Mark Hoskin
(University of London)

Chinese Historic Perceptions of the South China Sea: Zheng He and his Legacy

Abstract

Chinese Historic Perceptions of the South China Sea: Zheng He and his Legacy

From the moment the period that now bears his name in China's history ended, Zheng He has been an enigma for politicians and historians alike. In the post Imperial period, Sun Yat-Sen referred to him as an example of China's maritime past, technical ingenuity, and therefore an enduring symbol of national pride. For China's Republican leader, reference to Zheng He in 1918 was a natural extension of his upbringing in Cuiheng, Guangdong, a village which for centuries was situated near a base of trade and fishing operations into the South China Sea, long known to Westerners as Canton, with its nearby islands of Macau and Hong Kong. As China emerged from civil war in 1949, national pride would be an enduring light after decades of internal turmoil.

Since the opening-up of China in 1978, Zheng He has also risen into the lens of international lawyers, as the period that bears his name has been invoked by the People's Republic of China in statements concerning the South China Sea region. This has become more apparent since the political issues that were left unresolved after the Second World War in the region have found their nadir in the United Nations Convention of the Law of the Sea 'UNCLOS'. In 2016, the Tribunal that forms one of the judicial bodies UNCLOS disputes can be referred to delivered an Award in *Philippines v. China* that considered the consequences for the ending of this period in Chinese maritime ability. The Tribunal began their consideration with a review of the impact on China's ability to control the South China Sea region as sovereign territory in the face of European arrival over a century after Zheng He had passed into history. The Award discounted Chinese maritime involvement in this period as nonexistent and any residual consequences as without legal meaning.

This paper considers the Zheng He period and the findings of the Award by examining the consequences for State Actors that are codified in International Law, particularly those of private individuals who perform duties for the direct benefit of the State. It seeks to examine the consequences of the Zheng He period, through the potential for acceptance by other states and their historical legacy.

KEYWORDS: Zheng He, South China Sea, Chinese Maritime History

There is a common thread in contemporary Western literature concerning Zheng He and the voyages associated with his name. This thread labels the voyages with Zheng He's name, rather than the Emperor Yongle who ordered the ship building and the overall destination of the missions until his passing after the 5th Mongolian expedition in 1422.[1] The result is that Zheng He's name is typically mentioned when the voyages are discussed, rather than considering them as part of the Emperor's legacy. For example, this was visible when Chinese President Xi was speaking in Manila, bringing outcries from the Filipino press concerning the lack of Zheng He's personal presence in the acknowledged history of the Philippines.[2] These outcries, and the negative press that followed, were rampant, despite historians such as Ptak's suggestion that a squadron did visit a polity that now forms part of the nation; to the Sulu after the visit and death of a Sultan of Sulu in China.[3] As Fairbank has stated; "They [the voyages] were led for the most part by a Muslim court eunuch named Cheng Ho [Zheng He]..."[4] As a historian, Fairbank was careful to qualify his statement; 'for the most part', something missing from later commentators, who are normally writing for political, rather than historical purposes. The political aspect can be seen in the BBC reporter Bill Hayton's work: "Zheng's maps were burned and his boats left to rot away."[5] The clear statement of ownership through name use exhibits narrow thinking that does not allow room for a different

1 T. Brook, *The Chinese State in Ming Society*. London 2005, p. 105, 148.

2 *Carpio fact-checks Xi Jinping on 14th century Chinese explorer*, https://www.rappler.com/nation/217129-antonio-carpio-fact-check-xi-jinping-chinese-explorer-zheng-he.

3 R. Ptak, *Asia and the Eastern Seas: Trade, Travel, and Visions of the Other (1400–1750)*. Ch. I. Aldershot 1998, p. 23; T. See, *The Ties that Bind: The Saga of the Sultan of Sulu in China*. Manila 2017; C. Bascar, *Sultanate of Sulu: The Unconquered Kingdom*. Zamboanga City 2003.

4 J. Fairbank, *East Asia, Tradition and Transformation*. London 1973, p. 197.

5 B. Hayton, *The South China Sea: The Struggle for Power in Asia*. New Haven 2014, p. 26.

interpretation, which is markedly different from the reasoning provided by the historian Fairbank, a noted Sinologist. Ptak states: "These armadas, commanded by Cheng Ho [Zheng He] and others, were organised into several flotillas."[6] His narrative discusses the reign of the Yongle Emperor and Ming government in the same paragraph, it is not describing a single name as the mastermind who controlled or possessed all. Overall, Zheng He is presented by Ptak as a director of operations. This can also be found in the narrative offered by the maritime historians Lo and Elleman:

> Besides the imperial fleet at Nanjing and the coastal defence squadrons, there were two other fleets. One was the high-seas fleet, based at Ch'ang-lo (near Fuzhou), which Zheng He and other officers used in their numerous voyages to the South China Sea and the Indian Ocean.[7]

Professor Lo also states there were 'other officers' engaged in 'their numerous voyages', a statement which supports the description given by Ptak. Therefore, this paper uses a different descriptive for the duration of the voyages the Emperor Yongle first ordered, referring to it as the *Zheng He period*.

Generally, the Western narrative concerning the Zheng He period can be summed up by the opinion of Watt and Leidy:

> Historical writing on [Emperor] Yongle can be compared to literary criticism-which is to say his actions, and the motives behind them, are open to as many different interpretations as there are commentators. The epic maritime expeditions that he instigated, led by the able officer Zheng He, have generated many legends and historical studies. Irrespective of the consequences of the expeditions, they have occasioned either high praise as a spectacular achievement or blame as an extremely expensive exercise serving no particular purpose.[8]

When the voyages ended in 1433, there is therefore a contemporary Western perception that the Ming Dynasty engagement with the sea then ended on absolute terms, much as the earlier Yuan Dynasty maritime

---

6 R. Ptak, *Asia and the Eastern Seas*..., p. 24.

7 L. Jung-pang, B. Elleman (ed.), *China as a Sea Power 1127–1368*. Singapore 2011, p. 332.

8 J.C.Y Watt & D.P. Leidy, *Defining Yongle: Imperial Art in Early Fifteenth-Century China*. New York 2005, p. 9–10.

offenses against Japan and into the Java region had ended with defeat and abandonment of maritime operations.[9] Hayton has clearly articulated the contemporary China watcher's perception:

> In the end, this 'gunboat diplomacy' lasted just 30 years. Jealous court officials curbed the eunuch's powers. Policy priorities turned inwards: Zheng's maps were burned and his boats left to rot away. China didn't possess another naval ship capable of reaching the islands of the South China Sea until it was given one by the United States 500 years later.[10]

The extraordinary and extremely bold claim that there were 500 years of zero Chinese maritime history and engagement in the South China Sea region cannot be supported by the facts presented in this paper. The reasons provided by Hayton and others for the ending of the Ming voyages in 1433 are therefore a variety of seemingly impractical possibilities and outright farce: Claims of court jealousy by other eunuchs, and suggestions of outright destruction of the port infrastructure, vessels, sailors, and the knowledge gained from the voyages without supporting primary evidence. Levathes was more direct than Hayton in her claims:

> Shortly after the last voyage of the treasure fleet, the Chinese emperor forbade overseas travel and stopped all building and repair of oceangoing junks. Disobedient merchants and seamen were killed. Within a hundred years the greatest navy the world had ever known willed itself into extinction and Japanese pirates ravaged the China coast.[11]

This destruction would be senseless for a government that relied on large junks to ship rice from the paddy fields of the lower Yangtze River to the Emperor Yongle's newly developed capital of Beijing and silk from Suzhou to

9 Historian J.V. Mills supplies the dates of Zheng He's voyages as: 1405–7, 1407–9, 1409–11, 1413–5, 1417–9, 1421–2, and 1431–3. These are the years used by this writer. J.V. Mills, „Notes on Early Chinese Voyages." *Journal of the Royal Asiatic Society of Great Britain and Ireland*, No. 1/2 (1951), p. 3–25. For discussion of the Yuan Dynasty fleets, their defeats, and the regional consequences, see: J.P. Delgado, *Khubilai Khan's Lost Fleet: In Search of a Legendary Armada*. Berkley 2008. Also: Lo Jung-pang, B. Elleman (ed.), *China as a Sea Power 1127–1368*. Singapore 2011, p. 295.

10 B. Hayton, *The South China Sea*..., p. 26.

11 L. Levathes, *When China Ruled the Seas: The Treasure Fleet of the Dragon Throne, 1405–33*. New York 1996, p. 20.

Tianjin, let alone the merchant voyages that continued overseas.[12] As Judge Azevedo later stated in *Corfu Channel*, destruction of maritime trade routes and the ability to sail safely on them amounts to self-mutilation.[13] The loss of the ability to build ships and continue the long maritime heritage of China would be in an intellectual sense a greater crime than indiscriminate mass murder, which is itself incomprehensible to humanity. This is shown by the example of King Edward VI when he enacted a law 20 years after the Zheng He period to stimulate the fishing industry, encouraging the fostering of a maritime culture in England. The law was enacted so that the Royal Navy would have experienced sailors to draw upon when necessary:

> Attention was given to the fishing trade, and its growth stimulated by an enactment which made Fridays, Saturdays, and Ember days, fish days, under penalty of ten shillings fine, and ten days' imprisonment for the first, and double for the second and every following offence.[14]

By 1582, there were 2,299 fishermen available for service, in a year when Queen Elizabeth I's 25 Royal ships required approximately 3,700 seamen.[15] Edward VI had shown the benefit of his foresight in rendering a law for the

---

12 Shih-shan Tsai, *Perpetual Happiness: The Ming Emperor Yongle*. Seattle 2001, p. 118, 125. See also: J. Fairbank, *East Asia…*, p. 201; K.T. MacKay, *Rice-Fish Culture in China*. Ottawa 1995, p. 23; G. Deng, *Chinese Maritime Activities and Socioeconomic Development, c. 2100 B.C. – 1900 A.D*. Westport 1997, p. 62; I. Yoneo (trans.), *The Junk Trade from Southeast Asia: Translations from the Tôsen Fusetsu-gaki, 1674–1723*. Singapore 1998.

13 Dissenting Opinion by Judge Azevedo: *Corfu Channel* (*United Kingdom of Great Britain and Northern Ireland v. Albania*). (1949). ICJ. p. 90.

14 BL: Royal MS 17 B XLVII c1452–1456, Cotton MS: Otho E VIII "Papers relating to the Admiralty, Navy and Shipping, Edward VI-James I" HL/PO/PB/1/1549 "Private Acts, 3 & 4 Edward VI: Acts of Parliament/Laws/Legislation" Quoted in: M. Oppenheim, *A History of the Administration of the Royal Navy and of Merchant Shipping in Relation to the Navy*. Vol. I. *1509–1660*. London 1896, p. 108. Sabine states that Queen Elizabeth I added Wednesday as the third day. (L. Sabine, "Fishing Excerpts." *Fraser's Magazine,* Vol. II. 1852–1854. London, p. 696. Originally published in: L. Sabine, *Report on The Principal Fisheries of The American Seas: Prepared for The Treasury Department of the United States. 2nd Session, 32nd Congress*. Washington, D.C. 1853, p. 39). See also: USSEN:EX.DOC: 93. 2nd Session, 18th Congress. Message from the President of the United States, transmitting Copies of a Correspondence, &c. Upon the Subject of The Capture and Detention, by British Armed Vessels, of American Fishermen, during the last season. Washington 1825.

15 M. Oppenheim, *A History of the Administration…*, p. 177.

benefit of the Crown that has passed into the English cultural consciousness in a similar path as the Zheng He period has in China.[16] In doing so, Edward and later Queen Elizabeth were also unilaterally creating a repository of knowledge in the interest of national security and a public health benefit, centuries after the Chinese had realised the same benefit could be utilised for the public good.[17] The sailors recruited by maritime nations are also the fishermen who provide proteins for a growing nation and commodities such as pearls and tortoise shells in the case of China.[18] Unfortunately, there aren't autobiographical *Annals of Zheng He*, leaving inflated numbers of ships, their sizes, and the troop quantities they carried to be repeated and requoted, seemingly without further consideration of alternate Chinese sources that show continuity in practice, published narratives, or the Chinese use of metaphor to describe time, length or quantity.

There have been several different Western claims in the literature to the sizes and quantities of Zheng's ships. For example, Dreyer offers an account that details large quantities for Zheng He's fleet and ships; over 200 vessels, and suggests that they were not a force for good due to the fleet numbers, sizes of the ships and troop levels. He likens them to a swarm of locusts, with circa 27,000 men mentioned on 18 occasions in his work to reinforce the quantities he attributes.[19] These men are described mainly sailing as part of a singular armada, rather than smaller fleets visiting multiple locations, which would be a more practical strategic use of a large fleet, as suggested by Ptak. This is reflected in his later statement:

> There is no doubt that eunuchs were in command of the fleet; this is shown not only by Zheng He himself but by the fact that detached squadrons and separate missions to individual countries were always led by eunuchs.[20]

This explanation is closer to the description given by Ptak and Lo, with Ptak stating that fleets were simultaneously visiting Calicut and Brunei,

16 B. Fagan, *Fish on Friday: Feasting, Fasting, and The Discovery of The New World*. New York 2006.

17 L. Jung-pang, B. Elleman (ed.), *China as a Sea Power...*, p. 98.

18 R.A. Donkin, *Beyond Price: Pearls and Pearl-Fishing: Origins to the Age of Discoveries*. Philadelphia 1998, p. 198–202.

19 E.L. Dreyer, *Zheng He: China and the Oceans in the Early Ming Dynasty, 1405–1433*. New York 2006, p. 1, 31, 34, 51, 63, 67, 76, 87, 99, 105, 123, 125, 126, 128, 129.

20 *Ibidem*, p. 127.

having separated at Melaka.[21] It is also notable that Dreyer describes the troops as "mostly military personnel."[22] Yet later he lists civilian boatmen, buyers, clerks, rudder operators, anchormen, interpreters, business managers, accountants, hull caulkers, sailmakers, and other craftsmen.[23] Rudder operators and anchormen alone would account for several hundred men, in total these specialist forms of employment would number in the thousands of men when added to regular sailors and other necessary crewmen. It is therefore unlikely that the total numbers he quotes would be capable of operating as soldiers if they in fact existed in these numbers. The quantities stated would have placed them as an invasion force capable of damage to the economies and food supply of the polities they visited and returned to on later voyages, on the friendly visits that occurred this would be unlikely to endear them, even with fear of force as a motivation. The confused picture presented therefore does not hold up under close examination. It should also be considered that Chinese numbers are often used as a metaphor, something in the tens of thousands being a description of a multitude beyond comparison. For example, the Great Wall was not 10,000 miles in length, and Song Dynasty libraries were not exactly "*Wanjuan lou* (Library of ten thousand fascicles)."[24] Therefore, 27,000 military personnel who were able to fight on each voyage is unlikely.

French states that he quotes Dreyer directly on the details of Zheng's fleet, although with slightly altered numbers; "twenty thousand men… The largest of the vessels were 440 by 180 feet [134 x 54.86 metres], and may even have been as long as 600 feet [182.88m]." French then goes on to claim "more than 20,000 crack soldiers"[25] before going on to suggest the hull shapes were specifically designed for troop loading and movement. However, this ignores the shape's original design purpose, which allows for navigable passage in coastal regions that contain shallow waters and rivers, particularly the river mouths where sand banks are common. Swanson provides the earliest contemporary estimates of these troop numbers and the most detailed examination. However, Swanson claims figures of 27,550 to 30,000, which are later mirrored by Lo (edited by Elleman in 2011), Dreyer,

21 R. Ptak, *Asia and the Eastern Seas…*, p. 24.
22 E.L. Dreyer, *Zheng He…*, p. 31.
23 *Ibidem*, p. 128.
24 T. Brook, *The Chinese State…*, p. 177.
25 H. French, *Everything Under the Heavens: How the Past Helps Shape China's Push for Global Power*. New York 2018, p. 95–106.

and French after citing lower numbers at first.[26] This seemingly detailed information is provided without proper citation or critical examination of the sources that can be independently verified by a scholar. The figures are also larger than the information published in the available published Chinese source, from 1978 in Mandarin and followed by an English translation in 1983.[27] This is one year after Swanson published, although the original Chinese text was published four years prior to Swanson's book. The English translation was published 23 years before Dreyer, and 35 years before French published. As it was specifically published in English, there is no reason for Dreyer and French to have ignored it as a source. Swanson was fluent in Mandarin, therefore it is reasonable for his institution, the U.S. Naval Institute, to have obtained a copy of such relevance to his work, which he could have examined when performing research.[28] The School of Oriental and African Studies in London 'SOAS' received an English language edition during 1984, it was therefore available outside of China without extended delay.[29] It is interesting to note that the Chinese literature suggests smaller troop numbers, by circa 10–13,000 men:

> Early in the 15th century a glowing page was written in the history of world maritime navigation when Zheng He made seven voyages to the South Seas in 20 years, call[ing] at ports in more than 30 countries. On each voyage he took a fleet of 100 to 200 ships, of which from 40 to 60 were 'treasure ships'. The fleet carried over 17,000 men. The vessels, built at Nanjing, assembled at the port of Liujiagang in Taicang County, Jiangsu Province, before going to sea. Zheng He's treasure ships were about 150 metres from stem to stern, their rudder posts 11.07 meters long, each carrying 12 sails.[30]

There is much disparity in the numbers claimed across the literature, and it is the Chinese that make the lessor claims, if a comparison is made on contemporary national lines. The details provided by Dreyer, French

---

26 B. Swanson, *Eighth Voyage of the Dragon: A History of China's quest for Seapower*. Annapolis 1982, p. 33; L. Jung-pang, B. Elleman (ed.), *China as a Sea Power...*, p. 334.

27 Tzu-jan k'o-hsüeh shih yen-chiu-so, *Ancient China's Technology and Science*. Beijing 1983, p. 632.

28 B. Swanson, *Eighth Voyage...*

29 Tzu-jan k'o-hsüeh shih yen-chiu-so. *Ancient China's...;* B. Swanson, *Eighth Voyage...*, p. 632–33.

30 Tzu-jan k'o-hsüeh shih yen-chiu-so. *Ancient China's...*, p. 480.

and Swanson therefore present a large difference from that provided by a knowledgeable Chinese academic source: The Institute of the History of Natural Sciences: Chinese Academy of Sciences, which had scholarly access to the Beijing National Archives located nearby. Therefore, it is reasonable to suggest the Chinese findings are more accurate, or at least plausible. It is also notable that they are the smallest figures provided, showing the opportunities for contemporary Western perception to be altered by outside claims that may bolster political opinion.

Clearly, there is a major disparity in the information claimed as fact. This is supported by Ptak, who in his review of Dreyer's work, questions the account concerning ship sizes among other details, and refutes Dreyer's suggestions later in the book that the Portuguese were primarily violent in their dealings throughout Asia.[31] This claim for Portuguese violence will be examined later, however it is notable that a notable and well regarded historian such as Ptak, who Hayton cites in his later work, is criticising Dreyer's figures.[32] The disconnect between scholarly historian and contemporary watcher is therefore an issue, polarising discussion when politically fuelled opinion is involved, as in the example of China and the Philippines critiques after the visit of President Xi that were provided earlier.

In comparison, later Chinese literature is also more reasoned in its claims concerning the survival of information. For example, Ng states Ma Huan, the writer of *Yingya shenglan* (Overall Survey of the Ocean's Shores) took part in Zheng He's voyages.[33] Having finished his writing after the voyages, Ma Huan's records and his person were obviously not burned or otherwise destroyed, as suggested by Hayton and Levathes in claiming an absolute end of Ming maritime record keeping and a turning of the back on the sea by the Chinese people as a whole. As De Chazournes and Sands have stated; "absolute rules are usually accompanied by soft standards that allow the taking into account of special cases and the balancing of interests."[34]

---

31 R. Ptak, E. Dreyer, "Zheng He. China and the Oceans in the Early Ming Dynasty, 1405–14." *Archipel*, Vol. 74, 2007, p. 256–260.

32 B. Hayton, A. Coor (ed.), *Great Powers, Grand Strategies. The New Game in the South China Sea*. Annapolis 2018, p. 44–45.

33 Ng Chin-keong, *Boundaries and Beyond: China's Maritime Southeast in Late Imperial times*. Singapore 2017, p. 211. See also: X. Fei, J.V.G. Mills, R. Ptak (eds), *Hsing-ch'a-sheng-lan: The Overall Survey of the Star Raft*. Wiesbaden 1996.

34 L. De Chazournes, P. Sands (eds), *International law, the International Court of Justice, and Nuclear Weapons*. Cambridge 1999, p. 491.

Meanwhile, Torck states Zhou Man had "proceeded [Zheng He] with a squadron from Semudera, on the northern tip of Sumatra, to the Arabian city of Aden."[35] Clearly, the presence of a proceeding squadron also shows that there were other capable commanders, exhibiting that Zheng He was surrounded by other leaders capable of being entrusted with ships and troops. This is consistent with Dreyer's claims that there were several squadron commanders; "the fact that detached squadrons and separate missions to individual countries were always led by eunuchs."[36]. It is therefore appropriate to consider the period by the name of its overall commander, Zheng He, especially as he was not actually present with every fleet, or at every port of call according to several scholars, including Dreyer.

The disparity in information provided, and the bold claims by Western authors who repeat the same data, has created an 'echo chamber', which Roberts has described as "asymmetrical diffusion."[37] This trait is often found in contemporary Western commentator's written work when a subject becomes fashionable from a news or political standpoint, enabling the rapid publication of literature on the subject being discussed for financial gain, rather than scholarly works. Such information, given credence by repetition and perceived reputation, then becomes part of the popular discourse, on the South China Sea in this instance. The result is that authors and other commentators are publishing unsupported claims as fact, which perpetrates the life of the unsourced information without question when in reality it should be independently investigated for accuracy and often discarded. As the above has shown, it is possible for a Western scholar to perform such an investigation into alternative resources that are readily available, especially since the internet has come of age and foreign library catalogues can be searched remotely to seek sources and access a vast body of information. Otherwise the possibility for a pre-manufactured outcome based upon well publicised opinion can be dangerous from an international relations perspective.

The reasons often given for a disparity in the information provided concerning the events post Zheng He stem from the perceived lack of records and an inability to confirm their existence through other means, such as a comparative study or outside sources, which are not numerous or take time

35 M. Torck, *Avoiding the Dire Straits: An Inquiry into Food Provisions and Scurvy in the Maritime and Military History of China and wider East Asia*. Wiesbaden 2009, p. 161.

36 E.L. Dreyer, *Zheng He...*, p. 127.

37 A. Roberts, *Is International Law International?* New York 2017, p. 52.

to develop. The findings of international tribunals such as that held under the auspices of UNCLOS in 2013–2016 and other governmental bodies have relied on this apparently scanty knowledge base to push back against what appear upon closer examination to be reasonable claims in the literature produced by academic institutions in the People's Republic of China 'PRC'. Therefore, the formation of an independent history that is derived from internationally held sources, which are recorded directly and indirectly through the observations and experiences of others, should be realised to allow for a global understanding of these events and their consequences instead of a raft built on unprovable claims. Consider for example a Royal Navy officer's claims of Zheng He voyages to the Americas, which the historian Blussé has called "farfetched."[38] These disagreements in the literature and the damage that they cause, can have far reaching implications as they permeate society becoming more used to short passages delivered by social media rather than contemplation of scholarly works.

While the lack of a neatly archived and prepackaged archival record could offer support to the suggestion by Hayton, Levathes, and others that all materials and knowledge were destroyed after the period ended, this is not borne out by the Chinese maritime events that occurred after 1433, events that continued to the end of the Ming Dynasty in 1644.[39] Nor are these claims of destruction supported by the current availability of Ming maritime records, for example the sailing directions, or route maps as they can be called, held in the U.S. Library of Congress. During his comparative study of the directions provided, the historian J.V. Mills has dated the *Mao K'un* directions to "about 1422."[40] This detailed navigational information is showing that records did survive.

Otherwise, the physical ability of the Ming to eject the Portuguese from Canton (Guangzhou), the Dutch from the Pescadores Islands and Taiwan, and the Japanese from Korea in support of the Joseon King Seonjo while Ming armies simultaneously fought a Mongol uprising in the north of

38 G. Menzies, *1421: The Year China Discovered the World*. London 2004; L. Blussé, "*Oceanus Resartus*; or, Is Chinese Maritime History Coming of Age?" *Cross Currents: East Asian History and Culture Review*. No. 25 Dec. 2017, p. 13.

39 S.H. Tsai, *The Eunuchs in the Ming Dynasty*. New York 1984, p. 114.

40 J.V. Mills, "Chinese Coastal Maps." *Imago Mundi*, Vol. 11 1954, p. 154. USLOC: Map.G2306.R5.M3:1644 "Mao K'un Map". See also: F.C. Miller, "Early Maps of China and of the Mediterranean." *The Geographical Teacher*, Vol. 11, No. 5 Summer, 1922, p. 296–300.

China show that the military organisation of the Ming could muster a potent naval force when necessary, long after the Zheng He period was over.[41] For these maritime efforts to take place and detailed records of the period to exist, there could not have been permanent or complete destruction as Hayton and Levathes have claimed. This ability to create error ridden contemporary narrative can be considered to have potentially deadly international repercussions when it is repeated as factual in Tribunal Awards.

This writer is not the first to suggest the need for an independent examination of the history through primary sources and parallel experiences. Among contemporary watchers, Hayton has called for a similar process, without thought for re-examination of his own prior arguments:

> It is no longer good enough for advocates of the Chinese claim to base their arguments on such baseless evidence. It is time that a concerted effort was made to re-examine the primary sources for many of the assertions put forward by these [Chinese] writers and reassess their accuracy. The resolution of the disputes depends on it – both in the courtrooms of The Hague and in the waters of the South China Sea.[42]

Hayton does not detail what he considers to be baseless evidence, although official Chinese claim can be considered through the Foreign Ministry of the Peoples Republic of China statements concerning historic rights usages and occupation over many centuries.[43] Overall, this disparity in views and opinions provides cause for a detailed historical examination. The understanding this examination provides may then be utilised in the formation of an equitable resolution for all parties, which is the overall objective of this thesis.

---

41 S. Pow-key (ed.), H. Tae-hung (trans.), *Nanjung Ilgi. War Diary of Admiral Yi Sun-sin*. Seoul 1977; K.M. Swope, *A Dragons Head and a Serpent's Tail: Ming China and the First Great East Asian War, 1592–1598*. Norman 2009; H.B. Morse, *International Relations of the Chinese Empire*. Vol. I. London 1917, p. 41; J.W. Davidson, *The Island of Formosa, Past and Present*. London 1903, p. 10–3.

42 B. Hayton, "Fact, Fiction, and the South China Sea." *Asia Sentinel*. 2015, May 25, https://www.asiasentinel.com/politics/fact-fiction-south-china-sea/.

43 *Opening Remarks of Ambassador Liu Xiaoming at the South China Sea Arbitration Press Conference.* 2016. July 20, London, U.K, https://www.fmprc.gov.cn/mfa_eng/wjb_663304/zwjg_665342/zwbd_665378/t1383951.shtml. See also: T.-K. Chang, *China's Claim of Sovereignty over Spratly and Paracel Islands: A Historical and Legal Perspective*, https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1644&context=jil.

There are practical considerations within the history of the Zheng He period that require discussion. This will allow an understanding of their consequences for later centuries and verify the existence of a historical continuity in Chinese maritime knowledge and experience, showing that the Ming did not in actuality destroy all Chinese maritime knowledge and experience. Much of this knowledge was and still is passed down by word of mouth within the Chinese fishing communities. This makes an independent study of the history and use of the observed knowledge vital for a globally acceptable historical foundation to be developed before an examination of China's later maritime history and its consequences can begin. An example of this knowledge transfer is provided by Swanson: "Many in this group [pictured] were rough and tough junkmen who worked desperately hard for low pay. They passed on their sailing knowledge from father to son."[44] This knowledge base and passage can be observed through the information produced by outsiders; the Arabs and Westerners that passed through the region provide an independent and verifiable record, due to the ability for provenance to be examined through publication dates, ancillary data, and other tests of legitimacy. Any lack of written detailed and verifiable original source information concerning Zheng He's vessel maintenance needs and ship rebuilding patterns can then be examined through the Western maritime experience gained under the same marine conditions. This may provide an answer through the comparative data, added to eye witness reports that can be obtained from an examination of Western primary sources. Such an examination can be performed through a comparison of the early Western experience with the information that is independently recorded concerning historical Chinese marine technologies and practices from both before and after the Zheng He period. By doing so, the study can shed new light on the practical reasons for the suspension of Zheng He's fleet activities, and then consider the post Zheng He period through an examination of the observed use and continuity of Ming maritime activity and overall knowledge application into the beginnings of China's maritime engagement with the West in the 16th and 17th centuries.

As we have seen, there is a necessity for independent verification of the existence of a historical continuity in Chinese maritime knowledge and experience. Much of this knowledge was and still is passed down by word of mouth in China, making it necessary for an independent study of the

44 B. Swanson, *Eighth Voyage...*, p. 23.

exhibition and use of this knowledge vital for a globally acceptable historical foundation to be developed before an examination of China's later maritime history and its consequences can begin. The research contained within this paper is based around methodology of this nature, and applied in a wider sense to create an independent history of the region. This examination will begin by examining the knowledge possessed by the Roman Empire and the Arabic traders, respectively one of the earliest European powers to trade in Chinese goods and commodities and the earliest civilization to engage in long distance maritime trade with China.

Early Maritime Trade Routes into the South China Sea Region

The Roman Empire period provides one of the earliest recorded histories of European maritime trade for Chinese goods and commodities, primarily silk and pearls, worn by the Roman elite, which was later found as far away as the British Isles, in the market town of Colchester.[45] Miller provides a *Summary of the Trade Routes, and the Spices carried on them,* showing how widespread maritime trade was in antiquity.[46] These Greek and Roman period maritime routes closely match the voyage routes of the Zheng He period; through the Indian Ocean and South China Sea region, as noted by Simkin's in his work on traditional Asian trade.[47] Miller also notes the Roman Empire engaged in tributary trade, using the merchants to carry diplomatic gifts of products such as asbestos cloth on their return voyages in a similar pattern to the later Chinese experience.[48] Lo suggested China

45 R.E.M. Wheeler, *Rome Beyond the Imperial Frontiers*. London 1954, p. 172–81; R. McLaughlin, *Rome and the Distant East: Trade Routes to the Ancient Lands of Arabia, India and China*. London 2010, p. 149. See also: R.A. Donkin, *Beyond Price…*, p. 198–202; J. Lawton, N. Wheeler, T. Eigeland, B. Lyons, *Silk, Scents & Spice: Tracing the World's Great Trade Routes: The Silk Road, the Spice Route, the Incense Trail*. Paris 2004.

46 J.I. Miller, *The Spice Trade of the Roman Empire, 29 B.C. to A.D. 641*. Oxford 1969, p. 148, 241. See also: N. Pollard, S. Colvin (ed.), *The Greco-Roman East: Politics, Culture, Society*. Cambridge 2004, p. 174, 272.

47 C.G.F. Simkin, *The Traditional Trade of Asia*. London 1968, p. 28.

48 M. Polo, H. Yule, H. Cordier (eds), *The Book of Ser Marco Polo,* Vol. I. 3rd Ed. London 1903. Bk. I, Ch. XXXI, p. 118 & Ch. XLII, p. 194–5. Also: C.G.F. Simkin, *The Traditional Trade of Asia*. London 1968, p. 213, see also p. 199, 208.

learned the benefits of tributary trade by the 13th century from non-Chinese states in the north of the Asian continent, however Miller's work suggests Rome was the original example.[49] In his work, Miller described details of Roman trade into the Indian Ocean, and of Chinese trade to Rome: "The Romans (wrote the Han chronicler), are honest in their transactions and there are no double prices. The budget is based on a well-filled treasury."[50] Therefore, there was a maritime global connection between Europe and China recorded before the birth of Christ.[51] Mills later described the early presence of Chinese maritime ability that this activity entailed:

> The Chinese have a long sea-faring tradition. By Confucian times (551–479 B.C.) navigation was highly developed in the principalities at the mouth of the Yangtze River; in the fourth century B.C. the Chinese navigated the high seas; a Chinese navy existed from the beginning of the Christian era; by the seventh century of the era [7 A.D.] the Chinese were the boldest navigators in the Orient and had a considerable navy which continued to develop; by the twelfth century they controlled the sea-routes to the south-east and to India; in the thirteenth century China could muster a huge naval armada, while the Chinese naval junks threatened the trade of the Arabs in the Indian ocean.[52]

The Zheng He period was therefore based on a solid foundation of maritime history based on trade patterns that stretched back over 2,000 years. By noting its beginnings in the Yangtze, Mills was also recording an early Chinese trait; water could be utilised for transportation.[53] On the flood plains that provided a basis to grow rice paddy, cultivate fresh water fish farms, aid in silk production, and other agricultural purposes, the Chinese were also exhibiting a propensity to contain and give unnatural boundaries to the waters utilised for production and transportation. For a people who were later to consider a sea their territory, manifest by the process of drawing boundary lines around the portion they used as a farmer uses a field,

---

49 L. Jung-pang, B. Elleman (ed.), *China as a Sea Power*..., p. 288; J.I. Miller, *The Spice Trade*..., p. 148. Also: R.E.M. Wheeler, *Rome Beyond*..., p. 176.

50 J.I. Miller, *The Spice Trade*..., p. 215, see also p. 32, 52, 211. This is quoted in length by Wheeler: R.E.M. Wheeler, *Rome Beyond*..., p. 174.

51 J. Shepard, C. Holmes, N. Standen (eds), *The Global Middle Ages*. Oxford 2018, p. 141.

52 J.V. Mills, "Chinese Coastal Maps."..., p. 152.

53 U.K. Admiralty, Naval Staff (ed.), *China Proper*. Vol. 1. London 1941, p. 105–7.

the foundation of this 20th century process as a natural act was founded in antiquity.

The goods that were provided gave a basis for the trade system that was essential for the wellbeing of the State through economic growth. As Song Yingxing stated in the late Ming period, circa 1637: "[M]en, divided into groups, have produced manifold goods, these are traded in order to create the [civilized] world."[54] Song wrote this statement in the introduction of his section concerning ships and carts, emphasising the joint placing of the merchant and trade in the regional transport system and international linkages over 100 years after the close of the Zheng He period. His observations concerning the creation of the world as he knew it, or civilised society as it could be called, can be seen through the rise in demand for foodstuffs and commodities from an increasing and relatively wealthy population. This was partly provided by traders and fishermen who fed a rapidly growing population, which can be seen by the name given to the Pescadores Islands by the Portuguese:

> The driving rains of that locality [the Pescadores Islands] pause just enough during the dismal year to permit the Chinese inhabitants to dry the fish that they catch. The sole industry explains the name given by the early Portuguese voyagers to these forty-eight islands which, with a total area of less than a hundred square miles, are indeed nothing but bleak platforms for the fisherfolk who eke out their lives there like seagulls.[55]

Therefore, the ability of the Chinese fishermen to be ready for more extreme tests in navigation was on display in the Pescadores Islands. This ability to survive harsh elements and prepare for a life at sea by all fishermen was a vital repository of information and knowledge, noted by the Navies of Britain and the U.S. as useful for recruitment of experienced sailors during periods of conflict, as Congress observed: "England has in

---

54 A.S: IHP:A640122. Y. Song, *Works of Heaven*. 1637. Ch. 2, No. 9, 29a; Y. Song, *Tian gong kai wu*. Taibei Shi 1955; Y. Song, E-tu Zen Sun, Shiou-chuan Sun (trans.). *T'ien-kung k'ai-wu; Chinese Technology in the Seventeenth Century*. Pennsylvania 1966, p. 171, Quoted in: D. Schäfer, *The Crafting of the 10,000 Things: Knowledge and Technology in Seventeenth-Century China*. Chicago 2011, p. 120. See also: Y. Kim, *Questioning Science in East Asian contexts: Essays on Science, Confucianism, and the Comparative History of Science*. Leiden 2014, p. 53–72.

55 E.A. Falk, *Togo and the Rise of Japanese Sea Power*. London 1937, p. 225.

her merchant service a large reserve of men, who are always obliged to be ready to present themselves [for Naval service] at a moment's notice."[56] In plying their normal trade however, the fishermen and other mariners were able to supply a growing demand for food, a basic requirement for Britain, China, and the United States when the question of fishermen arose in their respective histories. A basis of this growing requirement for food was noted by Acemoglu, who estimates that China's highest level of urbanisation was in 1500 during an examination of the period from 1000–1850, less than a decade before contact was made with the Portuguese in Melaka by Chinese merchant junks.[57] In comparison, England shows rapid urbanisation from 1700 onwards, after slower growth from 1200–1600, although the later period surpassed the urbanisation levels of China, when her demand for food grew exponentially.[58] This change from a horticultural society did not change the basis of England's wealth, however it shows the growing societal change into what Adam Smith would later famously describe as "a nation of shopkeepers."[59] The same changes in trade and the rise of a merchant class that Rome experienced as it became wealthy can therefore be found in the English period before Colonisation became a feature to the point of 18th century rampant unrest and decline in the Americas and it can also be noted at various points as China experienced similar changes towards the end of various dynastic periods.[60] The similarities in the histories of these countries provide an example of how history can be forgotten, but the perception of that history and its meaning can prevail in memory.

---

56 USSEN:EX.DOC.No. 28. 41st Congress, 2nd Session U.S. Select Committee: *Causes of the Reduction of American Tonnage: 1870*. Washington: U.S. Government Press, p. 187. "[B]y the substitution of Indian sailors for British, and thus deprive the country of an essential part of its defence in time of war" – Reports and Papers of the Impolicy of Employing Indian Built Ships in the Trade of the East India Company and of Admitting Them to British Registry. *Society of Ship-Owners of Great Britain*. 1809, p. 263–4.

57 D. Acemoglu, *et al*., *The Rise of Europe: Atlantic Trade, Institutional Change and Economic Growth*. Cambridge 2003, p. 546; A. Albuquerque, W. de Gray Birch (ed.), *The Commentaries of the Great Alfonso d'Alboquerque, Second Viceroy of India*. Vol. III. London 1875, p. 199.

58 D. Acemoglu, *et al*., *The Rise of Europe*..., p. 548.

59 A. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*. Edinburgh 1827, p. 253.

60 G.L. Beer, *The Origins of the British Colonial System, 1578–1660*. Gloucester, MA 1959, p. 340. See also: F.V. Meyer, *Britain's Colonies in World Trade*. London 1948.

These changes can also be seen in variations of regional space, political control, and environmental impacts over the millennia that have caused domestic and international change to regional polities, as in the case of the Roman Empire. This adds to the knowledge and sourcing of commodities supplies, and the peoples who sailed the trade routes from Africa and the Middle East to Japan.[61] As Manguin notes:

> One should also take into consideration the analogy with a later process of major cross-cultural exchange in Southeast Asia: 'Islamisation' of parts of Southeast Asia became effective, starting in the thirteenth century, only after centuries of post-Hijrah (and earlier) exchange with the Middle East.[62]

The ability to change and adopt to new political situations has allowed the ideal of unity that is China to survive as a civilisation while Rome slowly faded away to distant memory, only the remains of buildings and artefacts surviving as physical reminders of a bygone age. China has continued, and due to this early maritime base was also an early developer of maritime resources that were only later surpassed in scale and ability by the West during the late 18th century. This later development in the final phase of globalization began as European urbanisation achieved rapid growth levels that were combined with a demand for trade growth, matching the earlier experiences of Rome and China before expanding to become truly global in scope.

In the European beginnings of globalization, the Portuguese who first sailed into the Indian Ocean had the benefit of an Arab knowledge base, based on a long presence and historical awareness, as noted by Manguin, Cortesão, Diffie, and Samsó, among others.[63] The Arab writers who first wrote about this experience were recording the presence of Chinese junks in the South China Sea region, and with it the hunting of whales for oil, which had a variety of functions that required energy, primarily as a source of heat, which was used at sea by the Chinese for water desalination among other purposes.[64] This

---

61 P.J. Thomas, *Merchantilism and the East India Trade*. London 1926, p. 111–17.

62 P-Y. Manguin, *et al., Early Interactions between South and Southeast Asia: Reflections on Cross-Cultural Exchange*. Pasir Panjang 2011, p. *xxvii*.

63 A. Cortesão, *History of Portuguese Cartography, Vol 1&2*. Lisbon 1971; B.W. Diffie, *Prelude to Empire: Portugal Overseas Before Henry the Navigator*. Lincoln 1960; J. Samsó, *Islamic Astronomy and Medieval Spain*. Aldershot 1994.

64 J. Hawkins, C.R. Markham (eds), *The Hawkins' Voyages, during the reigns of Henry VIII, Queen Elizabeth, and James I*. London 1878, p. 164; S. Hales, *An Account of*

Arab record is also notable due to whale hunting as a long term source of oil, therefore it was not an activity performed on a short term or casual manner, as whale hunting techniques require technical and social development for sufficient quantities of oil to be available for long distance trade.[65] Whale harvesting also requires maritime techniques to be developed and their migration patterns to be followed, exhibiting a wider knowledge of maritime affairs and nature over a long period.[66] As the Arab al-Idrisi, the court geographer to King Roger II of Sicily, noted in his 1154 work where he provided details of Chinese junks to the West:

> All the Chinese ships, great or small, that navigate in the China Sea are solidly constructed of wood. The pieces of timber are disposed geometrically one over the other, protected by palm fibres and caulked with flour and fish oil. In the China Sea and the Indian Ocean there are large animals 100 yards long and 25 wide, on the backs of which grow bumps of rocks and shellfish like vegetation, by which the ships are sometimes damaged. Mariners recount how they attack these animals with arrows and thus force them to move out of their way. They add that they pierce the smallest of these animals and boil them in cauldrons, that their flesh dissolves and turns into liquid fat. This oily substance is renowned in the Yemen, in Aden, on the coasts of Fars and Oman, and in the Indian Ocean and the China Sea. The people of these regions make use of this substance for filling the hulls of the ships.[67]

---

a useful discovery to distil double the usual quantity of seawater, by blowing showers of air up through the distilling liquor; and also to have the distilled water perfectly fresh and good by means of a little chalk. And an account of the great benefit of ventilators in many instances, in preserving the health and lives of people, in slave and other transport ships; which were read before The Royal Society. London 1756; J. Haarhoff, "The Distillation of Seawater on Ships in the 17th and 18th Centuries." *Heat Transfer Engineering*, 30(3), 2009, p. 237–250; M. Komatsu, *The History and Science of Whales*. Tokyo 2004, p. 75; J.M.V. Acebes, *Historical whaling in the Philippines: origins of 'indigenous subsistence whaling'*. Perth 2009, p. 14, 22.

65 G. Deng, *Chinese Maritime Activities and Socioeconomic Development, c. 2100 B.C. – 1900 A.D*. Westport 1997, p. 171.

66 J. Nieuhof, J. Ogilet (trans.), *An Embassy from the East-India Company of the United Provinces, to the Grand Tartar Cham, Emperour of China, Delivered by their Excellencies Peter De Goyer, and Jacob De Keyzer, At his Imperial City of Peking*. London 1669, p. 270.

67 The translation is from a copy dated 1344; al-Idrisi in T. Kahair, *et al*. (eds), *Other Routes: 1500 Years of African and Asian Travel Writing*. Oxford 2006, p. 100. See also: H. Hasan, *A History of Persian Navigation*. London 1928.

Whale fat has been a source of energy for centuries, dating back to at least the period of the Roman Empire.[68] That al-Idrisi was able to record the hunting of whales in the Indian Ocean, South China Sea region and Chinese ships in 1154 exhibits the longevity of the practice in Chinese maritime history. Marco Polo also recorded the presence of whales, noting that the watertight compartments present in the design of Chinese junks help to contain the water of any leaks created "either by running on a rock or by the blow of a hungry whale."[69] Whales were also noted earlier by Arab navigators in the Indian Ocean.[70] This has been a familiar body of water for Chinese mariners, who according to the Arab jurist and traveller Ibn Battûta would regularly winter in Panderani, southwest India, but sail north, as far as Nileshwar in 1342.[71] Acebes, in her study of Philippine historic whaling for the *History of Marine Animal Populations 'HMAP' – Asia project of the Census of Marine Life*, notes the historic distribution of whales was to the west of Taiwan and Luzon, in the Sulu and Celebes Seas, and south of the Spratly Islands in the South China Sea.[72] She also noted the ability to hunt further out to sea only after the development of outboard motors for small boats, suggesting Filipino fishermen were coast bound, which the Chinese could not be, based upon her study of the historical breeding grounds and the earlier writings of Marco Polo, Ibn Battûta, and al-Idrisi.[73] In his 1673 account of the first Dutch East India Company embassy to China, Nieuhof noteed the presence of whales near Hainan:

> Near to the Island Hainan are caught Whales, after the same manner as the Hollanders and English take them in the North about Greenland, whereof they make Oyl [oil] which serves for several uses.[74]

---

68 A.S.L, Rodrigues, *et al*., "Forgotten Mediterranean calving grounds of grey and North Atlantic right whales: evidence from Roman archaeological records." *Proceedings of the Royal Society B: Biological Sciences.* 2018, p. 285.

69 M. Polo, H. Yule, H. Cordier (ed.), *The Book of Ser Marco Polo,* Vol. II. 3rd Ed. London 1903. Bk. III, Ch. I, p. 249.

70 A. b. Mājid al-Najdi, G.R. Tibbetts (ed.), *Arab Navigation in the Indian Ocean before the coming of the Portuguese*. London 1971, p. 289.

71 Ibn Battûta, H.A.R. Gibb (ed.), *Selections from the Travels of Ibn Battûta*. London 1929, p. 215, 234.

72 J.M.V. Acebes, *Historical whaling...*, p. 26.

73 *Ibidem*, p. 7.

74 J. Nieuhof, J. Ogilvy (ed.), *Report of the Embassy of the Dutch East India Company to the Emperor of China*. London 1673, p. 237. For a study of Johan Nieuhof's work,

Acebes was studying whales for the Philippines, and may not have considered Hainan as a hunting ground, especially as it was out of the reach of the paddle propelled canoes she stated the Filipino's traditionally used. However, the observations of the practice, and the details of Chinese shipping and presence in the South China Sea region exhibit the ability to verify historical information through personal observations and records made over an extended period. The primary point made through this examination is the knowledge and ability of the Chinese to engage in maritime trade and harvest throughout the South China Sea region and into the Indian Ocean from 1154–1673 in Western records, earlier if the trade with Rome is included.

The Chinese voyages of the Zheng He period were therefore not voyages of discovery or exploration, they were government directed and funded visits to known polities utilising well developed technologies and information sources. The prior voyages, made by traders and fishing vessels, were formative, and now proving to be of benefit to the state. This was in a manner consistent with the achievements of Henry the Navigator, whose knowledge grew from the previous experience of generations of Portuguese fishermen and traders added to the awareness of Arabic astronomers.[75]

Royal use of private citizens, which can be seen through the acceptance of 1353 Portuguese merchant treaties signed with King Edward III of England.[76] These acts are consistent with the laws concerning contemporary government provision of public goods through use of private sources for national gain.[77] It is also consistent with the information provided by

see: R. Walsh, *Johan Nieuhof's Cathay: Aspects of Inventing a Travelogue in Early Modern Europe*. MA Dissertation 2011. https://honors.usf.edu/documents/Thesis/U47986163.pdf (accessed: 20.01.2019).

75 B.W. Diffie, *Prelude to Empire...*, p. 90; F.C. Danvers, *The Portuguese in India: Being a History of the rise and decline of their Eastern Empire*. Vol. I. London 1894, p. 21–3; J. Samsó, *Islamic Astronomy...,* p. 3; D.C. Wong, G. Heldt (ed.), *China and Beyond in the Mediaeval Period: Cultural Crossings and Inter-regional Connections*. New Delhi 2014; A. Cortesão, *History...,* Vol. 1.

76 Sir W. Scott, "A Bill for the Encouragement of Seamen." *Public Characters of 1807,* Vol. 9. London 1807, p. 549–552; W.P. Heere, J.P.S. Offerhaus, J.H.W. Verzijl, *International Law in Historical Perspective*. The Hague 1998, Vol. XII, p. 236. Vol. XI; p. 303.

77 *Holladay v. Patterson* 1874 OR Sup. Ct.; C.B. Bellinger (ed.), Reports of Cases Decided in The Supreme Court of the State of Oregon; 1873–1872. San Francisco 1876, p. 180–1; E. Thompson (ed.), *The American and English Railroad Cases: A Collection*

a statement made before the end of the Second World War by the British Military Administration, Malaya 'BMA':

> It must not be forgotten that while Europe was still relying on the galley in the Mediterranean and was only feeling towards the fore- and aft- rig in the North Seas and sailing in ships whose capacities measured in tens of tons, the Chinese were already ocean sailors with junks to be found from their own coasts to the mouth of the Indus whilst the Arabs in dhows of over 1,000 tons capacity were bringing the spices of the East Indies to Egypt and the European markets.[78]

Therefore, in 1945 the BMA recognised continuity in the historical maritime experiences of Chinese peoples, their geographical knowledge of the South China Sea and Indian Ocean, continuity that was also noted by Park, Ptak, Boxer, and other historians.[79] These maritime experiences, adding to the people to people links and intellectual transfer between the Chinese and Arab mariners over the centuries, played a large part in establishing the routes that were then taken by the Ming sailors in the Zheng He period. Among the 37 polities visited were the following: Aden, Bengal, Brava (Somalia), Ceylon (Sri Lanka), Champa (now part of Southern Vietnam), Dhafar, Hormuz, Kelantan (now a state in Malaysia), Majapahit, Malacca (Melaka), Malindi (Kenya), Thailand, and Palembang, which was not listed as a foreign polity due to its political relationship with China.[80] This information is matched by the *Hsing-Ch'a Sheng-Lan, The Overall Survey of the*

---

of All Cases Affecting Railroads of Every Kind, Decided by the Courts of Appellate Jurisdiction in the United States, England, and Canada. Vol. 65. Philadelphia 1912, p. 756; B.H. Irvin, *Clothed in Robes of Soverignty: The Continental Congress and the People Out of Doors*. New York 2011, p. 139; B. Unger, D. van der Linde, M. Getzner, *Public or Private Goods? Redefining Res Publica*. Cheltenham 2017, p. 10–12; E. Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*. New York 2002, p. 62.

78 NLBS.CA:MR.382.095951.SIN. DePt. of Trade and Industry, British Military Administration, Malaya 1945. *Entrepôt Trade of Singapore*, p. 5.

79 H. Park, *Mapping the Chinese and Islamic Worlds: Cross-cultural Exchange in pre-modern Asia*. Cambridge 2012e; R. Ptak, *China's Seaborne Trade with South and Southeast Asia, 1200–1750*. Aldershot 1999; C.R. Boxer, *From Lisbon to Goa, 1500–1750: Studies in Portuguese Maritime Enterprise*. Aldershot 1984.

80 E.L. Dreyer, *Zheng He: China and the Oceans in the Early Ming Dynasty, 1405–1433*. New York 2006, p. 55–58, 95–97, 205–215.

Star Raft, which was written from experience, although unfortunately not by Zheng He himself.[81] These polities are comprehensively reflected in the writings of Ptak, Mills, *et al*, therefore there is broad agreement in the historical literature on the geographical locations that the Chinese sailed to in the Zheng He period.

While there are some polities that experienced leadership change due to Zheng He's, in comparison to the European model of tenuous fealty to an overlord and seemingly continuous warfare of the period, there was an overall regional stability that only the presence of such a large naval force could guarantee, a strategy later employed in the 21st century by the United States.[82] However, after the Zheng He period was at its height, the Portuguese learned of their prior presence. According to Levathes, Vasco da Gama heard stories of large Chinese ships that visited long ago when they reached the East Coast of Africa:

> In 1498, when Vasco da Gama and his fleet of three battered caravels rounded the Cape of Good Hope and landed in East Africa on their way to India, they met natives who sported green silk hats with a fine fringe. The Africans scoffed at the trinkets the Portuguese offered-beads, bells, stings of coral, washbasins-and seemed unimpressed with their small ships. Village elders told tales of white 'ghosts' who wore silk and had visited their shores long ago in large ships… Zheng He and Vasco da Gama missed each other in Africa by eighty years."[83]

Therefore, the collective memory remained of Zheng He's voyages across the Indian Ocean eighty years later; exhibiting reasons for tributary trade

---

81 X. Fei, J.V.G. Mills, R. Ptak, *Hsing-ch'a-sheng-lan…* See also: H. Ma, C. Feng, *Ying yai sheng lan jiao zhu*. Beijing 1955.

82 J. Kraska, R. Pedrozo, *The Free Sea: The American Fight for Freedom of Navigation*. Annapolis 2018, p. 7; P.K. Monod, *The Power of Kings: Monarchy and Religion in Europe: 1589–1715*. New Haven 1999; Also: J.S. Roskell, *The Commons in the Parliament of 1422: English Society and Parliamentary Representation under the Lancastrians*. Manchester 1954; R. Vaughan, *The Protectorate of Oliver Cromwell, and the state of Europe during the early part of the reign of Louis XIV. Illustrated in a Series of Letters*. Vol. I&II. London 1838; Vaughan published letters between Englishmen in the Swiss Cantons and Cromwell, taken from the Lansdowne Collection, which is held in the British Library; BL: Lansdowne MS 1–1245, Charts and Rolls: Lansdowne MS 1–695.

83 L. Levathes, *When China Ruled…*, p. 12.

and people to people contacts to continue long after the fleet was disbanded. As the Portuguese were to learn to their cost, China still had naval capability after the Zheng He period and the will to use it, which will be discussed in depth later. Having considered the basis for Chinese maritime knowledge and presence in the South China Sea region and Indian Ocean before the Zheng He period, the challenges of historically based literature versus the contemporary China watcher, we can begin to see the continuation of that knowledge base after the period had ended in change, rather than erasure as is often claimed. As the Portuguese were to discover, the results had far reaching consequences in the Melaka Straits region long after the port was founded in 1394.[84] This could be seen when the Portuguese took Melaka; it was to the Chinese Emperor that the deposed Sultan of Melaka took his pleas for aid and reinstatement, a century after an early visit to the then new port by a fleet in the Zheng He period.[85] The actions and consequences after this period will now be examined for duration and impact.

Asian Polities and Chinese Maritime Activity after the Zheng He Period

The UNCLOS Tribunal made a curious historical finding in their Award concerning the late Ming and Qing Dynasty periods. This finding sided with the Philippines, who had made a bold claim concerning the aftermath of the post Zheng He period and the history concerning the Chinese response towards European navigation as the 16th century began. Essentially, the Tribunal found there was no reaction from the Chinese government as the Portuguese arrived in the South China Sea region, or when European colonies were established. In doing so, the Tribunal were siding with the claim made by Levathes which was discussed earlier, when making the following statement within the Award:

---

84 H.B. bin Adil, *The History of Malacca: During the Period of the Malay Sultanate*. Kementerian Pelejaran Malaysia 1974, p. 7.

85 S.H. Morse, A. Cortesão (trans.), *Rulers of India: Albuquerque*. Oxford 1897, p. 101–10; T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental of Tomé Pires: An Account of the East, from the Red Sea to Japan, written in Malacca and India in 1512–1515. And The Book of Francisco Rodrigues: Rutter of a Voyage in the Red Sea, Nautical Rules, Almanack and Maps, Written and Drawn in the East before 1515*. London 1944, p. 245.

> [T]he Philippines notes: During the mid-15th century, for instance, the Ming authorities suppressed maritime activities, and in 1500 made it a capital offence to build two-masted ships. In 1525, all such remaining ships were ordered destroyed. In 1551, China defined venturing out to sea in a multi-masted ship to be an act of treason. This ambivalent attitude to seafaring explains, for the Philippines, China's muted reaction to the activities of European States in the South China Sea and its lack of protest to European navigation and the establishment of colonies in Southeast Asia, beginning in the 16th century.[86]

While hardly ambivalent, the use of dates and specific events within this finding has another effect that may result in serious consequences. If examination of the historical record results in findings for a different response by Chinese government officials, Article 60 of the ICJ statute can allow for an interpretation of the Award or a new question to be brought before an international judicial body. Several aspects of Article 60 of the Statutes of the ICJ have been found, along with the statutes generally, to have no restriction on the time limits for admissibility for an interpretation request to be heard by the Court. This was found in *United Kingdom v. France*, 1978, a case involving European maritime boundary disputes that could not be resolved through negotiations. The case centred around the request of France to "…replace, as from Point L, the description of the boundary-line between the French and United Kingdom parts of the continental shelf by the following description." This case was heard despite initial French Government objections to the United Kingdom's Application to the Court, allowing the Court to further consider its earlier decision in detail and apply new information to their Decision.[87]

Article 60 has further been interpreted in the *Temple of Preah Vihear* 2013 to allow the Court to consider any dispute if:

> [T]he two Governments have in fact shown themselves as holding opposite views in regard to the meaning or scope of a judgment of the Court.[88]

---

86 PCA Case N° 2013–19: *Philippines v. China* (PRC); The South China Sea Arbitration Award of 12 July 2016. Para. 195, p. 81–2; See: L. Levathes, *When China Ruled*..., p. 20.

87 *Case Concerning the Delimitation of the Continental Shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic (United Kingdom v. France): Decision of 14 March 1978* (Interpretation of the Decision of 30 June 1977), UNRIA. Vol. XVII, p. 285.

88 See: *Temple of Preah Vihear* (Cambodia v. Thailand), Judgment of 11 November 2013: para. 33; [2008] I.C.J. Rep. 311, at 325–6, para. 54.

The meaning of the Arbitration Award in *Philippines v. China* can therefore be brought before the Court for interpretation by one of the original parties, or by a third state upon which the Award had a direct impact. It is also therefore admissible for a new question to be brought before the Court, for example on the grounds that the original finding was incorrectly held in substantive detail, affecting the reasoning of the Court and therefore requiring an interpretation based on the facts brought before the Court. This ability to reconsider was found in *New Zealand v. France 1984*, a case involving French nuclear testing in the Pacific Ocean:

> [T]he Court cannot have intended to limit the Applicant's access to legal procedures such as the filing of a new application (Statute, Art. 40, Para. 1), a request for interpretations (Statute, Art. 60), or a request for revision (Statute, Art. 61), which would have been open to it in any event.[89]

Due to these findings by the ICJ in a variety of cases brought for the Court's consideration in the years from 1949 to 2013, it is therefore appropriate for the meaning of the Arbitration Award in *Philippines v. China* to be considered as a test of the findings within the Award, and the merits of the facts presented within.

The question will therefore now be considered: Was the UNCLOS Tribunal correct in finding the details of its Award valid, considered an adequate record of Chinese maritime history, and the actions recorded in Chinese engagement with European incursions into the South China Sea region to reach this conclusion? Did the actions of the Ming government show the attitude and actions claimed, or do the consequences of the post Zheng He period show a different response? What did the tributary states do regarding relations with the Chinese after the end of the Zheng He period? These questions will now be discussed, beginning with the prohibition of ship building and continuing Chinese involvement with the sea. That it is possible to discuss Chinese maritime history post mid-15th century and into the 16th century exhibits either an extreme lack of Chinese law enforcement on the part of local officials or a knowledge gap on the part of the UNCLOS Tribunal.

---

89 Request for an Examination of the situation in accordance with Paragraph 63 of the Court's Judgement of 20 December 1974 in the *Nuclear Tests (New Zealand v. France)* Case. Order of 22 September 1995, p. 82.

The Portuguese were the first Europeans to discover the tributary trade of the Zheng He period had long term consequences.[90] When they took Melaka by force in 1509, it was to the Chinese Emperor that the Sultan of Melaka appealed.[91] While initially there was no positive reaction for the Sultan, this changed after the Chinese began to learn the Portuguese mindset in detail. The first vessels to arrive experienced a welcome based upon the receipt of news in a manner the Tribunal considered impossible:

> The squadron arrived at *Tamão* or *Tumon* Island [Lin Tin Island], about the middle of the Canton River entrance, on 15 Aug. 1517, after meeting a Chinese fleet cruising off the island as a protection against the pirates… The Chinese captain welcomed Andrade and said that 'through the Chinese who went to Malacca he also had news of the good faith and chivalry of the Portuguese'… [Andrade decided to] go to Canton [Guangzhou] with some of his ships, using the Chinese pilots he had brought from Malacca.[92]

As the Water Force cruising on anti-piracy patrols off the port of Guanzhou exhibits, the Chinese had not stopped building ships, which typically had two masts or more.[93] The arrival of news from the Chinese in Melaka also exhibits the same potential for ocean going ships, as the mode of transmission was via five Chinese junks, who had offered to help d'Albuquerque after he declined to burn their junks when he took Melaka in 1509.[94] If

---

90 DTIC ADA519989: Armstrong, B., "China… from the Sea: The Importance of Chinese Naval History." *Center for Contemporary Conflict*. Vol. VI, Issue 6 (December 2007). Monterey: Defense Technical Information Center, p. 6. See also: P. Lorge, *War, Politics and Society in Early Modern China, 900–1795*. New York 2005, p. 119; H. Park, *Mapping the Chinese…*, p. 91–123.

91 A. Albuquerque, W. de Gray Birch (ed.), *The Commentaries…*, *Vol. III*, p. 206.

92 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental…*

93 See: GMM: Waters Collection: Collection of nitrate film negatives P33923-P34580 depicting Chinese junks and sampans; Waters, D.W., "Chinese Junks: The Hangchow Bay Trader and Fisher." *The Mariners Mirror*, 33:1 1947, p. 28–38; I.A. Donnelly, *Chinese Junks and Other Native Craft*. Shanghai 1924; Matsuura, A., "The Activities of Chinese Junks on East Asian Seas from the Seventeenth to the Nineteenth Centuries: Mainly based on Sand Junks and Bird Junks." *The Mariners Mirror*, 94:2, 2008, p. 150–159; G.R.G. Worcester, *Sail and Sweep in China: The History and Development of the Chinese junk as illustrated by the collection of junk models in the Science Museum*. London 1966; East India Docks (London). *A description of the Chinese junk „Keying"*. London 1848.

94 A. de Albuquerque, W. Birch, de Gray (ed.), *The Commentaries…* Vol. III, p. 98. See also: Vol. I. p. 11; BL: GRC G.6389: 1576 "Commentarios de Afonso Dalboquerque…

consideration is given to the UNCLOS Tribunal Award, which found the Chinese government had made it a capital offence to build two masted ships in 1500, how can there be a fleet capable of meeting the Portuguese squadron in 1517 or ships in Melaka in 1509 that were safe to sail back to China? This Portuguese experience also contradicts the statement of Hayton: "China didn't possess another naval ship capable of reaching the islands of the South China Sea until it was given one by the United States 500 years later [in 1945]."[95] Clearly, there were actual Chinese naval vessels capable of sailing the South China Sea region in 1517, within the period stated by Hayton as being an impossible feat. Of more interest is the reaction of the Chinese anti-piracy fleet, which was welcoming towards the Portuguese. This would change as the Chinese began to learn of differences in behaviour and attitude displayed by the Portuguese, as the Censor Ho Ao later observed:

> The Feringis are most cruel and crafty... Some years ago they came suddenly to the city of Canton [Guangzhou] and the noise of their cannon shook the earth... Now if we allow them to come freely and to carry on their trade, it will inevitably lead to fighting and bloodshed, and the misfortune of South China may be boundless.[96]

The result of this change in perception was two battles fought at sea, in 1521 and 1522. In both the Ming prevailed, due to the coastal defence system in place to counter the threat of *Wo-k' ou*; Japanese pirates.[97] Clearly, there were still multiple Chinese ships capable of sailing out into the South China Sea and beating back the Portuguese attempts to force China to open

---

collegidos por seu filho Afonso Dalboquerque das proprias cartas que elle escreuia ao... Rey dõ Manuel o primeyro deste nome, em cujo tempo gouernou a India, etc. Lisbon: I. de Barreira." See also: BL: GRC: C.55.h.16 for the 1557 Edition, which does not contain the later additions made by d'Albuquerque's son in the Grenville Library edition of 1576. Generally, reference is made to the Birch translation of 1875 throughout: BL: GRC: Ac.6172/47 published by the Hakluyt Society in four volumes. Additionally: BL: MSS Eur Mack Private 54: 1678–1817 "Report on Malacca 1678." In Binding, p. 1–5.

95 B. Hayton, *The South China Sea*..., p. 26.

96 S. Subrahmanyam, *The Portuguese Empire in Asia, 1500–1700: A Political and Economic History*. London 1992, p. 101.

97 K.C. Fok, R. Ptak, *Portuguese Asia: Aspects in History and Economic History, Sixteenth and Seventeenth Centuries*. Wiesbaden 1987, p. 148; S. Kwan-wai, *Japanese Piracy in Ming China During the 16th Century*. East Lansing 1975, p. 44–5.

her ports and markets among other security functions long after the Zheng He period. It was not until the Anglo-Sino war of 1839–42 that a European nation was able to force China to open her ports.[98] Until that point, Britain and other European nations had acquiesced in their observance of Chinese regulations.[99] The reasons for Britain were the same as the reasons for local Chinese officials to continue trade semi-officially, as Fay found when Britain decided to take action against the Chinese enforcement of opium importation bans: "The imperative was money. A great many men would suffer in their pocketbooks if England persisted in ignoring what had happened in Canton [Guangzhou]."[100] Since the arrival of the Portuguese, that merchant trade with the West was contained by the Chinese to Guangzhou, and China's control of the maritime trade with her shores can be shown by a variety of acts to be reasonable in the period 1517–1839. This was a period of over 300 years of history that included the change from Ming to Qing dynasties in 1644, exhibiting continuity in practice.[101]

The UNCLOS Tribunal may have found that: "In 1525, all such remaining ships were ordered destroyed. In 1551, China defined venturing out to sea in a multi-masted ship to be an act of treason."[102] But, there are questions raised by such a bold claim. In particular, was the implementation of Chinese

98 G.S. Graham, *The China Station: War and diplomacy, 1830–1860*. Oxford 1978, p. 79.

99 J.E. Bingham, *Narrative of the Expedition to China, From the Commencement of the War to its Termination in 1842*. Vol. I, 2nd Ed. London 1843, p. 141; H.B. Morse, *The Chronicles of the East India Company trading to China 1635–1834*. Vol. IV. Oxford 1926, p. 324–338; See generally: P.W. Fay, *The Opium War, 1840–1842: Barbarians in the Celestial Empire in the early part of the nineteenth century and the war by which they forced her gates ajar*. Chapel Hill 1976; J.K. Fairbank, *Trade and diplomacy on the China coast: The opening of the treaty ports, 1842–1854*. Cambridge 1953; Great Britain. Parliament. House of Commons. Select Committee on the East India Company, & Ward, W. *Reports from the Select Committee of the House of Commons appointed to enquire into the present state of the affairs of the East India Company, together with the minutes of evidence, an appendix of documents, and a general index*. London 1830; J.F.S. Davis, *China, during the War and since the Peace*. London 1852. For a description of the Royal Navy involvement in the war, see: W.L. Clowes, *et al*., *The Royal Navy: A History from the Earliest Times to the Present*. Vol. VI. London 1901, p. 280–304.

100 P.W. Fay, *The Opium War…*, p. 189.

101 J.D. Spence, J.E. Wills (eds), *From Ming to Ch'ing: Conquest, Region, and Continuity in Seventeenth-Century China*. New Haven 1979, p. 92; M.D. Evans, *International Law. 4th Ed*. Oxford 2014, p. 453–60.

102 PCA Case N° 2013–19: *Philippines v. China* (PRC); The South China Sea Arbitration Award of 12 July 2016. Para. 195, p. 81–2.

edicts absolute and a result of court jealousy as suggested by Hayton: "Jealous court officials curbed the eunuch's [Zheng He's] powers."[103] Imperial court officials were typically eunuchs, under the system of governance reinstituted by the Ming, after the Yuan Dynasty ended. As an alternative to the contemporary opinion given by Hayton, the historian Villiers states:

> Private trading by the eunuchs and others continued during this period [16th century], but in the face of increasing official hostility, and Chinese merchants trading in South East Asian ports had to conduct their affairs clandestinely. This greatly encouraged them to develop autonomous merchant communities with what amounted to extra-territorial rights. The most important of these Chinese merchant communities at the end of the 15th century was in Malacca. Ships went to and from Malacca as far as India and China...Technically this trade with China remained an imperial monopoly and was carried out under the pretence of tribute.[104]

This soft control method, while often based on personal relationships and profit by individual officials, carried an air of official knowledge and direction that could be reinforced by a harsh official response on occasion.[105] Chinese sovereignty, in the meaning of the period, was maintained where possible: "The Commissioners of Customs acted on the assumption that China retained all sovereign rights that had not been specifically granted away by treaties."[106] This recognised ability of the Chinese Court to impose its will could still be seen after the establishment of the Chinese Customs Maritime Service, when the first Inspector General, H.N. Lay, was fired by the Chinese Government for overstepping his authority, and Robert Hart was chosen to succeed him in 1863.[107] The result is a complex web

---

103 B. Hayton, *The South China Sea*..., p. 26.

104 J. Villiers, "Silk and Silver: Macau, Manila and Trade in the China Seas in the Sixteenth Century. (A lecture delivered to the Hong Kong Branch of the Royal Asiatic Society at the Hong Kong Club. 10 June 1980.)." *Journal of the Hong Kong Branch of the Royal Asiatic Society, 20*, 1980, p. 66–7.

105 H.B. Morse, *The Chronicles*... Vol. IV, p. 199–221; T. Brook, B.T. Wakabayashi, *Opium Regimes: China, Britain, and Japan, 1839–1952*. Berkeley 2000, p. 31–54.

106 H.B. Morse, *The Internal Relations*... Vol. II, p. 141. See also: SOAS: CWML N303, H.N. Lay, *Our interests in China: A letter to the Right Hon Earl Russell... Her Majesty's Principal Secretary of State for Foreign Affairs*. London 1864.

107 CMCS: Circular No. 23 of 863 (First Series). 30-NOV-1863, S.F. Wright (ed.), *Documents illustrative of the Origin, Development, and Activities and the Chinese Customs*

of official, semi-official, and technically illegal maritime activity over the centuries that exhibited there was Chinese sovereign control, although it was not absolute:

> The Commissioners [from Beijing] were especially indignant that ships should have been sent to Ningbo, contrary to the Emperor's express order, whose wish it was that the foreign trade should be restricted to Canton [Guangzhou].[108]

The system being applied was similar to the Japanese use of Nagasaki as the sole foreign port of trade, limited to Dutch and Chinese ships in the 17th to 19th Centuries, after the closure of the other ports to all foreigners.[109] China, through the port of Guangzhou, operated a similar system, although without the official record keeping and harsh penalties the Japanese system entailed.[110]

There are also continuous examples of Chinese junks trading overseas which shows the ability of Chinese mariners was not significantly curtailed into the 17th century. At the English Factory in Bantam, Java for example, three junks arrived in 1619: "Seizure of three junks newly arrived from

---

Service. Vol. I. *Inspector General's Circulars, 1861 to 1892*. Shanghai 1938, p. 33; UKHC. *Correspondence respecting the fitting out, dispatching to China, and ultimate withdrawal, of the Anglo-Chinese fleet under the command of Captain Sherard Osborn, and the dismissal of Mr. Lay from the Chief Inspectorate of Customs*. London 1864; SOAS: CWML O17.CN.IMP. *Letters, &c., from the Imperial Commissioner Ho, and other Chinese authorities, relating to the foreign customs establishment*. Shanghai 1860.

108 H.B. Morse, *The Chronicles…* Vol. V, p. 82.

109 BL: MSS Eur F484: 1613 "Printed translation of the summary of CaPt. John Saris' petition for East India Company [London Merchants] trade privileges, presented to the Tokugawa Shogunate, 10 SePt. 1613"; BL: MSS IOR/G/12/16 ff.60–66: 1673 "The Japan Diary, Endorsed: 'Received in London the 13 April 1675 per *Eagle*." Copy, by Ralph Cooke, of the diary of Simon Delboe, Hamon Gibbon and William Ramsden covering the abortive visit of the Return to Nagasaki, 29 Jun-28 Aug 1673; E. Kaempfer, J.G. Scheuchzer (ed.), *The History of Japan, Together with a Description of the Kingdom of Siam*. Vol. IV. Glasgow 1906, p. 98–113; J.A. Fogel, *Maiden Voyage: The Senzaimaru and the Creation of Modern Sino-Japanese Relations*. Berkeley, California 2014, p. 33, 142; Y. Suzuki, *Japan-Netherlands Trade 1600–1800: The Dutch East India Company and beyond*. Kyoto 2012; L. Blussé, *The Deshima Diaries Marginalia 1740–1800*. Tokyo 2004.

110 I. Yoneo (trans.), *The Junk Trade from Southeast Asia: Translations from the Tôsen Fusetsu-gaki, 1674–1723*. Singapore 1998.

China in satisfaction of debts owing by Chinese at Bantam. Great pillage by the sailors."[111] The historian Schottenhammer has generally stated that official missions continued alongside private trade:

> China on the other hand sent maritime missions to foreign countries 'to grant investiture on foreign kings'. These missions, as well as the investiture of the *shibo si* [Maritime Trade Office], were mostly controlled by eunuchs.[112]

The people to people links being displayed provided not only commodities and necessities for life, but also information concerning the wider world for the benefit of the government, which could be seen as maritime activity carried out in the service of the Emperor. This left the officials open to private gain, making them often complicit in other activities that were not sanctioned. In reality, this began soon after the ending of the Zheng He period and is shown as continuous, primarily due to the benefits derived by the State and government officials. This can be tested in modern terms through international law:

> The general rule is that the only conduct attributed to the State at the international level is that of its organs of Government or of others who have acted under the direction, instigation or control of those organs, i.e. as agents of the State.[113]

The sailors who were employed to provide safe passage not only on the official carriers of envoys from China, also provided safe passage to the rulers and envoys of other polities who recognised these vessels and their

---

111 BL: IOR/E/3/7 ff 81–86: 23 Nov 1619–9 Dec 1619 "Augustine Spalding on the Unicorn at Masulipatam to the East India Company in London." See also: Foster, W. (ed.), *The English Factories in India, 1618–1669: A Calendar of Documents in the India Office, British Museum, and Public Record Office*. London 1906, p. 156.

112 A. Schottenhammer, *The East Asian maritime world 1400–1800: Its fabrics of power and dynamics of exchanges*. Wiesbaden 2007, p. 16.

113 UN: A/56/49(Vol. I)/Corr.4, United Nations *Responsibility of States for Internationally Wrongful Acts: 2001*. New York 2005, p. 27. See also: United Nations *Yearbook of the International Law Commission on the work of its fifty-third session*. Vol. II, Pt. 2. (2001). New York 2007, p. 38; Military and Paramilitary Activities in and against Nicaragua (*Nicaragua v. United States of America*), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984, p. 392.

crews as being organs of the state. In doing so, the conduct of those sailors may be considered through International Law Commission (ICL) Articles: "An organ includes any person or entity which has that status in accordance with the internal law of the State."[114] This was not unusual in Chinese trade, which was found to exist in North Borneo by the Spanish in 1521, over two decades after the Tribunal found it was a capital offence to build such ships.[115] This period of time leaves the suggestion of an unusually long ship life for a Chinese junk, yet in reality it is limited to approximately ten years.[116]

Earlier than the Spanish arrival noted previously, Tomé Pires recorded the continuance of tribute and Chinese recognition of foreign leaders:

> The king of Java, the king of Siam, the king of Pase, the king of Malacca. These send their ambassadors with the seal of China to the king of China every five years and every ten years, and each one sends him [the Emperor of China] the best there is in his country of what he knows they like there.[117]

Continuance in practice almost a century after the Zheng He period suggests Chinese contact with the polities in question was in actuality very long lasting in duration. According to Levanthes, Hayton, and the UNCLOS Tribunal, this would not be possible via Chinese junks, as discussed earlier. However, the desire of the leaders to continue sending tribute is manifest in its continuance. Roads were not viable alternatives to maritime passage; therefore, the sending of ships would be preferable. As d'Albuquerque stated, five Chinese junks were visiting Melaka when the Portuguese stormed

---

114 United Nations, *Official Records: General Assembly*. New York 2001, p. 500; S. Rosenne, *The International Law Commission's Draft Articles on State Responsibility. Pt. 1, Art. 1–35*. Dordrecht 1990, p. 277. See also: UN: A/57/5/Add.12.Corr.1 (15-OCT-2002); International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. New York: United Nations *R v. Major Alain Mafart; R v. Captain Dominique*, (HCNZ) 1985 [2].

115 Consider: "Report of Pigafetta, the companion of Magellan, who found there [North Borneo] a Chinese trading community." And "The Spaniards found [in 1521] at Brunai (*sic*) Chinese manufactures and Chinese trading junks." W.H. Treacher, *Sketches of Brunai, Sarawak, Labuan, and North Borneo*. Singapore 1891, p. 3.

116 J. Needham, L. Wang, *Science and Civilisation in China*. Vol. III. Pt. 2. Cambridge 1954, p. 468.

117 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental…* Vol. I, p. 118.

the port in 1509, so it is more likely that among the reasons for ongoing tribute was the continual presence of Chinese maritime trade.[118]

The four polities listed by Pires were all accessible by ship, although Siam (Thailand) shared a land border with China that could be used if necessary, consider for example the route from Burma (now Myanmar), which borders Thailand, to Tali-fu (Talifu, Yunnan, China):

> It is called the 'ambassadors road' being that which the Burmese ambassadors were accustomed to take when they went to China to pay tribute; it has also for a long period been the route of commerce.[119]

Burma also had a sea route to China, through the Strait of Melaka. However, the approximately 100 km road route into Yunnan Province did not require a journey past the port of Melaka, where the Portuguese and later the Dutch could cause issues for trade they wanted to take control of.

The Chinese junk trade was not immune to maritime issues, however, it continued regardless, as Pires stated: "They say that China has more than a thousand junks, and each of them trades where he sees fit."[120] It was therefore more practical to sail by ship if trade is regular, which the number of junks Pires attributed to China would suggest. Captain Saris, in the record of his 1613 voyage to Japan also noted the ongoing Thai trade: "[H]ere is much silver in bullion, which commeth [comes] from Japan."[121] Clearly, passage to China by junk was possible, and was not limited in the post Zheng He period. The late Ming – early Qing period alone accounting for a Chinese junk trade during 1675–1728 that amounted to 61 vessels, when in 1694 "Siam has been sending tribute to the Great Qing."[122] Pires noted almost a century before Saris was in the region: "[W]ith many lords and many foreign merchants, and most of these foreigners are Chinese, because

118 A. de Albuquerque, W. de Gray Birch (ed.), *The Commentaries...* Vol. III, p. 98.

119 J. Chailley-Bert, A.B. Braban (trans.), *The Colonisation of Indo-China*. London 1894, p. 363.

120 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental...* Vol. I, p. 123.

121 J. Saris, E.M. Satow (ed.), *The Voyage of Captain John Saris to Japan, 1613*. London 1900, p. 222. See also: BL: Add MS 19300: 18th century. "Extracts from the Journal by CaPt. John Saris of his Voyage to the Red Sea, Java, the Moluccas and Japan, 1611, 1612." BL: MSS Eur F484: 1613 "Printed translation of the summary of CaPt. John Saris' petition for East India Company [Company of Merchants] trade privileges, presented to the Tokugawa Shogunate, 10 SePt. 1613.".

122 NAG: MSS 1–38 Ship No. 71. 27th day of the 6th month, Year of the Dog: 17 August 1694; I. Yoneo (trans.), *The Junk Trade...*, p. 72–3.

Siam does a great deal of trade with China."[123] Clearly, the trade through the South China Sea region was not limited, and the Chinese were directly involved to a large extent. The history records continuous State practice through people to people exchanges and maritime trade.

Saris also made a very interesting observation that shows the Emperor was directly concerned with overseas trade and the edict forbidding overseas trade on occasion:

> The 23rd [June 1613] we had newes [news] of 2 China Junkes [Junks] arrived at Langasaque [Nagasaki] laden with sugar. By him [the junks] we understood that the Emperour [Emperor] of China had then lately put to death about five thousand persons, for trading out of the Countrey [Country] contrary to his Edict, confiscating all their goods; notwithstanding hope of profit enticed these men to put it in hazard, having bribed the new Pungauas [Malay: military officer] and Officers upon the Sea-coast, which upon the execution of the former, were placed in their steads."[124]

Captain Saris shows how trade was continued, despite the Edict and deaths of their contemporaries just by the method of news transfer; on two Chinese junks. As noted earlier with the English traders of the 19th century, the imperative was money, which made the trade more alluring than the prospect of death. Bribing officials allowed the trade to continue, and Cocks at the English factory of Firando (Hirado, Japan) negotiated to establish "trade with China, though it is not surprising that our joining with the Hollanders to take China junks is ill thought of [by the Japanese]."[125] Morse later observed the same acts on 30 September 1621 in his work on the *East India Company in China*: "the English and Dutch ships combined for an act of piracy on the Chinese junks sailing for the Manilas."[126] Eight

---

123 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental…* Vol. I, p. 103.

124 J. Saris, E.M. Satow (ed.), *The Voyage…*, p. 92. See also: BL: Add MS 19300 "Extracts from the Journal by CaPt. John Saris of his Voyage to the Red Sea, Java, the Moluccas and Japan, 1611–1612."

125 R. Cocks, E.M. Thompson, *Diary of Richard Cocks, Cape-Merchant in the English Factory in Japan 1615–1622*. London 1883, p. xxxv. See also: BL: MSS Eur Photo Eur 098: 1615–1622 "Richard Cocks Papers." BL: Add MS 31300: 1 Jun 1615–5 Jul 1617 in folio. "Vol. I 1 June, 1615–5 July, 1617. Diaries and Memoranda: Diary of Richard Cocks in Japan: 1615–1622."

126 H.B. Morse, *International Relations…* Vol. I, p. 12. See also: BL: Add MS 31301: 6 Jul 1617–24 Mar 1622. In folio. "Vol. II. 6 Jul 1617–17 Jan 1618/9 and 5 Dec. 1620

years after the execution of five thousand persons, which may have been a metaphor, in reality meaning 'many', there were yet again Chinese junks trading overseas. As Saris also noted:

> [I]n the month of March, the Junkes [Junks] bound for the Mannelies [Manila] depart from Chauchu [possibly Fuzhou] in Companies, sometime foure [four], five, ten, or more together, as they are readie [ready]... their lading out-wards is raw and wrought Silkes [Silks], but farre [far] better than those which they carrie [carry] for Bantam [to trade with the English and Dutch]...there is not less than fortie [fourty] sayle [sail meaning ships] in a yeare [year], which are bound thither.[127]

Saris was writing in the same year as he heard of the executions in China. However, the volume of trade; not less than forty ships, exhibits the reason why bribes would be paid to officials and trade would continue. As Chang has stated: "The gentry not only encouraged the smugglers but often pulled strings, while the Magistrates connived at what was going on."[128] The desire for trade did not prevent blockade of Macao, which the Chinese would do on occasion to enforce laws, an ability the Portuguese could not counter in 1613: "In reply, the [Portuguese] people of Macao declared they would obey these laws, as they wished to live in peace with the Chinese."[129] The claims that China did not react to European navigation or have ships capable of sailing in the South China Sea region in the 17th century is therefore not sustainable.

There was also tributary and 'regular' trade from Thailand to Nagasaki operating in the late 17th century and early 18th century, suggesting that maritime routes were more common as the English, French, Swedish and Dutch continued their trade to the region, in 1696 alone: "Twelve ships from Fujian, Guangdong and Zhejing are bound for Siam for trade."[130] As much of the trade involved multilateral exchanges of commodities due to

– March, 1621/2. Diaries and Memoranda: Diary of Richard Cocks in Japan: 1615–1622."

127 J. Saris, E.M. Satow (ed.), *The Voyage...*, p. 226. See also: BL: Add MS 19300.

128 T.-T. Chang, *Sino-Portuguese Trade from 1514 to 1644*. Leyden 1933, p. 70.

129 F.C. Danvers, *The Portuguese in India...* Vol. II, p. 213.

130 NAG: MSS 1–41 Ship No. 74. 16th day of the 8th month, Year of the Boar: 16 August 1696. I. Yoneo (trans.), *The Junk Trade...*, p. 75–76. See generally: R. Ptak, *Asia and the Eastern Seas...*

the lack of European silver for direct trade with China and an absence of cash economies in other polities, the continuance of profitable trade relied in part upon the Chinese junk trade.[131] The most likely explanation is that trade didn't stop, and tribute flowed due to the continuous presence of a Chinese junk trade, an ongoing opportunity being utilised by the Thai King, who fitted out Chinese junks for profit, a practice that continued into the 19th century according to Crawfurd during his 19th century Embassy to Cochin-China.[132] This was also observed by U.S. Consul Balestier during his visit to investigate the possibilities for trade in the region, mirroring Crawfurd's trip. As Balestier reported to the President, Chinese junks were still sailing to Thailand in large numbers, with Thailand only just beginning to build their own merchant fleet when they stopped giving tribute to the Qing.[133] The relationship between tribute and ship building in Thailand cannot be coincidental.

Tribute by Thailand only ended after the last official visit from representatives of the Thai king to China in 1853, when Sir John Bowring, the Governor of Hong Kong, advised the emissaries to cease the practice and began providing British gifts to the Thai king prior to agreement on a formal treaty.[134] In his later work, French states the practice ended in 1851, due to the emissaries having to wait for a delegation from France, adding that Sir John taught the Thai state equality among nations combined with "Wesphalian diplomacy and legal principles."[135] The Thai later exhibited the

131 L. Yong, *The Dutch East India Company's Tea Trade with China, 1757–1781*. Leiden 2006.

132 BL: Add MS 33411: c 1811–1823 f. 185 China: Duties on Native ships, by J. Crawfurd: 1822–1823. Contained within: "Papers of John Crawfurd, F.R.S., relating to Java and the neighbouring islands, and to his Embassy to Cochin-China; circ. 1811–1823."

133 Message from the President of the United States in answer to: A resolution of the Senate: 32nd Congress, 1st Session. (16–2–1852). Information in relation to the Mission of Mr. Balestier, late United States consul at Singapore, Eastern Asia. Ex. Doc. No. 38. Government Printing Office.

134 BL: RP 2940: 1853–1858 "Siam, Kings of. 7 Autograph Letters Signed, Bangkok, to Sir John Bowring and his son Edgar from Kings of Siam"; BL: IOR/Z/E/4/26/S260: 1855 "Siam, King of, Presents for, to be delivered to Sir John Bowring"; BL: IOR/Z/E/4/28/B808: 1856–1857: Bowring, Sir John, correspondence respecting Treaty with Siam. See generally: J.P.L. Jiang, "The Chinese in Thailand: Past and Present." *Journal of Southeast Asian History*. Vol. 7, No. 1, Mar. 1966, p. 39–65.

135 H.W. French, *Everything Under the Heavens…*, p. 147.

lessons Sir John had actually taught through their own acts; turning Cambodia into a "Thai vassal state by virtue of a treaty with Thailand signed on 1 December 1863 and ratified on 4 January 1864."[136] Clearly, Thailand had not been taught State Equality or Westphalian diplomacy by Sir John. However, the Thai King did finally end the practice of sending tribute to China 429 years after the visits of the Zheng He period, one of the last polities to do so from one of the oldest kingdoms in Asia.[137]

Other polities in the greater Indo-China region to experience a long and not often smooth relationship with China were variously known as Cochin, Tonkin, Annam, and Champa, collectively since their French colonial days the state of Viet Nam. Champa was known by Pires to be a large producer of rice, as it is to this day, which was traded across the South China Sea to Manila and north to Guanzhou.[138] There were mariners reports made in Nagasaki that the people of Champa were not good navigators, and Pires himself stated: "There are no ports in this country for large junks…It is weak on the sea."[139] Deep water fishing and large trade vessels 'large junks' were limited due to the lack of natural ports along the coastline, which silt up due to the rivers that feed into them, making for ideal rice growing conditions if the banks are converted into paddy fields, however it affects the ability for deep draft vessels to negotiate the rivers, for example to reach Saigon.[140] It is therefore not surprising that in 1943 the Naval Intelligence Division of the Royal Navy would state: "Coastal waters [of Indo-China] provide almost all the catch; deep sea fishing is quite

136 Prince Narāthipphongpraphan, V. Isarabhakdi (trans.), *A Diplomatic History of Thailand*. Bangkok 1991, p. 31. See also: *Temple of Preah Vihear* (Cambodia v. Thailand), Judgment of 11 November 2013: para. 33; [2008] I.C.J.

137 H. Ma, C. Feng, J.V.G. Mills, *Ying-yai sheng-lan: The Overall Survey of the Ocean's Shores*. London 1970, p. 102; X. Fei, J.V.G. Mills, R. Ptak (eds), *Hsing-ch'a-sheng-lan…*, p. 44.

138 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental…* Vol. I, p. 112. Ferrers comments on the coastal rice trade, and the possibility for English shipping to be involved. BL: IOR/E/3/5 f 53: 18 May 1617 "John Ferrers at Baria in Champa to Richard Cocks at Hirado." Also: C. Robequain, I.A. Ward (trans.), *The Economic Development of French Indo-China*. London 1944, p. 309.

139 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental…* Vol. I, p. 114; NAG: MSS 1–36 Ship No. 75. 4th day of the 8th month, Year of the Cock: 3 September 1693; I. Yoneo (trans.), *The Junk Trade…*, p. 68–70.

140 C. Robequain, I.A. Ward (trans.), *The Economic Development…*, p. 116–126; B. Newman, *Report on Indo-China*. London 1953, p. 23; J.C. Stuttard, *et al.* (eds), *Indo-China*. London 1943, p. 437.

insignificant."[141] It is therefore not unusual to consider the Vietnamese as historically lacking in long distance maritime capability, adding to the trade potential of Chinese junks, which continued to visit Vietnamese ports.[142]

In 1613 however, when smaller vessels were the norm, and multilateral trade into China was being sought, Cocks hoped for more trade into the Champa and Tonkin region, which provides a good description of the polities he was dealing with, and exhibits their desire to end direct trade with the Japanese before overseas voyages from Japan were forbidden:

> The advize [advise] both from Syam [Siam] and Champa, as also from Camboja [Cambodia], that the kings [kings] of these places, as also of Cochinchina, desire much to have our shipping trade into their cuntres [countries] especially he of Cochinchina, but to com [come] in our own shipping, and not in Japons [Japans] for that he hath banished them out of his cuntrey [country].[143]

There is a continuity in narrative between these two observations. European trade was preferable to the Japanese, Pires noting the lack of natural ports and large junks, Cocks noting the desire for foreign trade to bring goods. It is therefore no surprise that Pires would state of the Cochin-Chinese: "They are a very weak people on the sea; all their [military] achievement is on land."[144] That achievement on land required Sulphur, which was preferably shipped from China, and firearms: "This king is much given to war, and he has countless musketeers, and small bombards."[145] It is therefore not surprising that the Tonkinese also tried to buy firearms, something they attempted to order in the form of bronze or iron cannon from the local English Factory in the late 17th century.[146] The supply of firearms from a variety of European suppliers

---

141 J.C. Stuttard, *et al*. (eds), *Indo-China*..., p. 313. See also: J. Chailley-Bert, A.B. Braban (trans.), *The Colonisation of Indo-China*. London 1894, p. 363.

142 NAG: MSS 6–2 Ship No. 11. 15th day of the 6th month, Year of the Hare: 6 August 1675; I. Yoneo (trans.), *The Junk Trade*..., p. 197–200.

143 R. Cocks, E.M. Thompson, *Diary of Richard Cocks*..., p. xxxv. See also: BL: MSS Eur Photo Eur 098: 1615–1622 "Richard Cocks Papers." BL: Add MS 31300: 1 Jun 1615–5 Jul 1617 in folio. "Vol. I 1 June, 1615–5 July, 1617. Diaries and Memoranda: Diary of Richard Cocks in Japan: 1615–1622."

144 T. Pires, F. Rodrigues (ed.), A. Cortesão (trans.), *The Suma Oriental*... Vol. I, p. 114.

145 *Ibidem*, p. 115.

146 BL: Sloane MS 3460: 17th Century. "Letter from Trjnh Tac, the ruler of Tonkin (r. 1657–1682) in the form of an illuminated scroll written in the Vietnamese language

enabled the Cochin-Chinese and Tonkinese to continue conflict with each other via new methods along the wall between their two polities, and continue a period of change in the political history of the region that would ultimately be decided by the arrival of the French in the 19th century.

After recovery from the Napoleonic Wars, France began to reach out for her own colonies, taking foreign lands in a quest to match the other Western Powers. As this conquest and forced unification of smaller polities into the colony of French Indo-China took place in the 19th century, the region exhibited other instances of tribute and vassalage after the comparatively peaceful nature the region experienced in the late 18th century.[147] As one commentator of the French activity in the region remarked: "Out of the mouths of her own Ministers France stands convicted of tyranny, greed, cruelty, and unscrupulousness."[148] Leaving aside the results of the French conquests in the region until later, the conflict in this region is a good example of the latter stages of the Qing Dynasty and the ability to organize a violent response to French navigation that was ultimately unsuccessful, but should have been considered by the Tribunal in consideration of events in the 1930's.[149] Therefore, while on 12 April 1842 the Qing did invest a new Nguyen Dynasty monarch in Annam, they were unable to prevent the gradual political erosion of Cambodia by the French and the region now unified as Viet Nam, which the French made into a part of their colony

in Chinese (Han Nom) characters, probably despatched in 1673. In 1672 the first English East India Company ship arrived in Tonkin in North Vietnam, and in March 1673 the captain, William Gyfford, was permitted to meet the ruler. While the Company sought the establishment of commercial relations with Tonkin, the Vietnamese were interested in accessing new technology, and in his letter, Trjnh Tac requests iron or bronze cast cannons." See also: BL: IOR/E/3/33 ff 30–33: 25 May 1672. "Instructions and orders from Henry Dacres and Council at Bantam to William Gyfford and the Council appointed for Tonkin 'for the better establishing of a trade and commerce, court affaires and whatsoever else may offer during theire residence in the said kingdome'." Note: The Court Minutes show this was agreed on 30 June, 1671. (B.E. Sainsbury (ed.), *A Calendar of the Court Minutes, etc., of the East India Company 1671–1673*. London 1932, p. 41, 51). Trade was attempted earlier, Cocks noted trade from the Factory on Japan to Tonkin on 4th August 1618. (R. Cocks, E.M. Thompson, *Diary of Richard Cocks...*, p. 60).

147 See for example: J. Barrow, *A Voyage to Cochinchina, in the Years 1792 and 1793*. London 1806.

148 C.B. Norman, *Tonkin: Or, France in the Far East*. London 1884, p. vii.

149 See generally: E. Hocquard, *War and Peace in Hanoi and Tonkin: A field report of the Franco-Chinese War and on customs and beliefs of the Vietnamese, 1884–1885*. Bangkok 1999.

of Indo-China.[150] China did however send troops, and utilized her then modern Southern fleet in fighting French invasion alongside her tributary state.[151] This brief period of European colonial history shows that China continued to be involved in tributary states affairs, expending treasure and energy for Tonkin until the 1880's.[152] It is therefore reasonable to consider that tributary trade from the Zheng He period continued until the age of industrialisation, when the Qing sent troops and ships to Tonkin to support the effort against French colonial expansion, events that would have consequences for China's war with Japan in 1894–5.[153]

Imperial Edicts, Tributary Trade, and Official Corruption

During the post Zheng He period, we have seen that it is possible the maritime trade continued under the direction or acquiescence of eunuch officials, as Villiers has stated: "Ships went to and from Malacca as far as India and China…Technically this trade with China remained an imperial monopoly and was carried out under the pretence of tribute."[154] Schottenhammer confirmed these arrangements, adding to the historian's knowledge and awareness of events the UNCLOS Tribunal did not find: "China on the other hand sent maritime missions to foreign countries 'to grant investiture on foreign kings'. These missions, as well as the investiture of the *shibo si* [Maritime Trade Office], were mostly controlled by eunuchs."[155] How can we define this continuance in Chinese maritime engagement? The Tribunal found the opposite in the Award:

> This ambivalent attitude to seafaring explains, for the Philippines, China's muted reaction to the activities of European States in the South China Sea

150 F. Hunt, "Openings for the Extension of American Commerce." *The Merchants' Magazine and Commercial Review*. Vol. 15, July-December 1846, p. 139; M. Osborne, *The French Presence in Cochin China and Cambodia: Rule and Response (1859–1905).* Ithica 1969.

151 C.B. Norman, *Tonkin…*, p. 202, 251; M.W. McLeod, *The Vietnamese response to French intervention, 1862–1874*. New York 1991, p. 68.

152 N. Tarling, *Status and Security in Southeast Asian State Systems*. London 2013, p. 53.

153 S.C.M. Paine. *The Sino-Japanese War of 1894–1895: Perceptions, Power, and Primacy*. New York 2003, p. 99.

154 J. Villiers, "Silk and Silver…", p. 66–7.

155 A. Schottenhammer, *The East Asian…*, p. 16.

> and its lack of protest to European navigation and the establishment of colonies in Southeast Asia, beginning in the 16th century.[156]

Clearly, the brief investigation we have conducted into this history shows this was not correct. The connivance of the eunuchs and other officials enabled trade to continue, and tribute to follow the same routes. As a facet of Chinese Imperial history, this aspect of official sanction combined with unofficial acquiescence was still apparent in the last century:

> In 1820, however, the Chinese Government issued a proclamation against the trade [in opium] which thenceforth became illicit, although it continued to flourish, thanks largely to the willingness of most of the mandarins to accept bribes, and to the fact that not a few of them were personally interested in the trade.[157]

Why would this trade in a narcotic drug that was so detrimental to health, continue? Profit is of course the main motive, compelled by greed. The UNCLOS Tribunal found the earlier maritime disconnect was an official suppression followed by a 16th century edict making building a two masted ship a capital offence, which it can be assumed they considered absolute in its implementation. It could be considered in parallel with the early 20th century experience in the U.S. Prohibition on alcohol, a ban which was never absolute, but gave rise to speak-easy's and other underground establishments to serve a customer base that did not dry up.[158] This was mainly caused by official sanction of cross border smuggling that filtered down to street level acts of violence, providing what Becker described in a consideration of white collar crime (executive level crime, in this example financial crimes of high value):

> Within the organisations (like baseball and banking) in which rules are made and enforced, such that those rules will vary along a dimension running from clarity to ambiguity.[159]

For a comparison in a modern Chinese legal context, the One-child Policy that was implemented from circa 1980 had 22 official exceptions, and in rural

156 PCA Case N° 2013–19: *Philippines v. China* (PRC); The South China Sea Arbitration Award of 12 July 2016. Para. 195, p. 81–2. See: L. Levathes, *When China Ruled...*, p. 20.

157 W.L. Clowes, *et al*., *The Royal Navy...*, p. 279–280.

158 See generally: D. Okrent, *Last Call: The Rise and Fall of Prohibition*. New York 2010.

159 H.S. Becker, *Tricks of the trade: How to think about your research while you're doing it*. Chicago 1998, p. 127.

areas, families often had no restrictions applied.[160] With modern law enforcement methods, these policies could have been widely enforced. However, the practicality of physical enforcement made the law unenforceable outside of large urban areas and among the elite when combined with corruption and potentially huge profits. It is the same with a large area and less modern transport methods. People can take advantage of the situation for personal gain, and the family will come first in a Chinese context. The Chinese Imperial edicts can be considered in the same light with regard to their actual implementation, making it possible by the 1830s for the Viceroy Lu K'un to state before his death in 1835; "Obey and remain, disobey and depart, there are no two ways."[161] While he may have wished for total legal control, the Viceroy had the foundation of more than 300 years of Chinese engagement with the West to make his statement and attempt to continue the enforcement of Chinese law. Unfortunately, the connivance and corruption practiced by lower Chinese government officials and the industrial power of steam, iron, and men prepared to use them on the part of the European powers were going to result in the end of Chinese sovereign power to continue to dictate which laws were to be followed on her own soil, 400 years after the UNCLOS Tribunal found it occurred. As De Chazournes and Sands have stated; "absolute rules are usually accompanied by soft standards that allow the taking into account of special cases and the balancing of interests."[162] Unfortunately, the business interests of European colonialisim were to provide the ultimate end of China's maritime history since the Zheng He period.

Conclusions

The tributary trade patterns followed in the Zheng He period were long established, as were the usable trade routes which can be traced back to the Roman period, almost 2,000 years before the Emperor Yongle directed the building of the treasure fleets. The reasoning behind the ending of this period is still to be examined further, but it wasn't entirely necessary to continue the expensive

160 See generally: S. Greenhalgh, *Just One Child: Science and Policy in Deng's China*. Berkeley 2008.

161 G.S. Graham, *The China Station*..., p. 75. See also: M. Collis, *Foreign Mud: Being an account of the Opium Imbroglio at Canton in the 1830's and the Anglo-Chinese War that followed*. London 1946, p. 146.

162 L.B. De Chazournes, P. Sands (eds), *International law*..., p. 491.

maritime operations on such a large scale if tribute was the primary purpose. This can be seen by the continuance of the tribute trade, which didn't cease to be given by Thailand, Sulu, Brunei, and Tonkin until the 19th century.

As the experience of De Gama shows when he reached the East coast of Africa 80 years later, it is possible the oral histories of the polities visited in the Zheng He period meant the peoples of the region always wondered when the fleets were going to reappear. The Chinese maritime ability was thereafter continuously demonstrated through trade until the opening up of the ports after the 'Opium Wars' from that moment, keeping the memory alive. That also speaks as to the acceptance by foreign rulers of the process for fitting out Chinese ships to trade with Japan on their behalf; the perception was that the Chinese were masters of the seas, and they were as much as was practical at that time. The acceptance of Chinese junk trade by the Japanese, who the foreign rulers all had a maritime borne history with and slowly rejected in favour of Chinese junk trade, reinforces that perception. As we have seen, this memory was best summed up in 1945 by the British Military Administration of Malaya in London: "An essential feature in the trading community is the Chinese dealer. The Chinese have from time immemorial been the traders of South East Asia."[163] This trade was noted also by Lo when he examined the costs of shipbuilding in the earlier Song Dynasty period: "The merchants not only brought income for the state by their commercial ventures but, from the wars against the Jurchen down to the wars against the Mongols, they supplied the government with ships and seamen."[164] This maritime ability was therefore tied into the historic maritime trade of the Chinese people with their neighbours and further afield; into the Indian Ocean. The extended maritime manpower demands, ship maintenance requirements, and private financial support for the Yongle Emperor's grand experiment may have been contributory factors in the demise of the Zheng He period, however the benefits continued until the industrial age was in full steam. Therefore, it is not unreasonable for the grand experiment that continues to carry Zheng He's name to be prevalent in contemporary Chinese thought and perception, while at the same time exhibiting the technological abilities we have discussed were continued, providing a hitherto unrealised Chinese maritime legacy over more than 500 years, despite the findings of the UNCLOS Tribunal.

---

163 NLBS.CA:MR.382.095951.SIN. DePt. of Trade and Industry, British Military Administration, Malaya 1945. *Entrepôt Trade of Singapore*, p. 16.

164 L. Jung-pang, B. Elleman (ed.), *China as a Sea Power...*, p. 98.