

Forum: Environment Committee (EC)

Issue: The conflict in South China sea and control over its natural resources

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Introduction

Over the past several decades, the South China Sea (SCS) has become an area of increasing tension over several countries' overlapping claims of ownership and use. A hotbed of controversial territorial disputes over waters central to the livelihoods of all nations involved, economically, environmentally, culturally, and diplomatically. The question of the South China Sea is one of the most pressing current global issues to the international community. The current rising tensions in the South China Sea may well develop into a broader conflict. Already during the past years, several incidents took place whereby fishing boats were rammed and harassed by Chinese ships. Over the years, the incidents have grown both in number and severity. The question is still out whether these incidents can already be labelled as 'acts of violence' from an international and legal point of view. Nevertheless, the tensions in this maritime region continue to grow considerably. In an age of resource scarcity, its untapped natural resources such as oil, natural gas, and fishing grounds have gained it geo-economic significance. At the same time, China is fortifying several atolls in the region, changing them into airstrips and strategic bases for a future Chinese military presence. A conflict with the American Navy appears possible in the region's near future.

Definition of Key Terms

United Nations Convention on the Law of the Sea

(UNCLOS): Having opened for signature in 1982 and entered into force in 1994, the UNCLOS is the primary UN treaty concerning international nautical law. Included among its topics are the settlement of disputes and defining nautical borders. It has been ratified by 168 countries.

Terra Nullius: Terra Nullius in Latin is an expression that means "nobody's land." It is used in international law to describe landmass or territories which have never been subject to the sovereignty of any state, or over which any prior nation has expressly or implicitly renounced sovereignty.



Exclusive Economic Zone (EEZ): As declared by the UNCLOS: “The exclusive economic zone is a region on the far side and adjacent to the territorial sea, subject to the specific legal regime in this Part [UNCLOS Part V], beneath that the rights and jurisdiction of the coastal state and also the rights and freedoms of different states are ruled by the relevant provisions of this convention”

It goes on to outline “The exclusive economic zone shall not extend beyond two hundred transport miles from the baselines from that the breadth of the territorial sea is measured” and mentions that among the EEZ, a state has the proper among different for resource management and thus the establishment of artificial islands, installations and structures.

Nine-Dash Line: The nine-dash line first appeared in 1947 as an attempt of the nationalist Chinese government to claim the waters surrounding it. This originally appeared as an eleven-dashed line but was changed to settle disputes with Vietnam. It has not been clarified whether this denotes ownership of the waters or just of the land included in it. Currently, China is using this as a historical claim to the waters. As can be seen in the figure here, it encompasses a large area of the South China Sea.

International Waters: The areas of the sea that are not underneath the jurisdiction of any country. International waters do not have any sovereignty, ergo are "Mare Liberum," as no states control them. All states have the freedom of fishing, trade, transportation, overflight, laying cables, pipelines and research.

Mare Liberum: Free sea. A body of navigable water that is free from all jurisdiction and control to which all nations have unrestricted access.

General Overview

Shortly after World War II, China issued the eleven dash line (now the nine dash line) claiming the waters in the South China Sea as its own. This sparked various minor skirmishes mostly between China and Vietnam. Recently, in 2014, tensions flared up as China began reclaiming various areas within this area by beginning dredging operations in the Spratly islands. It is important to note that this border has not been recognized by any surrounding states.

While Vietnam, Malaysia, Philippines and Taiwan have also reclaimed land, China has been doing so on a much larger scale. In fact, according to a US Defense Department Report, it is projected that China has reclaimed over 2900 acres since December 2013 which amounts to more than all the other



Image 2: Countries with claims in the south China Sea

states combined. More specifically, from December 2013 to June 2015, China had reclaimed 2900 acres of land, whereas the other 4 countries combined had reclaimed a total of 172 acres over 40 years.

An additional cause for concern is the development of multiple facilities that could potentially host military forces, raising the possibility that China could potentially establish its power over the area with the use of the military. There are even allegations that China has threatened surrounding states to halt their work in the area and furthermore, the US has conducted various Freedom of Navigation operations with the claim of ensuring the safe passage of ships through the area.

Main Disputed Territories

While China lays claim to nearly the entirety of the area, the other states also lay claim to specific parts based on various arguments. Vietnam claims the Spratly and Paracel islands, based on having actively ruled them since the 17th century and claims to have documents to prove it.

Similarly to China, Taiwan also lays claim to the entire area based on the nine-dash line. It has, however, focused more on the landmasses themselves rather than the waters.

Brunei, Malaysia and the Philippines all lay claim only to specific parts of the area as can be seen on the map based on geographical proximity and their EEZs.

The Reason for the Conflict

The conflict is especially important due to a large amount of oil and other natural resources reserves in the area, as well as its large importance as a trading route. As can be seen in the figure, estimations show an enormous amount of gas and oil reserves, to which the surrounding states desire access.

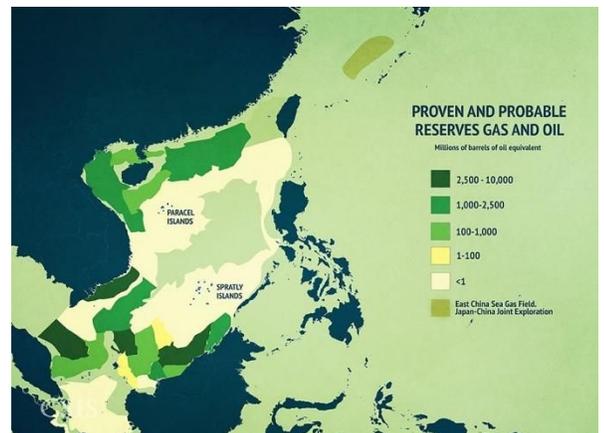


Image 3: Gas & Oil Reserves in South China Sea

Aquacultural Impact

As well as allowing the movement of an immense amount of goods throughout the region, the waters themselves serve as a major source of sustenance for the region and the globe. The waters of the South China Sea are one of the largest food sources for the region due to their multitudinous wildlife and immense biodiversity. Over 3,300 different species of fish inhabit the region, and despite its relatively small total area, it is estimated that the South China Sea sources 12 percent of fish caught globally. According to National Geographic, the South China Sea “is one of the world’s most important fisheries, employing more than 3.7 million people and bringing in billions of dollars every year.” The region is not only vital for the global fishing

industry and food security, but also the inhabitants of the region, due to the political risks the current situation in the South China Sea poses. Fishing is especially a major cause of concern between China and the Philippines, given that both nations rely heavily on aquaculture for economic activity and sustenance. The decreasing amount of aquatic catch, as well as the increasingly aggressive political tactics have made the South China Sea into a chessboard for nations, with fishermen as pieces.

Six countries are in dispute regarding sovereignty over the sea that runs from southwest Taiwan to Singapore. The countries' overall policies have so far been in agreement to prevent conflict in the region and protect the ecological diversity. Disputes over territorial claims may be settled by the creation of a multi-party agency that regulates fishing. An example for this possible solution is the Arctic Ocean border, where Norway and Russia have run a joint fisheries commission for 40 years, since the Soviet era, setting a formula China and Taiwan claim almost the whole sea. Brunei, Malaysia, Vietnam, land and therefore the Philippines claim components, pitting them against China as the most aggressive claimant. The four Southeast Asian countries have grown increasingly suspicious of China since 2010 as it stepped up land reclamation for military installations. Pollution is difficult to avoid within the South China Sea, given that it supports almost half of the global marine shipping traffic, transporting an estimated \$5.3 trillion worth of goods per year. Between 333,000 and 1.6 million vessels conjointly fish in the sea. About three million individuals rely on fishing in the South China Sea to make a living. Additionally, it has been discovered that land reclamation for artificial islands destroys coral reefs. In July 2018, a world arbitration court stated that China's construction within the sea had notably injured coral reefs.

The Conflict and Ecosystem

The South China Sea carries great environmental importance, and is also the site of intense geopolitical conflict. China, Taiwan, the Philippines, Vietnam, Malaysia, and Brunei have all created claims to the islands within the South China Sea. The two major controversial island teams are the Paracel Islands and therefore the Spratly Islands. The conflict emerged within the last half of the 20th century, and it is closely tied to the rise of modern China.

China and its neighbors are vying for natural resources, maritime and airspace, territorial sovereignty, and dominance both globally and in the Asia-Pacific region. Recently, the aforementioned countries have escalated their activities to legitimize their claims to territorial and maritime sovereignty. In doing so, they have had a devastating impact on the natural environment of the South China Sea. Much authorship on the South China sea conflict

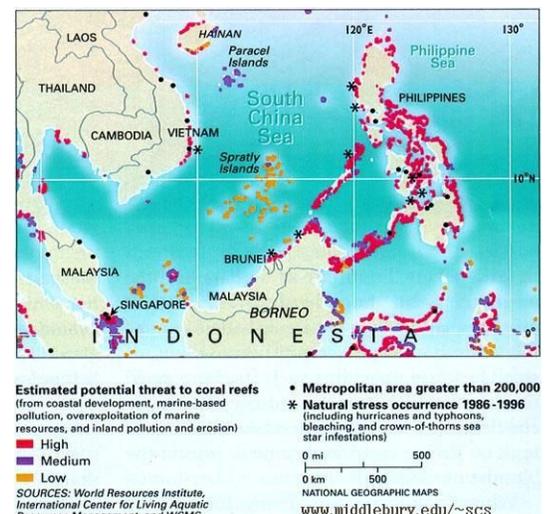


Image 4: Threats to Coral Reefs in South China Sea

approaches the subject from a political perspective, while the environmental aspect has remained in the background.

Over many centuries, human activity has degraded this fragile environment. The major contributing factors have been sea pollution from ships using the Sea's trade routes; land and sea pollution from the rapid economic growth in the Asia-Pacific region; and overfishing.

The increase of the conflict within the South China sea has combined these long-run issues in multiple ways. First, since 2013, five of the claimant-countries – led by China – have accelerated their efforts to create artificial islands within the South China Sea to assert sovereignty, which has caused destruction of the coral reefs in the region. Secondly, the conflict has caused claimant-countries to promote fishing, with the goal of strengthening their territorial claims. Furthermore, attempts of controlling the South China Sea dispute have accrued air and water pollution. Finally, the conflict has encouraged claimant-countries to drill for hydrocarbons, which disrupts the ecosystem, causes pollution, and risks leaks.

Black Gold

Of the most precious resources known to be found within the region, possible crude oil and natural gas deposits rank as some of the most valuable and sought after. Though exploration of the region is not complete, according to the U.S. Energy info Administration, the South China Sea holds around eleven billion barrels of oil— roughly the same amount as Mexico's current reserves—and one hundred ninety trillion cubic feet of natural gas. Among the Spratly Islands, a mean estimate of 2.5 billion barrels of oil is theorized to exist in stores in underwater stores, making the area potentially invaluable in our current petrol-centric energy paradigm.

Commerce

Aside from islands, though, the South China Sea is also home to several straits and waterways that are key for international and domestic trade. The region plays an immense role in the budding economies of nearby nations as well as the global economy; it is estimated that \$5.3 trillion USD worth of commerce travels through the South China Sea annually. From crude oil to commercial products, to foodstuffs, the goods that pass through these major trade routes are multitudinous and of incredibly high importance for food and energy security.

Major Parties Involved and Their Views

People's Republic of China: This is the country with the greatest impact on the situation, with its firm claims on the nine-dash line. Nevertheless, China's claim on the South China Sea is acknowledged by a select few countries and by ignoring the rulings of the PCA, China has provoked multiple concerns. Since 2014, it has started to reclaim a large amount of the area and to build artificial islands and infrastructure, which could potentially lead to the militarization of the

area.

Republic of China (Taiwan): Similarly to China, Taiwan remains steadfast on the nine-dash line, given that it was part of China when the claim was issued. Taiwan has also declared that it does not accept the ruling of the PCA on this issue. Unlike China, Taiwan has placed a greater focus on the landmasses in the nine-dash line, rather than the waters.

Indonesia: While Indonesia was not part of the dispute in the South China Sea for a long time, it had 3 maritime skirmishes with China in 2016, including one occasion where a Chinese fishing vessel and its crew were seized. Following these skirmishes, China announced that its nine-dash line contains fishing grounds inside Indonesia's EEZ, sparking more conflict between the states. Joko Widodo, the Indonesian president, authorized the destruction of any vessel found to be fishing illegally on Indonesian territory.

Philippines: Until 2016, the Philippines was one of the main forces of opposition against China's claims on the South China Sea, demonstrated by the PCA ruling it initiated. However, after the election of Rodrigo Duterte, it has seen a radical change in policy in attempts to improve ties with China, essentially rendering the PCA ruling meaningless.

Australia: Australia has significant economic interests in the South China Sea, mostly in terms of freedom of trade and navigation. Australia has performed airborne surveillance operations in the South China Sea since 1980, some of which have been verbally challenged by China. Australia has been the USA's closest ally in its operations in the region; however, it has not yet conducted any surface "freedom of navigation" operations similar to those of USA. Instead, it has restricted its actions to diplomatic expressions of support towards the US.

Vietnam: Vietnam is also contesting a large amount of the territories, laying claim to both the Spratly and the Paracel Islands, and claims that it is able to procure the necessary documents to prove it. Vietnam has voiced approval for the PCA's ruling. However, since then it has remained silent on the issue due to China's increasingly strong stance.

Malaysia: While Malaysia has remained largely silent on the issue, its foreign minister stated in 2017 that China's nine-dash line is not in accordance with international law and is not recognized by Malaysia, stressing that Malaysia cannot remain neutral on the issue despite its reliance on China for trade and investment.

Brunei: Brunei is the least vocal of all involved parties and only lays claim to a small area within its EEZ.

United States of America: The USA has shown interest in the dispute, considering that its Defense Department published a report detailing every aspect of the conflict in the South China

Sea. It has opposed the nine-dash line by China and claimed that other states involved have violated international law. Furthermore, it has used the conflict as a reason to dispatch Freedom of Navigation missions, claiming to ensure safe passage in the area. It is worth noting that it is the only state involved who has not ratified the UNCLOS.

Association of Southeast Asian Nations (ASEAN): ASEAN's goal is to strengthen cooperation between Southeast Asian Nations. It consists of 10 states including the Philippines, Malaysia, Brunei, Indonesia and Vietnam. In 2002 together with China, ASEAN states signed a Declaration of Conduct on the South China Sea aiming to promote cooperation and peaceful resolution of disputes, which has yet to be achieved.

Timeline of Events

December 1947	Publication of the eleven (now nine) dash line by China laying claim to a large area of the South China Sea.
1974	China seizes control of the Paracel Islands from Vietnam, following a skirmish resulting in about 70 deaths of Vietnamese troops
1982	The United Nations Convention on the Law of the Sea (UNCLOS) is concluded establishing a legal framework so as to balance the economic and security interests of the involved states. However, the treaty does not come into effect until 1994.
1988	Vietnam clashes with China over the Spratly islands resulting in more deaths
16 November 1994	UNCLOS comes into effect
2002	The ASEAN-China Declaration of Conduct in the South China Sea is signed
2012	China and the Philippines have a maritime standoff, disputing over Scarborough Shoal
2013	Philippines initiates a case against China regarding "the Matter of Jurisdiction in the South China Sea Arbitration" at the Permanent Court of Arbitration (PCA)
2014	China submits a position paper on the aforementioned case, stating that the PCA does not have jurisdiction on the matter, and emphasizing that negotiations are the optimal solution to the issue

2016	The PCA rules in favor of the Philippines, stating that China has no justifiable legal claims based on the nine-dash line.
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UN Involvement

The legislative framework that the United Nations created via the United Nations Convention on the Law of the Sea (UNCLOS) is arguably the most important piece of international law that pertains to the conflict within the South China Sea. The primary body of law applicable to the present dispute is that the United Nations Convention on the Law of the Ocean (“UNCLOS”). UNCLOS establishes protections for the marine environment.

The Permanent Court of Arbitration in *Philippines v. China* is in agreement that China’s fishing practices and island-building activities were severely damaging to the environment and in violation of Articles 192 and 194 of UNCLOS. However, China neither accepted nor participated in the proceedings, and it has not abided by the tribunal’s directives that China complies with UNCLOS. Though *Philippines v. China* has had very little to no impact, it serves to bring awareness to China’s environmental degradation in the South China Sea. Yet, China is not the only culprit. All countries pushing for sovereignty within the South China sea contribute to damaging its distinctive ecosystems. The time has come for these countries to prioritize environmental protection at any cost.

Relevant UN Documents

- Settlement of disputes under the 1982 United Nations Convention on the Law of the Sea The case of the South China Sea dispute – UN Nippon Foundation Report (December 2015)
- Assessment of Potential Effects of Activities - Article 206 of UNCLOS
- United Nations Convention on the Law of the Seas, 10 December 1982 (UNCLOS)
- Oceans and the law of the sea, 5 April 2012 (A/RES/66/231)
- Oceans and the law of the sea adopted in November 2012, 29 January 2013 (A/RES/67/5)
- Implementation of the Declaration of the Indian Ocean as a Zone of Peace, 9 December 2013 (A/RES/68/24)
- Oceans and the law of the sea, 27 February 2014 (A/RES/68/70)

Treaties and Events

Permanent Court Arbitration’s Ruling: In 2013, the Philippines brought the case of China’s claim over the South China Sea to the Permanent Court Arbitration (PCA), an intergovernmental organization that resolves dispute issues between Member States, international organizations or private parties. In July 2016, the court’s ruling was determined. The tribunal backed the Philippines, stating that the nine-dash claims had no legal basis. China (and Taiwan, for that

matter), refused the ruling, arguing that PCA had no jurisdiction over the issue. However, the ruling of the court will affect the international reputation of the countries involved in the issue.

Evaluation of Previous Attempts to Resolve the Issue

To begin with, the United States, China and all ASEAN Member States, with the exception of Laos and Myanmar, are members of the Western Pacific Naval Symposium (WPNS). WPNS was founded in 1988 with the purpose of bringing regional naval leaders together every two years, in order to discuss maritime security. As of now, WPNS has produced the Code for Unalerted Encounters at Sea (CUES), which includes safety procedures and means to facilitate communication when ships and aircraft from different countries of the region make contact. Other mechanisms and organizations aiming promote security for national naval and aviation operations in the South China Sea are also in effect, such as the International Maritime Organization's Regulations for Preventing Collisions at Sea (COLREGS) and the International Civil Aviation Organization.

Moreover, in 2002, members of ASEAN and China signed the Declaration on the Conduct of Parties in the South China Sea, which sought to establish a framework for the eventual negotiation of a Code of Conduct for the South China Sea. The concerned parties ensured to "exercise restraint within the conduct of activities that will complicate or intensify disputes and have an effect on peace and as well as, action of on the from inhabiting stability refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner."

ASEAN and China have also agreed upon multilateral risk-reduction and confidence-building measures after the Declaration on the Conduct of Parties in the South China Sea was signed. However, it is important to note that neither parties have not adhered to the provisions of the Declaration, nor implemented its proposals to undertake cooperative trust-building activities. The resumed negotiations between China and ASEAN in the most recent years hold out few promises for reinvigorating any cooperative activities.

Possible Solutions

Any proposed solution for disputes in the South China Sea should consider the positions and interests of all the involved states and stakeholders. It is important to remember the positions held not only by Member States, but also of their citizens', since in many cases the disputes are related to industries from which citizens obtain food and make a living, such as fishing. It is thus important that any decisions concerning this issue are made after careful consideration of the rightful jurisdiction over the waters and seabed, as well as the legality of conducting military operations within a country's EEZ.

Some possible solutions are:

- Creating dialogue mechanisms involving all the interested states in the region and if necessary, outside organizations that will be called to act as mediators;
- Establishing effective information-sharing between the states of the South China Sea as a measure to improve awareness and communication between the relevant parties;
- Resource cooperation, such as joint development of petroleum or fishing resources, which could be undertaken by the claimant states in the South China Sea to reduce tensions related to access to natural resources;
- Finally, the settlement of the dispute over Svarbald Island's sovereignty in Norway should be considered as a possible example of a way of resolving the South China Sea territorial disputes.

Notes from the Chair

While researching the issue these questions would be useful to answer for understanding the topic.

1. How does each Member State benefit from claiming their rights of South China Sea region?
2. What are the factors that restricts the issue to be resolved? Consider past resolutions and their successes and failures when answering this question.
3. Why is this region in need of attention in terms of international security?

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