKB are based on a couple of Rocks called Okinotorishima, or more precisely, the Okinotorishima Rocks.^② This submission has intensified discussions and concerns from the international community.

Since the early 1980s, Japan has been putting enormous efforts into the islandisation of the Okinotorishima Rocks, and has claimed an Exclusive Economic Zone (EEZ) around these rocks up to 200 nm from all directions and even recently claimed an extended continental shelf beyond 200 nm.^③ Through this Submission, Japan expects to confirm its EEZ claims of 430,000 square kilometers in addition to 1,550 square kilometers of territorial sea, and an ECS in three regions based on the Okinotorishima Rocks.^④ The farthest areas based on the Okinotorishima Rocks extend up to 550 nautical miles, together with rights to enforce on maritime activities and resources within the claimed zones.

It may be recalled that the regime of islands is established by Article 121 of the UNCLOS.^⑤ In this article, Paragraph 1 repeats the definition of an island provided in Article 10 of the 1958 Convention on the Territorial Sea and Contiguous Zone. It also sets forth the primary criteria of an “island”, namely, it must be a natural feature, an area of land, surrounded by water, and above water at high tide. It also disqualifies artificial islands and low-tide eleva-

① For the Executive Summary of Japan’s Submission, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/jpn_execsummary.pdf, 20 June 2011.

② “Shima” in Japanese means “island”, but Japan called it “Okinotorishima Islands” in its Submission. To match this expression, “Okinotorishima Rocks” is adopted in this paper.

③ OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008 (Japanese), at http://www.sof.or.jp/jp/report/pdf/200903_ISBN978-4-88404-216-5.pdf, 20 June 2011.

④ Yukie Yoshikawa, Okinotorishima: Just the Tip of the Iceberg, *Harvard Asian Quarterly*, Vol. 9, No. 4, 2005, at <http://asiaquarterly.com/2006/02/03/ii-131/>, 15 January 2011.

⑤ Article 121 reads in full: (1) An island is a naturally formed area of land, surrounded by water, which is above water at high tide. (2) Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory. (3) Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf. See The United Nations Convention on the Law of the Sea, 10 December 1982, 1833 U. N. T. S. 3.

tions.^①

Paragraph 2 reflects the “land dominates the sea” principle and confirms the same treatment of island as continental land territory regarding its maritime zones, namely, territorial sea, contiguous zone, EEZ, and continental shelf. These zones are to be determined in accordance with the UNCLOS and in the same manner as applicable to land territory.

Paragraph 3 is a critical part of the Article. It excludes “rocks” which “cannot sustain human habitation or economic life of their own” from application in the determination of EEZ and ECS jurisdiction. The main purpose of Article 121 (3) is to guarantee that the regime of islands in paragraphs 1 and 2 is not applicable to tiny rocks and islets on the basis that they are essentially different in terms of the natural conditions necessary for supporting normal human life. In this respect, the UNCLOS differentiates between “islands” and “rocks”.^②

Having understood the provision and its connotations, Japan tried in vain to delete Article 121 (3) during the negotiation of the UNCLOS.^③ To adjust the disadvantaged status of Okinotorishima as rocks, Japan has ventured to work over decades in turning them into islands. What Japan has achieved from these tiny rocks is beyond evaluation at the present stage. However, it is worth noting the impact of its islandisation and excessive EEZ and ECS claims on State Practice.

II . Okinotorishima Rocks and the Japanese Islandisation Attempts

The Okinotorishima Rocks have come to international attention since the 1980s, and discussions have focused on the subject of legal status and the weight accorded to maritime zones. A brief introduction is provided below.

① See Center for Ocean Law and Policy, University of Virginia School of Law, *United Nations Convention on the Law of the Sea 1982, a Commentary*, Vol. III, The Hague: Martinus Nijhoff, 1995, p. 338.

② See Center for Ocean Law and Policy, University of Virginia School of Law, *United Nations Convention on the Law of the Sea 1982, a Commentary*, Vol. III, The Hague: Martinus Nijhoff, 1995, p. 338.

③ See Center for Ocean Law and Policy, University of Virginia School of Law, *United Nations Convention on the Law of the Sea 1982, a Commentary*, Vol. III, The Hague: Martinus Nijhoff, 1995, p. 337.

A. *The Okinotorishima Rocks*

Okinotorishima (“沖ノ鳥島:おきのとりしま” in Japanese), located in the western Pacific Ocean, 1,740 kilometers from the Japanese mainland, consists of 5 atoll reefs that were originally called “Parece Vela” by a Spanish sailor in 1565, as “it looks like a sail”.^① It was later called “Douglas Reef” after a British navigator William Douglas in 1789.^② It is located on the Kyushu-Palau Ridge in the Philippine Sea at the coordinates of 20°25′N 136°05′E / 20. 417, 136. 083.^③ It is 534 kilometers SE of Oki Daitō, 567 kilometers WSW of Minami Iwo Jima of the Ogasawara Islands or 1,740 kilometers south of Tokyo, Japan.^④

No official record exists in Japan about Okinotorishima prior to 1888. In 1922 and 1925, Japan investigated the area and confirmed in 1931 that no other countries had claims and thus declared the reefs its territory.^⑤ Administratively, Japan placed it under the jurisdiction of the Tokyo Metropolis as part of the Ogasawara Islands, and gave it a new Japanese name Okinotorishima (“remote

① See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 16 March 2011.

② See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 16 February 2011. Both “Parece Vela” and “Douglass Reef” are still used today.

③ For relevant papers on this account, see Yann-huei Song, Okinotorishima: A “Rock” or an “Island”? Recent Maritime Boundary Controversy between Japan and Taiwan/China, in Seoug-Yong Hong and Jon M. Van Dyke ed., *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea*, Leiden: Martinus Nijhoff Publishers, 2009; J. I. CHARNEY, Rocks that cannot Sustain Human Habitation, *American Journal of International Law*, Vol. 93, 1999, pp. 863~878.

④ See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 16 February 2011. Both “Parece Vela” and “Douglass Reef” are still used today.

⑤ Song is of the view that it was debatable Japan claimed the Okinotorishima coral reefs under its sovereignty from the international law viewpoint in the early 1930s. See Yann-huei Song, Okinotorishima: A “Rock” or an “Island”? Recent Maritime Boundary Controversy between Japan and Taiwan/China, in Seoug-Yong Hong and Jon M. Van Dyke ed., *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea*, Leiden: Martinus Nijhoff Publishers, 2009; Moreover, according to Paragraph 8 of the Potsdam Proclamation, Japan’s sovereignty was limited to the islands of Honshu, Hokkaido, Kyushu, and Shikoku. Thus, Japanese sovereignty over the Okinotorishima is controversial and questionable. For details, see “Potsdam Declaration (United States, China, United Kingdom): A Statement of Terms for the Unconditional Surrender of Japan, 26 July 1945”, at http://pwencycl.kgbudge.com/P/o/Potsdam_Declaration.htm, 20 June 2011.

bird islands” or “the southernmost islands of Japan”).^①

The rocks are in the western part of a 3 to 4.6 meter-deep lagoon surrounded by a submerged coral reef, and extend 4.5 kilometers east-west and 1.7 kilometers north-south, with an area of roughly 5 square kilometers within the rim of the reef, most of which are submerged even at low tide.^② The fringing reef is pear-shaped in an east-west direction with its greatest width at the eastern end. A small boat channel into the lagoon was made in the southwest, about 15 meters wide and 6 meters deep, 250 meters southeast of the rocks.

Typhoons and erosion are constant threats to the reef's existence. A few decades ago, there were about five visible protrusions. Nowadays, only two tiny individual rocks may be traceable, namely: Higashikojima (Eastern Exposed Rock, Japan calls it “Eastern Islet”) and Kitakojima (Northern Exposed Rock, Japan calls it “Northern Islet”) located somewhat to the West.^③ At high tide, the Eastern Exposed Rock is roughly the size of a twin bed and pokes just 16 centimeters out of the ocean, and the Northern Exposed Rock is less than a small bedroom only 6 centimeters above water.^④ From satellite images, the two original rocks appear completely artificial, with no trace of the two natural rocks that still appeared on photographs of 1987.

① Yukie Yoshikawa, Okinotorishima: Just the Tip of the Iceberg, *Harvard Asian Quarterly*, Vol. 9, No. 4, 2005, at <http://asiaquarterly.com/2006/02/03/ii-131/>, 9 February 2011.

② See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 18 February 2011.

③ See Yann-huei Song, Okinotorishima: A “Rock” or an “Island”? Recent Maritime Boundary Controversy between Japan and Taiwan/China, in Seoug-Yong Hong and Jon M. Van Dyke ed., *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea*, Leiden: Martinus Nijhoff Publishers, 2009; See also Martin Fackler, A Reef or a Rock? Question Puts Japan In a Hard Place To Claim Disputed Waters, Charity Tries to Find Use For Okinotori Shima, *Wall Street Journal*, 16 February 2005, p. A1. It is not clear when Japan changed the name of those rocks; in the “Portrait of Okinotorishima” (<http://www.nodaland.com/okitiori/okitiori.php>) updated the last time in 2003, the “Eastern Exposed Rock” and “Northern Exposed Rock” were still used, but since 2005, the “Eastern Islet” and “Northern Islet” have been used in relevant discussions and documents. It is assumed that the names were changed in 2004.

④ See Yann-huei Song, Okinotorishima: A “Rock” or an “Island”? Recent Maritime Boundary Controversy between Japan and Taiwan/China, in Seoug-Yong Hong and Jon M. Van Dyke ed., *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea*, Leiden: Martinus Nijhoff Publishers, 2009.

B. Japan's Islandisation Attempts

To stop the rocks from disappearing and to keep them above water at all times and to use them to extend to the maximum of its EEZ and continental shelf, Japan has tried with great effort to make the Okinotorishima Rocks meet the minimum criteria of an “island” in legal terms. The Japanese attempts in this account can be divided into three periods (for specific details, see the attached Annex 1: Okinotorishima; History and Events).

Starting from the discovery of the rocks to the late 1970s, Japan claimed its sovereignty over the rocks and made some initial exploration on the nature and potential utilization of the rocks, including the construction of a Naval Base.^① In post-World War II, Japan lost its sovereignty over the rocks to the United States but regained it in the late 1960s.^② This enabled Japan to continue its investigation of the rocks.

The rocks did not attract much attention in the Japanese government until the late 1970s when coastal States started to claim their EEZs. Japan extended its fisheries jurisdiction in the surrounding waters of the rocks up to 200 nm from the territorial sea baselines in accordance with its Law on Provisional Measures Relating to the Fishing Zone that went into force on 1 July 1977.^③ The fishing zone covers an area of approximately 400,000 square kilometers, an area considerably larger than the total land of the country.^④ This stimulated Japanese enthusiasm over the gain generated by the little rocks. The action also signified the second period of Japan's islandisation actions till 2004.

In 1983, Japan signed the UNCLOS, concluded in the previous year, which

① The construction of the Naval Base started in 1939, but was interrupted in 1941 by the outbreak of World War II. As it seemed inappropriate to openly build a military facility in the international climate at that time, the government decided to refer to the base externally as “a lighthouse and a meteorological observation site.” See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 18 February 2011.

② Andrew L. Silverstein, Okinotorishima: Artificial Preservation of a Speck of Sovereignty, *Brooklyn Journal of International Law*, Vol. 12, No. 1, 2009, pp. 409~432, p. 410.

③ See Kiyofumi Nakauchi and Law of the Sea Institute, Japan, Emergency (sic) Measures for Protecting the “Oki-no-tori-Shima” Island from Waves in *Japan's Ocean Affairs—Ocean Regime, Policy and Development*, September 1989.

④ See Kiyofumi Nakauchi and Law of the Sea Institute, Japan, Emergency (sic) Measures for Protecting the “Oki-no-tori-Shima” Island from Waves in *Japan's Ocean Affairs—Ocean Regime, Policy and Development*, September 1989.

established the EEZ regime. Based on its possession of Okinotorishima, Japan could transfer its former fishing zone to an EEZ of the same size. However, the most serious issue the Japanese government feared was that the rocks could submerge and not lie above sea level. This would defeat exclusive jurisdiction related not only to a 200 nm EEZ in waters around them, but also a continental shelf claim beyond 200 nm. Since 1987, the Japanese government, represented by various governmental agencies and scientific institutions, undertook emergency measures leading to particularly noticeable islandisation movements.

In 1987, the sea level rise theory was employed and evidences were sought, and a proposal was raised to build constructions to prevent the physical erosion of the rock from submersion thereby keeping the rocks above water for making maritime claims. In the same year, the Japanese government launched an embankment building project.

During 1987–1993, the government of Tokyo and later the Central Government built steel breakwaters and concrete walls of 50 meters in diameter, and the original rocks (Higashikojima and Kitakojima) were completely covered by artificial concrete structures to stop the erosion.^① In 1998, a covering costing eight billion yen was placed on the eastern exposed rock.

In 1988, Japan's Marine Science and Technology Center erected a marine investigation facility, a platform on stilts located in the shallow part of the lagoon, which appeared as a rectangle of 100 meters by 50 meters.^② The platform supports a helicopter landing pad and a large, three-story building for marine investigations as well as a meteorological station.

On 8 February 2002, Japan modified its Coast Law adopted on 12 May 1956.^③ According to Article 37(2), the Central Government took over the administration tasks for the artificial structure. From 2004 onwards, the third period of national islandisation efforts started in a much enhanced manner with more comprehensive efforts. Repair work on the embankment was approved with significant funding and a series of research and observation projects began on the rocks and their surrounding waters.^④

① In 1925, there were still five above-water rocks, which have eroded since. See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 5 March 2011.

② In 1925, there were still five above-water rocks, which have eroded since. See Wikipedia, at <http://en.wikipedia.org/wiki/Okinotorishima>, 5 March 2011.

③ At <http://law.e-gov.go.jp/htmldata/S31/S31HO101.html> (Japanese), 5 March 2011.

④ Yuki Yoshikawa, Okinotorishima: Just the Tip of the Iceberg, *Harvard Asian Quarterly*, Vol. 9, No. 4, 2005, at <http://asiaquarterly.com/2006/02/03/ii-131/>, 5 March 2011.

In 2004, the 22nd Ocean Forum organized by the Ocean Policy Research Foundation (OPRF) was held focusing on the status and regeneration of Okinotorishima.^① A report was subsequently issued on the rehabilitation of the rocks and an electronic baseline coordinate was set up.^② Since 2004, conferences on Okinotorishima related issues have been arranged by the OPRF as regular forums.^③

In November 2004 and March 2005, the Nippon Foundation dispatched a mission to investigate how to utilize Okinotorishima and the surrounding EEZ, and mission members included experts in the fields of the international law, coral reef ecology and construction.^④ The suggestions in the report include; to build a lighthouse so as to add the name Okinotorishima in the charts around the globe and to enhance its presence; to expand the size of the rocks by coral breeding and various other ways to develop an artificial reef; to build an ocean-thermal energy conservation power plant to attract fish, which was said to be the first such experiment in the world;^⑤ to explore mineral resources in the adjacent seabed; to build social infrastructure such as a port and houses for human habitation, marine studies, and development; and to promote sightseeing.^⑥ In 2005, a second mission was conducted by the Nippon Foundation focusing on feasibility studies on the most promising fields of marine engineering, power generation, and lighthouse building.^⑦

Stimulated by the efforts and research outcomes of the Nippon Foundation and OPRF, Japanese officials and politicians have successfully attracted more

① At <http://www.sof.org.jp/jp/forum/22/php>, 6 March 2011.

② Hajime Kayane, Submerged atolls and their regeneration-Territorial preservation of island states in the Pacific Ocean and islands along the Japanese border, *Newsletter*, No. 99, 2004, OPRF, at http://www.sof.or.jp/en/news/51-100/99_1.php#01, 20 June 2011.

③ For more details on OPRF, at <http://www.sof.or.jp/en/index.php>, 20 June 2011; for activity reports, see OPRF, at <http://www.sof.or.jp/en/report/index.php>, 20 June 2011.

④ Nippon Foundation, The Report on Promoting Economic Activities in Okinotorishima (Japanese), 2005, at <http://nippon.zaidan.info/seikabutsu/2004/00009/contents/0001.htm>, 16 March 2011.

⑤ Shintaro Ishihara's website; http://www.citymayors.com/mayors/tokyo_mayor.html, 16 March 2011.

⑥ Nippon Foundation, The Report on Utilization of Okinotorishima (Japanese), 2005, at <http://nippon.zaidan.info/seikabutsu/2004/00004/mokuji.htm>, 16 March 2011.

⑦ Nippon Foundation, The Report on Promoting Economic Activities in Okinotorishima (Japanese), 2005, at <http://nippon.zaidan.info/seikabutsu/2004/00009/contents/0001.htm>, 17 March 2011.

attention from the Central Governmental to the rocks.^① In 2005, the Central Government decided to build a lighthouse,^② installed a 330 million yen radar system for round-the-clock surveillance to detect vessels approaching Okinotorishima,^③ repaired the heliport, and set up an official address plate at the “island” reading “1 Okinotori, Ogasawara Village, Tokyo”.^④ Despite protests by environmentalists, Governor Ishihara of Tokyo decided to build a power station.^⑤ Fishing expeditions were also sent to demonstrate the existence of “economic life” on the rocks.^⑥ On 16 March 2007, a light beacon was installed by Japan’s Coast Guard and started operation; later, the beacon was plotted on a hydrographic chart. Okinotorishima has become an intermittent rallying point for Japanese nationalists, and a hot-button political issue in Japan.^⑦

In addition to the concrete protection actions, Japan launched a series of campaigns to raise public awareness on the significance of Okinotorishima.^⑧ Such efforts include the production of a public-oriented movie “Okinotorishima: Miraculous Islands”.^⑨ The 70-minute movie was released in December 2007 and was made widely available in cinemas, libraries, information centers etc.

In January 2010, the Japanese government during a regular Diet session submitted a new bill for the protection of Japan’s southernmost Okinotori coastline to preserve their EEZ claims and interest. In May 2010, Japan adopt-

① Martin Fackler, A Reef or a Rock? Question Puts Japan in a Hard Place; To Claim Disputed Waters, Charity Tries to Find Use for Okinotori Shima, *Wall Street Journal*, 16 February 2005.

② Japan plans to put lighthouse on disputed Pacific isle, *Kyodo News*, 24 August 2005.

③ Japan to establish surveillance system on Okinotori Island, *British Broadcasting Corporation*, 16 May 2005.

④ Japan sets up address plate on controversial reef in Pacific, *Xinhua News Agency*, 20 June 2005.

⑤ May 2005 Governor Visits Okinotori Islands, at <http://www.sensenfukoku.net/mail-magazine/no36.html>, 18 March 2011. See also the paper written by Governor Ishihara, Strategic Significance of Okinotorishima, at <http://www.sankei.co.jp/>, 6 June 2005.

⑥ Boat returns after fishing near disputed Okinotori Island, *Kyodo News*, 19 April 2005.

⑦ Yukie Yoshikawa, Okinotorishima: Just the Tip of the Iceberg, *Harvard Asian Quarterly*, Vol. 9, No. 4, 2005, at <http://asiaquarterly.com/2006/02/03/ii-131/>, 19 March 2011.

⑧ See PRF ocean forums and relevant activities, at <http://www.sof.or.jp/en/index.php>, 19 March 2011.

⑨ At <http://www.metro.tokyo.jp/ENGLISH/TOPICS/2005/index.htm>, 20 June 2011. The movie consists of six parts covering basically every aspect of Okinotorishima, such as location, history, weather, marine environment, resources, significance, and protection efforts.

ed the Law for the Reservation of Low Tide Line and Maintenance of Foothold Facilities.^① Through this piece of national legislation, the protection of Okinotorishima rocks is expected to be further enhanced to new record levels.

C. Incentives of Japan's Okinotorishima Islandisation

Japan has been investing money on the development of the Okinotorishima Rocks since 1932 with some intervals, including 85 billion yen (approximately 740 million US dollars) in building and maintaining a residence at the observation site. In 1987, Japan encased the reefs with \$280 million worth of concrete to prevent them from being completely washed away and covered the smaller one with \$50 million USD titanium net to shield it from debris thrown up by the ocean waves.

In 2005, Japan allocated 10 million yen for the light house and observation site. The following year another \$7.55 million dollars was invested for the regeneration of coral reefs and 340 million yen for Japan's Coast Guard to install a solar-powered beacon. Since 2007, Japan has expanded the large scale regeneration of coral reefs and used sand-creating electrodes to save Okinotorishima.^② According to a media report on 9 April 2008, the Japanese Government planned to invest 770 million yen over three years to farm the coral reef around Okinotorishima. A long-term plan is being carried out to make full use of the rocks.

In 2010, the Japanese government developed a plan for Okinotorishima reef management and maintenance. This plan aims to upgrade the bank maintenance from annual visual inspection to more effective measures to ensure the survival of the concrete structures from harsh natural conditions such as erosion, typhoons and waves.^③

① This is an abbreviated name of the Law. Its full name is: "Law concerning preservation of low tide line and maintenance and others of foothold facilities for protection and promotion of utilization of the exclusive economic zone and the continental shelf". See "Japan enacts law to preserve Japan's EEZ" (Japan Today, Kyodo, 26 May 2010); OPRF MARINT Monthly Report (May 2010), Diet enacts law to preserve Japan's EEZ, at <http://www.japantoday.com/category/politics/view/diet-enacts-law-to-preserve-japans-eez>, p. 12, 20 June 2011.

② Government will use sand-creating electrodes to save Okinotorishima, at <http://www.japanprobe.com/2008/09/21/government-will-use-sand-creating-electrodes-to-save-okinotorishima/>, 20 March 2011.

③ At <http://news.sina.com.cn/w/2010-05-19/082117532724s.shtml>, 20 March 2011.

Most recently, Japan announced in January 2011 a new plan to allocate 750 billion yen over six years to build a port to further reinforce its maritime claims on the Okinotorishima Rocks. They also plan to use it as a base to conduct marine resource surveys and to engage in other economic activities.^①

The question that might be asked is: what are the incentives for Japan to invest such heavy funding on these remote and tiny rocks? The answer may lie in the fact that the Okinotorishima Rocks carry enormous significance to Japan in many aspects. For example, the most obvious benefit to Japan is that these rocks are a major boost to Japan's offshore resource potential. In the resource field, Japan possesses state-of-art technology, and has a good reason to expect resources from its ocean and seas, especially marine natural resources, living and non-living, to sustain its national economic development. The seabed around the Okinotorishima Rocks is said to be potentially rich in oil and has already been found to be rich in manganese nodules and rare minerals.

From a national security point of view, Okinotorishima also has great weight. Sitting in the Mid-central Pacific Ocean with a perfect geographical location, these tiny rocks may serve as an unsinkable aircraft carrier. This function highlights their strategic value and military potential as a vital enhancement to Japan's ability to control the Pacific Ocean and the navigational activities.^②

The most significant and fundamental of the roles Okinotorishima could play fall into the category of generating substantial jurisdictional waters under sovereignty, sovereign rights and jurisdiction stemming from establishing an EEZ and ECS around the rocks.^③ In the age of the UNCLOS, small solitary islands in the seas distant from the mainland can make states into major sea powers due to the entitlement of maritime zones.^④ This is particularly the case with Japan and the Okinotorishima Rocks. Without these rocks, Japan would have to retreat its territorial sea to its southern-most tip of Minami-Io To-shi-

① See Gus Lubin, China Stunned as Japan Makes Shock Island Announcement in Key Economic Zone, at <http://www.businessinsider.com/chinese-angered-by-japan-island-grab-2010-1>, 7 January 2010. See also Japan is to build base at the Okinotorishima (Chinese), at <http://junshi.daqi.com/slide/2735790.html#t>, 20 June 2011.

② Martin Fackler, A Reef or a Rock? Question Puts Japan in a Hard Place to Claim Disputed Waters, Charity Tries to Find Use for Okinotori Shima, *Wall Street Journal*, 16 February 2005, p. A1.

③ See Articles 55 and 77 of the UNCLOS.

④ Yasuhiko Kagami, Environmental Policy for Desert Islands: Beyond "Island or Rock?", in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

ma, and suffer a loss of 1,550 square kilometers of territorial sea and sovereignty over the water column, seabed and airspace. Japan's EEZ would be pushed back to either Minami-Iwo Jima, an island almost 400 miles to the NE, or to Oki Daitojima, another island about the same distance to the NW, and suffer a loss of 430,000 square kilometers of EEZ,^① plus an ECS claim in three regions.

From economic, political, and social perspectives, it is also apparent that Japan could benefit immensely from such an "islandisation" effort. To achieve the benefits, Japan is determined to hold the Okinotorishima Rocks and to establish effective control over the surrounding waters through economic activities.

III. Japanese Views on the Okinotorishima Claims and Islandisation Practice

Japan has maintained its claims based on the Okinotorishima rocks and islandisation practice. On one hand, it claims firmly the island status of the rocks; on the other hand, it paves its way with concrete actions toward enabling the rocks to satisfy the criteria of a legal island. Meanwhile, Japanese scholars have conducted thorough and comprehensive research on Okinotorishima in the recent decades to justify national claims and practices. Some evolving views represent theoretical support and reflect Japan's motivation and determination over its islandisation effort.

A. To Assert "Island" Status of the Okinotorishima Rocks

Regarding the legal status of Okinotorishima, the Japanese views are by and large concentrated on a "self-constructed belief" that these rocks are "islands" under Article 121(1) and fit in the island criteria in Article 121 (1), that is, "a naturally formed area of land", "surrounded by water", "above water

① Yuki Yoshikawa, Okinotorishima: Just the Tip of the Iceberg, *Harvard Asian Quarterly*, Vol. 9, No. 4, 2005, at <http://asiaquarterly.com/2006/02/03/ii-131/>, 19 March 2011.

at high tide”.^① Moreover, Japan holds the position that as an Article 121(1) island, it should not be restricted by Article 121 (3). Based on such logic, Okinotorishima is therefore “qualified” and “entitled” to its extended maritime zones including EEZ and continental shelf.^②

Still, views are divided within this panel regarding the “island” status of Okinotorishima. Tadao Kuribayashi, a law professor of Toyoeiwa University in Tokyo, argues in part that rocks and reefs differ in composition and structure. He believes that only rocks that cannot be inhabited or have no economic life have no claims for EEZ or continental shelf, and that the intent of Article 121 (3) was geared toward the former.^③ He adds that coral reefs and rocks (objects consisting of hard continental soil) are different,^④ thus the claim that Okinotorishima is not an islet but rocks does not make sense. Professor Kuribayashi insists that the Japanese claim is justifiable as there is no definition of a “rock” in international law, and a country can claim its own EEZ or continental shelf based on its possession of coral reefs.^⑤

Another Japanese scholar, Kentaro Serita, argues that according to the Preamble of the UNCLOS, matters not regulated by the Convention continue

① *The Open Report to the Construction Committee of the House of Representatives of Japan* by Oshima Shotaro, Director of the Economic Bureau, Ministry of Foreign Affairs on 16 April 1999, at http://www.shugiin.go.jp/index.nsf/html/index_kaigiroku.htm, 20 June 2011. Cited from Akasato Nakayama, *Island Definition and Related Issues in International Law* p. 34, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, pp. 26~38.

② *The Open Report to the Construction Committee of the House of Representatives of Japan* by Oshima Shotaro, Director of the Economic Bureau, Ministry of Foreign Affairs on 16 April 1999, at http://www.shugiin.go.jp/index.nsf/html/index_kaigiroku.htm, 20 June 2011. Cited from Akasato Nakayama, *Island Definition and Related Issues in International Law* p. 34, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, pp. 26~38.

③ Yukie Yoshikawa, *Okinotorishima: Just the Tip of the Iceberg*, *Harvard Asian Quarterly*, Vol. 9, No. 4, 2005, at <http://asiaquarterly.com/2006/02/03/ii-131/>, 19 March 2011.

④ According to Kazuhiko Fujita, University of the Ryukyus, “Reef islands, generally low-lying, flat, small islands formed on reef flats of atolls, are largely composed of unconsolidated bioclastic sands and gravels. Thus, the islands are highly subject to inundation, coastal erosion, catastrophic storms, and other coastal hazards. See Kazuhiko Fujita, *Enhancing foraminiferal sand productivity for the maintenance of reef islands*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 97.

⑤ Tadao Kuribayashi, *The position of Okinotorishima in international law*, in Nippon Foundation, *Report on Promoting Economic Activities in Okinotorishima*, at <http://www.nippon-foundation.or.jp/eng/maritime/programsseas.html>, 20 June 2011.

to be governed by the rules and principles of general international law. He believes that the 200 nm fishing zone is part of customary international law, and thus Okinotorishima is entitled to have a 200 nm fishing zone.^① He adds that the actions Japan adopted towards Okinotorishima through its national legislation since the entry into force of the UNCLOS have never been protested by any country. He concludes that this fact supports the Japanese position that the EEZ of Okinotorishima should be maintained.^②

Based on the two Okinotorishima rocks, Japan has claimed not only an EEZ up to 200 nm to all directions, but also an ECS at the SKB, MIT, and KPR regions based on the natural prolongation principle. According to the provision of UNCLOS Art. 76. 1, “[t]he continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its *land territory* (emphasis added) to the outer edge of the continental margin ...”.

In a similar fashion to its argument about its EEZ claim on Okinotorishima, Japan asserts the natural prolongation principle to claim its outermost ECS based on the rocks. This is reflected in Paragraph 2 of Section 6. 2 of the Executive Summary of Japan’s Submission that the Kyushu-Palau Ridge forms part of the natural prolongation of Japan’s *land mass* (emphasis added) “represented by Okinotorishima Island” (so-called!).^③ Instead of admitting the fact that the submission areas extending down the ridge towards Palau was on the basis of the natural prolongation of Okinotorishima itself, Japan is trying to give the impression that it is the natural prolongation of Japan as a whole. Such a contention is associated with obvious problems, most notably, the remote nature of the seabed in question from the nearest Japanese mainland/main island territory.

B. To Facilitate the Condition of the Okinotorishima Rocks to Sustain Human Habitation or Economic Life

In addition to the arguments made over the legal status and geographical

① Kentaro Serita, *Japan’s Territory* (Japanese), C HUOKORON-SHINSYA, INC, 2002, pp. 182~189, pp. 224~245.

② Kentaro Serita, *Japan’s Territory* (Japanese), C HUOKORON-SHINSYA, INC, 2002, pp. 182~189, pp. 224~245.

③ See the Executive Summary of Japan’s Submission, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/jpn_execsummary.pdf, 20 June 2011.

position of the Okinotorishima Rocks to support its claim to EEZ and ECS, Japan asserts the rocks maintain an economic life of their own.

A Japanese scholar believes the interpretation and application of Article 121(3) is problematic and criticizes it as follows:

“If ‘rocks which can sustain human habitation or economic life of their own’ is set as the condition for designation of an island without actually requiring such habitation in practice, then there are grounds for the interpretation that the possibility of meeting the condition alone is sufficient. If such is the case, the condition itself will evolve along with progress in science and technology, leading to uncertainty in the requirements to be met.”^①

This paragraph actually indicates the unsaid truth of how Japan has been creating the condition through evolving science and technology to keep Okinotorishima from being regarded as Article 121 (3) rocks.

To provide support for its claims and national islandisation attempts, Japanese scholars have also searched globally for relevant practices as evidence. One observation reports about other countries sending signals to show that scattered desert islands are (or will be) able to “sustain human habitation or economic life of their own”^②. These signals include permanent posting of small military forces or meteorological observation station staff, etc., construction of lighthouses and other navigational aids, fishing activities, and in recent years, and establishment of protected areas to reserve ecosystems or biodiversity in the oceans surrounding islands.^③ Recent examples employed by this scholar were the US establishment in 2006 of the then world’s largest marine protected area (Papahānaumokuākea Marine National Monument) around the northwestern Hawaiian Islands where the US has had an EEZ around 10 uninhabited islands since the 1970s.^④ A second example cited was a new Marine National

① Hiroshi Terashima, *The Need for a Comprehensive Study on the Problems of Islands and Management of Their Surrounding Waters*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 113.

② Yasuhiko Kagami, *Environmental Policy for Desert Islands: Beyond “Island or Rock?”*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

③ Yasuhiko Kagami, *Environmental Policy for Desert Islands: Beyond “Island or Rock?”*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

④ According to an American expert in the law of the sea those “should not have EEZ” in light of UNCLOS Article 121. See Yasuhiko Kagami, *Environmental Policy for Desert Islands: Beyond “Island or Rock?”*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

Monuments established in January 2009 around remote islands in the Pacific Ocean.^①

This Japanese scholar observed that environmental measures such as establishing marine protected areas around desert islands are implemented not only by the US, but also by France, Australia, Kiribati, and other countries. He believes that these practices would have a positive significance for or impact on the “Island or Rock” dispute, in that “desert islands will not be positioned as a basis for enclosing the sea, but as bases for positive ocean management for sustainable development.”^②

These practices may be expected to cast new light on management of desert islands. However, the key point this scholar forgot to mention is that Japan is indeed a foremost pioneer with practices that have set an example of claiming extended maritime zones over rocks.

Aside from looking for evidence from other countries, other Japanese scholars have tried to justify Japan’s claims and national practice by new developments of international law and State Practice. Hiroshi Terashima, the Executive Director of OPRF, argued to approach the Article 121(3) and Okinotorishima issue from the overall framework and spirit of the UNCLOS for comprehensive management of the ocean.^③ He indicated that discussions on the EEZ and the continental shelf focus primarily on coastal States’ rights, rather than on their responsibilities and obligations to manage coastal areas in EEZs and continental shelves. Recent years have seen a large shift from the emphasis given to marine pollution responses at the time the UNCLOS was drafted, i. e. to conservation of marine biodiversity and other issues, such as to promote ecosystem-based management and marine spatial management of ocean areas around islands.

Professor Kuribayashi recommended not to talk about whether or not small islands are to be accorded EEZs and continental shelves, but to consider the problem from the perspective of who should manage the ocean areas around islands and how the management is to be carried out. Further, he argued that it

① Yasuhiko Kagami, Environmental Policy for Desert Islands; Beyond “Island or Rock?”, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

② Yasuhiko Kagami, Environmental Policy for Desert Islands; Beyond “Island or Rock?”, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

③ Hiroshi Terashima, The Need for a Comprehensive Study on the Problems of Islands and Management of their Surrounding Waters, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 114.

is advisable to clarify and reevaluate thinking about islands and the management of their surrounding waters. He called on States not only to address the question of how far the exercise of jurisdictional rights by small islands over resources in their surrounding waters is appropriate in distributing the common heritage of mankind, but also to answer the question of who is the most appropriate entity to fulfill the obligations and responsibilities for protecting the resources in the ocean areas around small islands, e. g. in protecting and conserving the marine environment.^① He also hopes for Japan to make its contribution to the adaptive development of the UNCLOS regime of islands.^②

Such views and arguments confirm the Japanese islandisation actions towards the Okinotorishima Rocks and its generation of jurisdictional zones. At the same time, these views have also encouraged Japan to stray further away from the UNCLOS regime.

IV. Questions to Ponder

The aforementioned Japanese views suggest that what Japan has done is to promote the conservation and protection of marine resources and environment through ecosystem-based management around these rocks. But questions have to be asked, including: will these arguments justify the Japanese claim and its islandisation attempts? May other States “do as the Romans do” with similar insular features? What are the implications for supporting excessive national claims? As States move forward with excessive claims and islandisation initiatives, what should be the guiding principle in interpretation and implementation of the UNCLOS? Will there be a potential danger of undermining the UNCLOS and further encroachment on the common heritage of mankind? Who should defend the interests of the international community, and how? These questions will be dealt with in this section.

① Hiroshi Terashima, *The Need for a Comprehensive Study on the Problems of Islands and Management of Their Surrounding Waters*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 114.

② See Tadao Kuribayashi, *Concluding Remarks: The Present Implications regarding “Island Regime from the Perspective of International Law of the Sea Order”*, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, pp. 83~84.

A. Are Rocks Distinguishable from Islands?

What Japan calls Okinotorishima Island, some 1,740 kilometers south of Tokyo, is merely an atoll that cannot sustain human habitation or economic life of its own. Japan argues Okinotorishima are islands, not rocks. Is this because the differences between rocks and islands are not distinguishable? The truth is, despite the fact that no objective standard was established on how to distinguish Article 121(1) islands from Article 121(3) rocks, the provisions of UNCLOS Article 121 are clear and explicit.

In comparison with the “island” definition provided in Article 121(1), a “rock” may be simplified as a “naturally formed” “area of land”, “surrounded by water”, “above water at high tide”; that “cannot sustain human habitation or economic life of its own”. This implies the following features: a “rock” is a disadvantaged type of island; the size (refers to “area of the land” above water at high tide) of a “rock” is usually small;^① and lastly, a “rock” is generally not able to provide the natural conditions necessary for supporting normal human life. In fact, the last feature is the determiner that differentiates rocks from islands. If an insular feature cannot fulfill this condition, it is only entitled to a territorial sea and a contiguous zone, but not an EEZ or continental shelf.

Many international law experts believe that an island must: sustain and maintain fresh water, be able to grow vegetation that can sustain human habitation, produce some material that can be used for human shelter, and be able to sustain a human community.^② Some experts suggest that an island must be able to sustain at least fifty people.^③ Indeed, food, fresh water, and living space

① Dr. Hodgson, a geographer of the US State Department, proposed that a “rock” is an area of land less than 0.001 square miles, the area of land for an “islet” is between 0.001—1 square miles, the area of land for an “island” is larger than one square mile. See Robert, D. Hodgson, *Islands: Normal and Special Circumstances*, in John King Gamble, Jr. and Giulio Pontecorvo ed., *Law of the Sea: The Emerging Regime of the Oceans*, Cambridge, Massachusetts: Ballinger Publishing, 1974, p. 148.

② For relevant discussions on this account, see José Luis Jesus, *Rocks, New-born Islands, Sea Level Rise and Maritime Space*, in Jochen Abr. Frowein, Klaus Scharioth, Ingo Winkelmann and Rüdiger Wolfrum^{ed.}, *Verhandeln für den Frieden-Negotiating for Peace: Liber amicorum Tono Eitel*, 2003, pp. 587~592; Charney, Jonathan, *Rocks That Cannot Sustain Human Habitation*, *American Journal of International Law*, Vol. 93, 1999, pp. 864~871.

③ See International Seabed Authority Press Release, SB/15/10, p. 3, para. 18.

constitute the very fundamental criteria for human habitation on an island. With these three criteria, the island may be considered as being able to sustain human habitation, no matter how long it can “sustain”, or if the “sustaining” of habitation is on a permanent or temporary basis.

To make these criteria more comprehensible, the Indonesian Ambassador and leading law of the sea expert, Hasjim Djalal, proposed three specific criteria: first, whether there is fresh water on the island or rocks; second, whether it is possible to grow food; third, whether there is material to build houses. Should all three criteria be met, the insular feature shall not only be a rock, but also an island able to “sustain” human habitation and reproduction; that is, it is entitled to its own jurisdiction regardless of its size. If the three conditions are not met, the feature is only entitled to a 12 nm territorial sea.^①

“The economic life of their own” criterion seems to appeal to the idea of the rock having the capacity or potential of bearing an independent, though not necessarily self-sufficient, economic life. This might imply the potential or capacity to develop its own sources of production, distribution and exchange in a way that, if it were to have human habitation, it would constitute a material basis that would justify the existence and development of a stable human habitation or community on the rock.^② It would seem that the criterion of economic life of their own is more than the existence of a given resource or the presence of a given installation of an economic nature, however important it might be.^③

If an area of “land” above water at high tide (no matter what it is called by tradition) satisfies either one of the two criteria to “sustain human habitation” or an “economic life of its own”, it is entitled to its own EEZ and continental shelf. In the case of Okinotorishima, none of the reefs is large than one square

① Ian Townsend-Gault, Preventive Diplomacy and Pro-activity in the South China Sea, *Contemporary Southeast Asia*, Vol. 20, No. 2, 1998, p. 179.

② See José Luis Jesus, Rocks, New-born Islands, Sea Level Rise and Maritime Space, in Jochen Abr. Frowein, Klaus Scharioth, Ingo Winkelmann and Rüdiger Wolfrum^{ed.}, *Verhandeln für den Frieden-Negotiating for Peace: Liber amicorum Tono Eitel*, 2003, p. 590.

③ See José Luis Jesus, Rocks, New-born Islands, Sea Level Rise and Maritime Space, in Jochen Abr. Frowein, Klaus Scharioth, Ingo Winkelmann and Rüdiger Wolfrum^{ed.}, *Verhandeln für den Frieden-Negotiating for Peace: Liber amicorum Tono Eitel*, 2003, p. 590.

meter and the total area is less than 10 square meters.^① Okinotorishima has no fresh water, nor soil; neither does it have any vegetation. More importantly, its size is too small to “sustain human habitation”. Based on its natural conditions, it cannot be regarded as an island.

No consensus has been reached on the interpretation and application of Article 121. The treatment of islands/rocks has long generated international legal debates, and State Practice has remained somewhat diverse. Nonetheless, the understanding of international law experts on the text of the UNCLOS provisions, relevant jurisprudence by international judicial and arbitral courts and State Practices are consistent and identical. There are signs of a consistent trend emerging and, at the least, numerous examples exist which indicate how islands/rocks should be treated. No matter how Article 121 is interpreted, given its size and uninhabitable natural conditions, the Okinotorishima cannot be recognized as an island of legal nature. Japan’s efforts confirm that it is trying to turn rocks into islands.

B. How should UNCLOS be Implemented and International Community Concerns be Respected?

Article 121 (3) of the UNCLOS expressly denies the right of a rock to support an EEZ and a continental shelf. However, Japan still claimed an EEZ to 200 nm and an adjoining continental shelf region beyond 200 nm using the Okinotorishima Rocks as a base-point in its submission. Japan’s unilateral assertion is widely out of conformity with the intention and purpose of UNCLOS’s “common heritage of mankind” concept. As the foremost advocate of “the Principle of the Common Heritage of Mankind”, Ambassador Arvid Pardo of Malta pointed out, “[i]f a 200 mile limit of jurisdiction could be founded on the possession of uninhabited, remote or very small islands, the effectiveness of international administration of ocean space beyond national jurisdiction would be gravely impaired.”^②

In 1988, having noticed the Japanese construction over the rocks, Professor Jon Von Dyke of the University of Hawaii expressed his view in the following terms: “Okinotorishima—which consists of two eroding protrusions no larger

① At http://news.xinhuanet.com/world/2005-03/11/content_2681137.htm, 2 April 2011.

② United Nations Sea-Bed Committee, Doc. A/AC. 138/SR. 57, p. 167.

than king-size beds—certainly meets the description of an uninhabitable rock that cannot sustain economic life of its own. It is not, therefore, entitled to generate a 200 [nautical]—mile exclusive economic zone.”^① He has further asserted that it is impossible to make “a plausible claim that Okinotori should be able to generate a 200 [nautical]—mile zone”.^② Professor Von Dyke made it clear again in 2005.^③

Professor Von Dyke has also suggested that the situation is similar to the failed British attempt to claim an EEZ around Rockall. Rockall is a small, uninhabited, rocky islet within the EEZ of the United Kingdom (UK) in the North Atlantic Ocean.^④ Rockall is almost 200 nm from the Scottish coast, 25 meters above sea level and measures 624 square meters.^⑤ In 1977, the UK established a fishing zone using Rockall as a base point for an extension of 200 nm beyond the islet. The British claim was protested by Denmark, Iceland and Ireland.^⑥ The UK eventually abandoned its claim after its accession to the UNCLOS in 1997.^⑦

No doubt, the case of Rockall has the closest similarity to the Okinotorishima situation but the UK rationale was presented on a different footing. Article 121 (3) denies the capacity of tiny rocks to generate unfairly and inequitably huge maritime entitlements e. g. an EEZ or a continental shelf, which could, in most cases, impinge upon other States maritime space or on the Inter-

① See Martin Fackler, A Reef or a Rock? Question Puts Japan in a Hard Place to Claim Disputed Waters, Charity Tries to Find Use for Okinotori Shima, *Wall Street Journal*, 16 February 2005, p. A1.

② Speck in the Ocean Meets Law of the Sea, *New York Times*, 21 January 1988.

③ Martin Fackler, A Reef or a Rock? Question Puts Japan in a Hard Place to Claim Disputed Waters, Charity Tries to Find Use for Okinotori Shima, *Wall Street Journal*, 16 February 2005, p. A1.

④ See EEZ of the UK and Ireland at <http://www.seararoundus.org/eez/eez.aspx>, 20 June 2011.

⑤ For details on Rockall, at <http://en.wikipedia.org/wiki/Rockall>, 20 June 2011. See also James Fisher, *Rockall*. London: Geoffrey Bles, 1956, pp. 12~13.

⑥ At <http://www.opsi.gov.uk/SI/si1997/19971750.htm>, 20 June 2011. For the Fishery Limits Order 1997, Statutory Instrument 1997 No. 1750.

⑦ The Foreign and Commonwealth Secretary of the United Kingdom expressed in a statement that “Rockall is not a valid base point for such limits under article 121(3)”, and then the limit of the fishery zone was redefined accordingly through the Fishery Limits Order 1997. See Alex G. Oude Elferink, Clarifying Article 121(3) of the Law of the Sea Convention; the Limits Set by the Nature of International Legal Process, *IBRU Boundary and Security Bulletin*, Summer 1998, p. 59, p. 66. Editors’ note; see also D. Anderson, “Islands and Rocks in the Modern Law of the Sea” in the present volume.

national Seabed Area which is reserved for the Common Heritage of Mankind.^①

Since 2004, as Japan's maritime neighbor, China has constantly objected to Japanese jurisdiction over marine scientific research around the Okinotorishima Rocks where Japan has claimed that it has the right to prescribe and enforce jurisdiction over the two rocks and surrounding waters up to 200 nm.^② China's position is that the legal status of these waters is high seas and traditional fishing grounds for the fishers from the mainland of China, Taiwan, and Korea. China firmly opposed the Japanese unilateral actions and considers such actions as a serious violation of the rights of other countries.^③

The dispute regarding whether Okinotorishima is a rock or an island has escalated and intensified. The issue has caught the attention of the rest of the world because of the Japanese submission of its proposed outer limit of the continental shelf to the CLCS, which stimulated a public reaction from China and Korea.

In February 2009, China and South Korea respectively submitted to the Secretary-General of the United Nations Note Verbales commenting on the issue of the Okinotorishima in the Japanese Submission.^④ Both China and South Korea objected to Japan's claim to an EEZ and ECS based on the Okinotorishima Rocks.^⑤

The international community has, for the most part, avoided involvement in the dispute. However, the Submission intensified the disagreement and raised concerns in the international community sparking varied comments. Concerns were articulated about Japan's duty not to infringe on the common space of the international community. On one occasion, Japan seemed to remember its duty and denied New Zealand's claims to the Antarctic. When New

① UN Doc. A/CONF. 62/122, 7 October 1982.

② Japan hopes to build lighthouse on atoll disputed with China, *Xinhua News*, 25 August, 2005.

③ See Jia Yu and Li Mingjie, Not to accept the artificially constructed Okinotori, at <http://news.sina.com.cn/c/2004-05-24/12103317063.shtml>, 20 June 2011.

④ For China's Note, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/chn_6feb09_e.pdf; for Korea's, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/kor_27feb09.pdf.

⑤ For China's Note, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/chn_6feb09_e.pdf; for Korea's, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/kor_27feb09.pdf.

Zealand made its ECS submission to the CLCS,^① Japan sent a Note Verbale to the UN concerning New Zealand's claims to the Antarctic region.^② Japan emphasized that it does not recognize any State's "claim to territorial sovereignty in the Antarctic and consequently does not recognize any State's rights over or claims to the water, seabed and subsoil of the submarine areas adjacent to the continent of Antarctica."^③

Views have also been expressed that the Okinotorishima Rocks are not entitled to any continental shelf, and that no entitlement should be granted on the portions related to the Okinotorishima Rocks in Japan's Submission. After Japan made its Submission to the CLCS concerning its extended continental shelf, at the 15th Session of the International Seabed Authority and at the 19th Meeting of the States Parties to the UNCLOS (the 19th Meeting), a thorough discussion ensued on relevant issues.^④ At these meetings, serious concerns were expressed by many countries regarding the possible encroachment on the international seabed area by using a rock as the base point for an extended continental shelf.^⑤ In addition to relevant discussions under current items in the agenda, it was also decided at the 19th meeting to consider the inclusion of a supplementary item entitled "International Seabed Area as the common herit-

① For New Zealand's submission, at http://www.un.org/Depts/los/clcs_new/submissions_files/submission_nzl.htm, 20 June 2011.

② For Japan's note, at http://www.un.org/Depts/los/clcs_new/submissions_files/submission_nzl.htm, 28 June 2006. The Permanent Mission of Japan to the United Nations presented its compliments to the Secretariat of the UN with reference to the circular CLCS.05.2006. LOS (Continental Shelf Notification) dated 21 April 2006, concerning the receipt of the submission made by New Zealand to the CLCS. Japan confirms the importance of keeping harmony between the Antarctic Treaty and the UNCLOS and thereby ensuring the continuing peaceful cooperation, security and stability in the Antarctic area. Recalling Article IV of the Antarctic Treaty, Japan does not recognize any State's right of or claim to territorial sovereignty in the Antarctic, and consequently does not recognize any State's rights over or claims to the water, seabed and subsoil of the submarine areas adjacent to the continent of Antarctica.

③ For Japan's note, at http://www.un.org/Depts/los/clcs_new/submissions_files/submission_nzl.htm, 28 June 2006.

④ The 19th Meeting of the States Parties to the UNCLOS, SPLOS/L. 60, 22 May 2009, at <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N09/346/55/PDF/N0934655.pdf>, 20 June 2011. See also Yu Jia, Legal Issues Concerning the Oki-no-Tori (Chinese), *Ocean Development and Management*, Vol. 8 (130), 2009.

⑤ The 19th Meeting of the States Parties to the UNCLOS, SPLOS/L. 60, 22 May 2009, at <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N09/346/55/PDF/N0934655.pdf>, 20 June 2011. See also Yu Jia, Legal Issues Concerning the Oki-no-Tori (Chinese), *Ocean Development and Management*, Vol. 8 (130), 2009.

age of the mankind and Article 121 of the United Nations Convention on the Law of the Sea” in a future meeting.

The EEZ and ECS policies and State practice are important for the future. It is not only a matter of economics and how ocean resources can be exploited from the continental shelf, but also the legal existence of the sovereign rights of a maritime nation. Japan’s bid to extend its continental shelf based on rocks will not be supported. As a State Party to the UNCLOS, Japan is obligated not to violate the legal regime of the UNCLOS, and to respect the disagreement of its maritime neighbors as well as the concerns of the international community.

C. How will CLCS Accomplish Its Role with Applicable Recommendations?

Japan submitted the information on the limits of its ECS to the CLCS on 12 November 2008.^① Through this Submission, Japan set an example of claiming an EEZ and an excessive continental shelf based on rocks in the vast Pacific Ocean. Concerns have been voiced about the fact that Japan is using the CLCS as a forum to strengthen, maintain, or defend its claims concerning legal titles of rocks/islands, and EEZs, continental shelf and extended continental shelf thereof. Should Japan’s submission be confirmed by the CLCS about the location of the outer limit of Japan’s continental shelf in Okinotorishima and Japan’s entitlement to large areas of continental shelf beyond 200 nm, Japan would have jurisdiction over an extra 740,000 square kilometers, which is about twice the size of its land territory.

Discussions have also been voiced about the applicable recommendations of the CLCS. As an international body established by the UNCLOS, the CLCS is neither a judicial nor a political body.^② It gives technical advice and guidance to States, and offers opinions on the data and analyses submitted by coastal States on the basis of the technical and objective criteria set out in the UNCLOS. As of 18 January 2011, there have been 59 Submissions delivered to the United Na-

① At http://www.un.org/Depts/los/clcs_new/submissions_files/submission_jpn.htm, 20 August 2011.

② For discussions on CLCS, see Ted L. McDorman, The Entry into Force of the 1982 LOS Convention and the Article 76 Outer Continental Shelf Regime, *International Journal of Marine and Coastal Law*, Vol. 10 1995, pp. 165~187; Ted L. McDorman, The Role of the Commission on the Limits of the Continental Shelf: A Technical Body in a Political World, *International Journal of Marine and Coastal Law*, Vol. 17, 2002, pp. 301~324.

tions for the CLCS to consider.^① Meanwhile, as of 19 October 2011, the CLCS has also received 45 Preliminary Information submissions indicative of the outer limits of the extended continental shelf.^② The job of the CLCS is to consider the documentation submitted by the coastal State and to recommend where the outer limits of the continental shelf should lie.

Japan's Submission complicates the clear provision about island regimes and the authorization of the CLCS in the UNCLOS. This may lead to an infringement of the completeness of the UNCLOS and an encroachment on the International Seabed Area.^③ The CLCS will have to deal with Japan's Submission and also third party notifications.^④ As mentioned earlier, the Notes Verbal of China and South Korea suggested that the CLCS should take no action on the portions related to the Okinotorishima Rocks in Japan's Submission.^⑤ How the CLCS will handle Japan's Submission regarding the regions generated based on the Okinotorishima Rocks continues to be an issue of general interest as well as a source of concern for many.

To consider Japan's Submission requires defining the legal status of Okinotorishima, but the CLCS is not in a position with authority to decide its legal status. To comply with the UNCLOS and not to affect the Common Heritage of Mankind, it is advisable for the CLCS not to consider the controversial parts in Japan's Submission. The Okinotorishima situation will be an entrée to a broader discussion on the role of the CLCS as regards the submissions and in-

① For submissions, at http://www.un.org/Depts/los/clcs_new/commission_submissions.htm, 20 January 2012.

② At http://www.un.org/Depts/los/clcs_new/commission_preliminary.htm, 20 June 2011.

③ The CLCS has seen many different kinds of Submissions and third party notifications, coping with different situations that the coastal States face. Among the 59 Submissions, 22 Submissions have already encountered the comments, oppositions, disapproval, or approvals expressed by as many as 58 third party notifications. Among 45 Preliminary Information Submissions, four pieces have met communications from third States, expressing different ideas, at http://www.un.org/Depts/los/clcs_new/commission_submissions.htm, 20 June 2011.

④ For relevant discussions, see Michael Sheng-ti Gau, Third Party Intervention in the Commission on the Limits of the Continental Shelf Regarding a Submission Involving a Dispute, *Ocean Development and International Law*, Vol. 40, 2009, pp. 61~79.

⑤ See Paragraphs 3–5 of the communication of China, Paragraphs 4–6 of the Korean communication to respond to the Japanese Submission. For China's Note, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/chn_6feb09_e.pdf; for Korea's, at http://www.un.org/Depts/los/clcs_new/submissions_files/jpn08/kor_27feb09.pdf, 21 May 2011.

formation presented to it. One thing that is clear is that the CLCS shall not be used to infringe the UNCLOS, or to abuse its own responsibility.

D. Are Okinotorishima Still Natural Rocks or Artificial Structures?

The heart of this Okinotorishima rock/island issue is whether the feature can be used as a base point to claim an extended jurisdictional zone. According to Article 121, both islands and rocks have to be “naturally formed”. Concerning what is “naturally formed”, two views exist: the first view counts on whether or not there is deliberate construction, and insists that “naturally formed” means “no deliberate construction”.^① This view may seem a bit extreme. The second view tolerates “deliberate construction” but differentiates the decision depending upon the purpose:^② if the deliberate construction is for the protection of the area of the “land”, the legal status of the “land” remains unaffected;^③ if the deliberate construction is to expand the landmass of the area, the legal status of the original and additional new “land” will lose its legal status collectively with its territorial sea.^④ International law scholars seem to favor this view.^⑤ In particular, Diaz, Dubner, and Parent pointed out in their paper that to protect the island by using coral and other marine biotechnology to build it up creates an artificial island that is not entitled to its own maritime zones.^⑥

① Clive R. Symmons, *The Maritime Zones of Islands in International Law*, The Hague: Martinus Nijhoff, 1979, p. 36.

② At <http://www.seastead.org/localres>, 20 June 2011.

③ See Andrew L. Silverstein, Okinotorishima: Artificial Preservation of a Speck of Sovereignty, *Brooklyn Journal of International Law*, Vol. 12, No. 1, 2009, pp. 409~432.

④ See Derek W. Bowett, *The Legal Regime of Islands in International Law*, New York: Oceana Publications, 1979, p. 122.

⑤ See Leticia Diaz, Barry Hart Dubner, and Jason Parent, When is a “Rock” an “Island?”: Another Unilateral Declaration Defies “Norms” of International Law, *Michigan State Journal of International Law*, Vol. 15, 2007, p. 547. See also Yasuhiko Kagami, Environmental Policy for Desert Islands; Beyond “Island or Rock?”, in OPRF, *Research Report on the Okinotorishima Revival and Related Issues*, 2008, p. 109.

⑥ Bin Bin Jia is of the view that if an island cannot continue its existence without a concrete structure or artificial installation, it is no longer a natural island, but an artificial island, not entitled to a maritime zone but to a 500-meter safety zone. See Bin Bin Jia, A Preliminary Study of the Problem of the Isle of Kolbeinsey, *Nordic Journal of International Law*, 66, 1997, p. 313. See also Leticia Diaz, Barry Hart Dubner and Jason Parent, When is a “Rock” an “Island?”: Another Unilateral Declaration Defies “Norms” of International Law, *Michigan State Journal of International Law*, Vol. 15, 2007, p. 547.

In the case of the Okinotorishima Rocks, if the action Japan has taken is solely for the protection of the rocks, they will continue to be natural rocks with an entitlement to territorial sea and contiguous zone, but if Japan's purpose is to expand the physical size of the rocks, the situation will be different.^①

Japan rescued Okinotorishima with great efforts to make sure the rocks were not completely washed away. This was for the purpose of enabling them to generate vast maritime zones. To keep the rocks afloat and to fulfill the criteria of a legal "island", Japan has carried out ambitious projects to expand the "landmass" by artificially producing economic life there and planning to create a place that is actually livable. The "national construction" increased the rocks much beyond their original shapes. Its purpose is not for the protection of the rocks, but for "expansion of its territory". Given the size of the rocks, years of heavy, deliberate expansion, concrete encasing and building facilities have changed the character of the rocks. On detailed satellite images, each of the rocks appears as a circle with a diameter of 50 meters, but these are mostly artificial structures. The Okinotorishima Rocks have lost their natural character. Instead, they are an "artificially formed area of land" or "artificially constructed area of land".^②

Following Japan's logic, the rescuing construction was meant to "expand" the rocks to enable them to "sustain human habitation or economic life of its own" as an Article 121(1) island, and subsequently to generate extra maritime jurisdictional zones. Actually, this is an abusive interpretation of the UNLCOS, which aims at the conformity of the rights and interests of State Parties based on the existing ocean order. The Japanese practice is contrary to international law and to the UNCLOS regime, as it tries to modify the natural features for the purpose of enhancing claims to jurisdictional zones that should not be legitimately granted.

Should such logic and practice be permitted and encouraged to any extent, States could rely on their national capacity to "transform" any insular features

① Silverstein agrees that artificial island is not entitled to a territorial sea, but he excluded the Okinotorishima as a special circumstance. See Andrew L. Silverstein, Okinotorishima: Artificial Preservation of a Speck of Sovereignty, *Brooklyn Journal of International Law*, Vol. 12, No. 1, 2009, pp. 429~430.

② See Leticia Diaz, Barry Hart Dubner, and Jason Parent, When is a "Rock" an "Island?": Another Unilateral Declaration Defies "Norms" of International Law, *Michigan State Journal of International Law*, Vol. 15, 2007, p. 519.

such as submerged rocks and sand bars into islands, and then claim large areas of waters and resources to which they are not entitled. This trend would lead to irreversible damage to the authority of the UNCLOS, and certainly would result in a new round of competing claims and chaos in the world's oceans.^① The UNCLOS endeavors to avoid situations of this kind by creating a framework based on customary international law and accepted State Practice.

Judging by what Japan has been doing with great determination, it is unfortunate that the result has turned out to be that Japan's islandisation attempts have transformed the legal status of Okinotorishima from Article 121 (3) rocks into artificial structures to which the law in Article 60 applies.^② The "Okinotorishima" have lost the very basic feature of rocks as they have been transformed into the "Okinotorishima artificial island" or "Okinotorishima artificial structures". Thus from an international law viewpoint, Japan is not entitled to any maritime zones but merely a 500-meter safety zone. Japan's expensive efforts have been counterproductive from a UNCLOS point of view.

V. Concluding Remarks

It can be argued that the island regime of the UNCLOS has triggered enduring sovereignty disputes over islands, complexities for maritime claims, disputes over the legal weight accorded to insular features, and aggressive extended continental shelf claims. However, no country has so vigorously taken advantage of the UNCLOS as Japan has to the extreme in attempting to claim large areas of jurisdictional zones based on rocks.

According to international law, maritime features can be accorded maritime zones, but not all features are entitled to an EEZ and beyond. The Okinotorishima, which are indeed uninhabited, isolated rocks located in the Pacific Ocean, cannot sustain human habitation or economic life of their own at all. At high tide, the two rocks composing the Okinotorishima are barely above water and its total area is less than one sixtieth of Rockall. This is the clearest example of the rock provided for in Article 121(3) of the UNCLOS which is not to generate an EEZ or continental shelf, not to mention an extended continental

① See Leticia Diaz, Barry Hart Dubner, and Jason Parent, "When is a 'Rock' an 'Island?': Another Unilateral Declaration Defies 'Norms' of International Law," *Michigan State Journal of International Law*, Vol. 15, 2007, p. 519, pp. 519~555.

② See UNCLOS Article 60(4); (5); (8); (11); (147), Subpara. 2 (e); and 259.

shelf.

Tempted by the vast ocean space and abundant resources therein, Japan has tried to use such small reef rocks to claim a huge 200 nm EEZ in all directions and even a continental shelf beyond 200 nm. Japan has also put into practice a series of manmade measures to enable the Okinotorishima Rocks to sustain human habitation or an economic life of its own obviously to increase the possibility for expanding otherwise unqualified maritime jurisdictional zones. From satellite images, the two original rocks now appear completely artificial, with no trace of the two natural rocks.

No matter how hard the Japanese have tried, it is doubtful that the Japanese effort can be successful due to the following factors; first, the Japanese islandisation campaign has violated the standards and undermined the authority of the UNCLOS framework; second, its excessive claims encroach on the International Seabed Area that is set aside for the international community as a whole; third, Japan has changed the legal status of the Okinotorishima Rocks from natural rocks into artificial structures. No matter how Japan tries to stretch the word “rock” or how it tries to twist the word “island”, the history of the provision, the writings of various scholars, and the opinion of the international community squarely place the Japanese on the wrong side, legally and morally.

A questionable “island” may rate a 12 nm territorial sea but a full entitlement is not consistent with the object and purpose of the UNCLOS to limit excessive claims. With regard to the questionable natural status of Okinotorishima “artificial island, installation or structure”, a 500-meter safety zone and exclusive jurisdiction is sufficient.

The problem with Japan’s assertion over vast areas of waters based on the national building-up of artificial islands around rocks is rather obvious. It would be an example of greed, constituting a precedent on expanded maritime jurisdiction and of abusing the UNCLOS and would seriously encroach upon the international seabed area. Yet, the profound implications and far-reaching impact reflected from the Japanese claims is worth noting. If every state decided to make the same type of expansion as Japan has, there would be no use for international rule of law and the legal system of order set forth in the UNCLOS would be meaningless. There would be a real crisis brought along by the submission rush of ECS to the international law and International Seabed Area. The international community as a whole should work together to deal with this crisis.

Annex 1: Okinotorishima: History and Events

Year	Events
1543	Unconfirmed reports claimed that the atoll was first sighted by the Spanish ship San Juan and named Abre Ojos (“Open your eyes, look!” in Spanish).
1565	The rocks were recorded as “Parece Vela” (“looks like a sail” in Spanish) by Spanish ship San Pedro. After that, it was named “Engels Rocks” by Dutch ship Engels and “Douglass Reef” by British ship Iphigenia. Douglass Reef and Parece Vela are still used as alternative names for Okinotorishima.
1922	The Japanese Navy surveillance ship “MANSHU” made an investigation to the atoll, and reported the status of it.
1929	Okinotorishima was marked in hydrographic charts published by Hydrographic Department of Japn.
1931	The Japanese Cabinet declared it Japanese territory under the jurisdiction of the Ogasawara-shicho of Tokyo Prefecture, and named it Okinotorishima.
1933	Surveillance ship “KOSHU” investigated the islands and found 4 islets in addition to the Eastern Islet (Higashikojima) and Northern Islet (Kitakojima). A hydrographic chart was made by the Hydrographic Department.
1938	Surveillance ship “SHINSHO MARU” investigated the area.
1939—1941	The southwest reefs of the atoll were blasted to open new sea routes. A lighthouse and a meteorological observation site were built using 900 concrete columns. The construction was interrupted by the start of the Pacific War.
1952. 4	The United States took over the Ogasawara islands
1968. 6	The United States returned the islands to Japan
1969	Surveillance ship “MEIYO” investigated the area.
1976	Japan Amateur Radio League (JARL) “DX Pediton” set up an amateur radio station based on the observation site and directed radio waves around the globe from Okinotorishima. Within 78 hours, they made communication with about 9000 other radio stations.
1978	Tokyo Metropolis fisheries research ship “Metropolis” investigated the area.
1982	Survey ship AA “TAKUYO” investigated the area.
1984	Two islets were marked in the topographical map published by the Geographical Survey Institute (GSI).
1987. 9	The Agricultural Aquatic Committee of Japanese Diet held the first meeting on Okinotorishima and the rising sea levels.
1987. 10	It was designated as a coastal protected area by Tokyo Metropolis.

Renewal table 1

Year	Events
1988	Japan Marine Science and Technology Center (JAMSTEC) built an unmanned marine investigation facility which it maintained, following meteorological observation until 1991.
1988—1989	The former Ministry of Construction started the protection project for the Eastern Islet and Northern Islet
1990—1993	The former Ministry of Construction started a base project for the observation station.
1993	JAMSTEC performed meteorological and marine meteorological observations at the working site (continuing now).
1998	The former Ministry of Construction installed a titanium metallic net to cover the Eastern Islet.
1999	According to the amended Coastal Act, the management was put under the National Government; the former Ministry of Construction: responsible for bank protection; the Coast Office of the River Bureau of the Ministry of Land, Infrastructure, Transport and Tourism and the Keihin Department of Engineering Affairs: responsible for protective measures; the degree of general concern is not high.
2004. 9	“Eco-engineering regeneration technology helps improve the regeneration capacity of the degraded coral reef ecosystem, contributes to the territory protection of island states in the Pacific Ocean, and avoids the flooding issues.” Hajime Kayanne (Newsletter No. 99, Sep. 2004, OPRF)
2004. 10	“Association for Okinotorishima Research” was set up by OPRF and held its first meeting.
2004. 11	“Observation Group for Effective Utilization of Okinotorishima” established by the Nippon Foundation to centralize experts of different fields to investigate the status of the area from different perspectives, and discuss the possibility of effective utilization of the “island” and its surrounding waters.
2004. 12	The 22 nd Ocean Forum was held by OPRF with the theme “Current status and regeneration of Okinotorishima”, speakers: Terashima Hiroshi and Hajime Kayanne.
2004	The Ministry of Land, Infrastructure, Transport and Tourism (MLITT) installed video cameras on surveillance facilities.

Renewal table 2

Year	Events
2005.3	“Investigation Group for Promoting Economic Activities of Okinotorishima” funded by Nippon Foundation to strengthen and improve economic activities of Okinotorishima, investigate aquatic organisms’ proliferation status that can help the island regeneration such as coral, and the status of island building and expansion, set up a beacon to insure marine traffic, and to investigate the feasibility of power generation by using ocean thermal energy conversion technology. Also, according to the contract between MLITT and Ministry of Agriculture, Forestry and Fisheries of Japan, some proposals were made such as the assumption that coral proliferation promotes the expansion of an island, and protection strategies and utilization programs of Okinotorishima were discussed from various perspectives.
2005.3	The 25 th Ocean Forum was held by OPRF with the theme as “Wise use of Japan’s exclusive economic zones, submarine mineral resources, and Okinotorishima”, speakers: Yasuhiko Kakami, Takatoshi Matsuzawa, Tomohiko Fukushima.
2005.4	“Regeneration Plan of Okinotorishima” was announced by OPRF.
2005.6	Geographical Survey Institute (GSI) set up an electronic reference point
2005	OPRF released “Regeneration Investigation and Research on Okinotorishima”; Analysis of boring core technology; Basic ecological investigation of Foraminifera; Discussion of the legal status
2005	Fisheries Association of Ogasawara-Shoto, Tokyo Metropolis provided operational support to Okinotorishima, released striped mackerel fish fries, and investigated fishing grounds in surrounding sea area.
2005	The MLITT set up ocean observation radar.
2005—2006	Tokyo Metropolis built the Instructional Ship for Fisheries Survey “KOYO”.
2006—2008	OPRF carried out “Investigation and research on maintenance and regeneration of Okinotorishima”; reorganized and analyzed the investigations on maintenance and regeneration of Okinotorishima; International comparative studies about islands status and management methods; Outreach investigations; Ecological investigations of Pacific island nations; Investigations on management implementation of different countries; and Others
2006—2008	The Ministry of Agriculture, Forestry and Fisheries carried out research on “The Development of the Proliferation Methods under Abominable Natural Conditions” and the development of the coral proliferation technology.

Renewal table 3

Year	Events
2006—	Tokyo Metropolis carried out a “Project to improve the utilization of Okinotorishima”: to investigate fishing ground; to construct an artificial floating fish reef in mid-layer of deep water; to make a public-oriented movie “Okinotorishima; Miraculous Islands”(2008).
2007. 3	The light beacon built by the MLITT started working.
2007. 7	The “Basic Ocean Law” was put into force: Article 26 regulates offshore island protection.
2007. 11	“Okinotorishima Forum 2007” was held in Tokyo Metropolis.
2008	White Paper II of the MLITT; Chapter 6 “Construct a safe and peaceful society”, Section 4: Crisis management and safety guarantee countermeasure: Para. 4 Marine rights protection of Japan “(4) The protection of Okinotorishima; Okinotorishima is located at the south most of our country’s territory, and is the most important island, based on which we can establish over 400,000 km ² exclusive economic zone. It is important to territory protection and utilization, and it is necessary to discuss whether it should be directly managed by the national government and whether complete measures should be taken to make the best use of it”.
* 2008. 11	“Okinotorishima Forum 2008” was held in Tokyo Metropolis.
* 2010. 5	Japan adopted Law for Reservation of the Low Tide Line and Maintenance of Foothold Facilities.
* 2011. 1	A plan was announced to build a deep water port in the next 6 years with \$ 10 billion US Dollars.

Source: Translated from OPRF, Research Report on the Okinotorishima Revival and Related Issues, 2008; http://www.sof.or.jp/jp/report/pdf/200903_ISBN978-4-88404-216-5.pdf.

Note: “*”: updates of this author from other sources cited in this paper.

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