THE SOUTH CHINA SEA: THE NEXUS OF POLITICAL AND LEGAL DISPUTES

By Arjun Gupta
From Amity Law School, Noida

Abstract

The South China Sea case is an exceptional and a rare conundrum of dispute that it involves six countries pursuing their own interests. The South China Sea is rich in natural resources, and control of these resources is the fundamental reason why the states surrounding the South China Sea are fighting for control of the region. Because of the ocean lines that traverse through it, this land is crucial for the global group. The propaganda can spew in large severe impacts, resulting in human casualties and a harmful influence on world trade. Several violent clashes have occurred, but the situation has been calmed by political negotiations and efforts to strengthen monetary links. Maritime border conflicts in the South China Sea have long been seen as a regional security concern that affects not only China but also its Southeast Asian neighbors. An international dimension was established when the US, Japan, Australia, and India became concerned about Chinese activities that could impede freedom of navigation and access to the Malacca Strait. On July 12, 2016, the Philippines seized the Permanent Court of Arbitration in The Hague, which delivered a judgement denying Chinese territorial claims based on "historic" rights. China continues to construe the law of the sea in a sovereigntist manner. Faced with rising tensions, South-East Asian states are both mobilized and divided on how to respond. Additionally, while the intricacies of the new US administration's Asia strategy are yet unknown, it appears to be torn between the region's two tutelary great powers. The purpose of this research paper is to provide the context and gist of the problem, as well as to critically evaluate the Permanent Court of Arbitration's judgements. It will also look at why the conflict hasn't escalated yet, as well as the South China Sea dispute's strategic relevance in terms of world trade. This research paper will also study possible solutions and effects on both the region and the international community to the dispute that has impeded the path to peace and security in the Indo-Pacific region.

Keywords: international law, UNCLOS, maritime law, Permanent Court of Arbitration.

1. Introduction

The fundamental point of argument in the dispute is based on three factors: economic, statistical, and political. The primary reason for the Claimant States to fight for their rights in the South China Sea is based on three factors. The Spratly and Paracel Islands were the two (2) key islands in the South China Sea that became a point of contention between the parties. The Spratly Islands are claimed by Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam. The Paracel Islands, which have been under Chinese administration since 1974, are also claimed by Taiwan and Vietnam. The disputes related to South China Sea involve claims of several

1 Ralf Emmers (2005), Maritime Disputes in the South China Sea: Strategic and Diplomatic Status Quo, Singapore: Institute of Defence and Strategic Studies.
sovereign states of the region. The claims made by these countries are regarding both island and maritime. The fact that around 3.37 trillion USD worth of global trade, accounting for one-third of all global trade, travels through the South China Sea adds to the importance of the conflict. Natural resources abound in the South China Sea, making control of it even more crucial. 'The South China Sea holds around 190 trillion cubic feet of natural gas and 11 billion barrels of oil in proved and probable reserves, most of which lie along the South China Sea's margins rather than under disputed islets and reefs,' according to a US Energy Information Agency estimate. The U.S. Geological Survey in 2012 estimated that there could be another 160 trillion cubic feet of natural gas and 12 billion barrels of oil undiscovered in the South China Sea. Beijing’s estimates for hydrocarbon resources under the sea are considerably higher but still modest in relation to China’s overall demand—the country’s oil consumption in 2018 is expected to top 12.8 million barrels per day.2

Given the significance of South China Sea regarding its strategic location, its vast size (i.e. 3.5 million km²) and its abundance in natural resources, every country wants to claim its maximum share. People’s Republic of China (hereinafter referred as China), specially, taking advantage of its dominant position and strong military, wants to control the region ignoring the provisions of United Nations Convention on Law of Sea (UNCLOS), which she itself is a party to. The origin of the nine-dash line can be found in a map from the New Atlas of China's Construction, published in 1936 by Bai Meichu, a Chinese cartographer and founder of the China Geography Society, at a time when Chiang Kai-Repubic shek's of China (ROC) governed from Nanjing, according to Bill Hayton, an associate fellow at Chatham House and author of The South China Sea: The Struggle for Power in Asia.3

1.1 Justification and Rationale behind the dispute

The Indonesian-sponsored debate on the matter, which began in the 1990s, has run out of steam in the current climate. Given the intricacies of the South China Sea issue, talks have stalled since the 2002 Declaration on the Conduct of Parties in the South China Sea, despite the fact that it included some useful principles for resolving the conflict. All territorial and jurisdictional disputes must be settled peacefully, without resorting to the threat or use of force, according to the Declaration. This should be conducted through friendly contacts and negotiations, according to the Declaration, and the concerned countries have been exhorted to retain self-control in order to resolve the problem peacefully. The significance of the South China Sea issue in the context of international trade has attracted a lot of interest from around the world. The world community has begun to examine the impact of the outcomes as a result of this tension.4


China Sea dispute within the context of international trade has created huge attention that surrounds the international spectrum. Many contend that the attention has arisen due to China’s revised policy on the South China Sea the South China Sea is now the core interest of China and has the same importance that the other mainland has. However even after so many years the management of the issue is non-existent and no possible our resolution has come out of it. The study of the South China Sea dispute is now considered of huge prominence in the area of international Studies as any solution of the dispute will affect the international trade and the international Security. The solution to this dispute whether a peaceful settlement or not will be a living model to settle other disputes. This dispute is an illustration of how countries use their hard and soft powers in solving disputes. Countless academics have previously stated that commercial routes are the primary motivation for the South China Sea. These commerce routes are the busiest in the world, and they are also strategically important due to their location, which is why China is still pursuing them after all these years. It is self-evident that controlling this important trade route will have a significant impact on international security and business, making it one of the most contentious locations in history. The area has the abundance of natural gas and oil as well as seafood. as the time span increases, potential military involvement has also increased.

1.2 Historical Background

Though the disputes regarding in South China Sea have intensified in the recent decades, their existence dates as back as 19th century. The history of the disputes in the region is long and comprehensive, including many parties at different point of time. The conflicts between the parties have remained quite subtle for most the history, but the tensions have raised exponentially at sometimes, to the brink of war. China, the Philippines, Malaysia, Brunei, Vietnam, and Taiwan are all claiming these small chains of islands, which are mostly rocks and reefs, in the South China Sea dispute. Each country claims a portion of the Paracel Islands and the Spratly Islands, or all of them. The South China Sea is located south of mainland China and Taiwan, north of Indonesia, Malaysia, and Brunei, east of the Philippines, and west of Vietnam, according to the International Hydrographic Organization. It has a surface area of roughly three million square kilometres. The continental shelf of the South China Sea is around one million square kilometres in size. The area is made up of around 200 islets, rocks, and reefs, the majority of which are unsuited for human habitation. The area has grown economically and strategically important in the region due to its vast natural riches and strategic location. As previously indicated, significant levels of hydrocarbon and fossil oil are suspected in the area, but this has yet to be confirmed. As a result of Malaysia and the Philippines' research of their own continental shelf, such theories have gained traction. More than 100 small islands and reefs make up the Spratly and Paracel Islands, which are bordered by rich fishing grounds and, more crucially, the possibility for major gas and oil resources. China, Taiwan, and Vietnam claim

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5 International Hydrographic Organization, Limits of Oceans and Seas. 3rd edition 1953
the entire territory, with Brunei, Malaysia, and the Philippines claiming sections. Several of the islands are now occupied by military forces from China, Malaysia, the Philippines, Taiwan, and Vietnam. Although no legal claim has been made, Brunei has established a fishing zone that crosses a southern reef. Because the Spratly and Paracel Islands are a flashpoint in this dispute, it's critical to understand the foundations of each participating country's claims. The South China Sea, as previously said, is one of the world's most strategic waterways. These rivers are critical for military and commercial vessels, particularly huge tankers, to pass through. As a result, it is significant not just for claimant countries, but also for international trade.

1.3 Geography of South China Sea

The islands, shoals and reefs in the South China Sea can be group into 3 major archipelagos which are Paracel Islands, Pratas Islands and Spratly Islands. The fourth archipelago is Zhongsha Islands which has no land above sea level. The archipelago of Paracel Islands includes about 130 small coral islands and reefs. This group of islands is scattered in over 15,000 square kilometers with a small land area of about 7.75 square kilometers. Most of these islands are group in to the northeast Amphirite group or the Western crescent group. The Paracel Island group is disputed between China, Republic of China (hereinafter referred as Taiwan) and Vietnam. These islands are under the control of China since the battle of Paracel Islands, 1974. The archipelago being surrounded by fishing ground makes it very significant. Also the seabed in this area has potential for oil and gas reserves although it is yet to be explored. The other major conflict of claims between the countries of South China Sea is regarding the Spratly Islands. The group of Spratly Islands lies near the coast of countries like Philippines, Malaysia and Southern Vietnam. This Island group is spread over 425 thousand square kilometers with naturally-occurring land less than even 2 square kilometers. The Spratly Islands includes James shoal, Taiping Island and Zhongsha Reef. Spratly Islands are one of the most important archipelagos of South China Sea because of its natural geographic location in strategic shipping lanes. In addition to its strategic location what makes it even more significant is that this archipelago offers productive fishing grounds and its seabed also has the potential of substantial amount of gas and oil reserves. This archipelago is disputed between China, Taiwan, and Vietnam along with Philippines, Malaysia and to some degree Brunei. China and Taiwan interestingly claims the whole of the Paracel and Spratly archipelagos while the other countries claim different parts of this group of islands overlapping each other’s claims. The Pratas Islands is under the administration of Taiwan and is in the Northern part of South China sea.

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6 Analysis and Potential Alternatives for the Disputed South China Sea from Ocean by Tai-2015
7 Executive Services Directorate (whs.mil)
8 Paper Published in Journal of Critical Perspectives on Asia - www.asj.upd.edu.ph
9 Current Legal Developments, by Gullett, Warwick-2016
11 Center for Strategic and International Studies | (csis.org)
12 docs.pca-cpa.org

PIF 6.242 www.supremoamicus.org
This atoll has an area of 2.4 square kilometers. The Pratas Island is significant because it contains a large number of oil wells west of the banks. China and Taiwan have a territorial dispute over the Pratas Islands archipelago. Macclesfield Bank, which has no land above sea level, Scarborough Shoal, which has only rocks above sea level, and Truro Shoal make up the Zhongsha Islands. The possession of Macclesfield bank and Scarborough shoal is a major point of contention between China and Taiwan. A portion of it is also claimed by the Philippines.

2. Strategic Importance of International Trade

According to the Asian Development Bank, Asia's GDP would rise by 5.7 percent in 2016-2017, and the region will provide roughly 60 percent of global growth in the following two years, which is similar to its contribution in the previous five years. The Pacific and Indian Ocean region is projected to be a driving force in the global economy, with maritime trade and security being critical for the region's governments. The current upheaval in the South China Sea, in this light, constitutes a severe danger to regional stability, security, and development.


21 Japans strategic interests in the South China Sea beyond the horizon, by Koga, Kei-2017
salvation. It is through these waterways that Japan and South Korea continue trades with countries in Africa, Europe, Middle East and the rest of Asia. Owing its huge presence and power, USA too has its political and economic engraved into the dispute. It also has interest in preserving peace and security for the world. Besides from trade gains, these waterways improve the mobility of American military personnel all around world in required to carry out the country's national security strategy or to assist its allies.22

2.1 National Interests of USA

The United States' interests in the South China Sea can be separated into three categories: economic links in sea planes, defense linkages, and power balance. The South China Sea's sea planes are the busiest worldwide and most important marine waterways. They transported one-third of all global shipping in 2016, worth $3.4 trillion.23 This accounts for over 40% of China's total trade, 90% of petroleum imports by China, Japan, and South Korea, and nearly 6% of global trade with the United States.24 As the US Seventh Fleet transits between the Pacific and Indian Oceans on a regular basis, these same sea-lanes are an important military artery (including the Bay of Bengal). Five Asian countries: Japan, South Korea, the Philippines, Thailand, and Australia have formal defense/security partnerships with the United States.

Furthermore, the US has conceded some responsibility for Taiwan's defense and retains strict security ties with Singapore and New Zealand. Aside from that, formal security cooperation agreements with Vietnam, Indonesia, and Malaysia subsist. Lastly, balance of power is something every country tries to possess, stopping one military nation to gain more power. The interest of USA lies in stopping China from gaining autonomous and arbitrary power over the area, which will disrupt any tranquility that the resolution may have.

2.2 Abundance of Hydrocarbons and a Vast Area of Commercial Fishing and Shipping

The area around the Spratly Islands is thought to hold the equivalent of 6 billion barrels of oil, with natural gas accounting for 70% of the total. Chinese media outlets have dubbed the South China Sea "the second Persian Gulf," and some Chinese experts believe it might hold up to 130 billion barrels of oil and natural gas. According to Chinese officials, China's oil reserves are valued at one trillion dollars.2526

Despite the conflict's overlapping jurisdictional and territorial claims, much of the massive area remains unorganized.27 The lack of a defined authority in the region is one of the repercussions, which is driving to rapid environmental degradation due to the

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22 Burgess Stephen, “Rising Bipolarity in the South China Sea: the American Rebalance to Asia and China’s Expansion”, Contemporary Security Policy, 17, 2016, p. 111-143
23 Chinas Push Through the South China Sea The Interaction of Bureaucratic and Na by Garver-1992
24 SinoIndian Attitudes to International Law of Nations, States and Colonial Ha by Singh-2015
25 A 1995 study by Russia’s Research Institute of Geology of Foreign Countries
26 Snyder, Scott (August 1996), The South China Sea Dispute: Prospects for Preventive Diplomacy. The United States Institute of Peace.
27 publicaciones.defensa.gob.es
lack of emergency procedures to deal with maritime or environmental crises. Fishing stocks, including tuna stocks that migrate to the South Pacific, are also being depleted.

Many analysts believe it is one of the world's most lucrative fishing areas, with an estimated annual value of three billion dollars in the mid-1990s. It can also be contended that the sea food in the region is the major staple food of the claimant countries. It encompasses efficient shipping routes that transport valuable assets from the West (Europe, the Middle East, and Africa) and West Asia (South and Southeast Asia) to Japan, China, and Korea. The region also connects the Indian and Pacific Oceans, creating a vital sea route and key military position that connects Asia, Africa, and Europe. The importance of the sea route is also believed to account for 80% of Japan's and 70% of Taiwan's oil and raw material imports. On its way from the Middle East to Japan and the United States, 25% of the world's oil production passes through the region. Because ownership and control of the islands confers sovereign powers over the neighboring oceans and seabed, control of the Spratly Islands could have an impact on oil transport in Southeast Asia and the rest of the industrialized world. Furthermore, the US and other countries use the South China Sea as a transit and operating area for their Asian naval and air force bases between the Pacific and the Indian Ocean.

3. Territorial Claims

The Spratly Islands and the Paracel Islands are two of the most important components of territorial claims in the South China Sea. The Spratly Islands are claimed by China, Malaysia, Taiwan, the Philippines, and Vietnam, with Brunei's EEZ covering one or two of the islands' cliffs. The Paracel Islands are controlled by China, Taiwan, and Vietnam. All claimant nations, with the exception of Brunei, have a presence in the Spratly Islands. Vietnam has the most Spratly Islands, with roughly twenty of the 200 islands under its control. The question of who actually and entirely owns the Spratly Islands was left unanswered and unruffled till the 1970s before the oil companies began their expedition. Even afterwards the slow pace of the formation and development of the maritime international laws have been a cause of squabble.

3.1 Brunei’s Claim

Brunei Darussalam, an silent claimant and an island country located in South East Asia does not claim any of the islands instead claims a part of the continental shelf and exclusive economic zone near the South China sea. The claim of Brunei is a minor act in the dispute and are based 200 nautical miles of EEZ. Brunei proclaimed an EEZ around Louisa Reef in 1984. Louisa Reef is positioned 120 miles northwest of Brunei's coast and 408 miles east of Vietnam. Brunei hasn’t really developed permanent structures on the reefs or posted its military on the disputed region, unlike the other parties. Brunei, on the other hand, has claimed the

29 Ibid.
Louisa Reef and Rifleman Bank.\textsuperscript{33} The ability for Louisa Reef\textsuperscript{34} to form EEZ is debatable, as few rocks remain dry during low tide, and some sources claim that it is submerged all year.\textsuperscript{35} The Louisa Reef, which is located within Brunei's Exclusive Economic Zone, is claimed by Brunei (EEZ).\textsuperscript{36}

### 3.2 Malaysia’s Claim

Malaysia possesses five reefs and claims another six, which the other claimants must negotiate. Malaysia's claims coincide with China's, the Philippines', Taiwan's, and Vietnam's aspirations. Malaysia asserts a swath of the South China Sea north of Borneo that includes at least 12 elements in the Spratly Islands archipelago, including Vietnam's Amboyna Cay and Barque Canada Reef, and the Philippines' Commodore and Rizal reefs. Precisely three completely submerged reefs are found on Malaysia's continental shelf, out of the low-tide elevation features claimed by the country.\textsuperscript{37} Malaysia has been embroiled in the debate since 1979, just before the United Nations Convention on the Law of the Sea took effect. Malaysia is the only claimant nation that has not referred to historical rights, instead relying on its EEZ, continental shelf extension, and effective possession of the Spratly Islands to support its claim.\textsuperscript{38} Its claims are based on the continent shelf principles and thus derives its rights from the Law of the Sea Convention. There has been an agreement between Indonesia and Malaysia which has made the continental shelf argument boundary based. In relation to Brunei both the countries have also concurred on their maritime borders being 200 nautical miles and the EEZs.\textsuperscript{39}

### 3.3 Taiwan’s Claim

Taiwan claims the Spratly Islands, Paracel Islands, Macclesfield Bank, and Pratas Islands. Taiwan was the first to assert sovereignty over the Spratly Islands. Taiwan has possessed a fortification on Itu Aba, the largest of the islands, since 1956. It annexed the island under the guise that Taiwan and its Kuomintang dictatorship were the real Chinese government.\textsuperscript{40} Taiwan says the Spratly Islands pertain to them, not the People's Republic of China, because it claims to be the actual China. Their primary fear is that China, or China and Vietnam, will win most of the South China Sea and therefore have a monopoly on it.\textsuperscript{41}

### 3.4 Philippines’ Claim

\begin{itemize}
\item \textsuperscript{39} Roach, J. Ashley (August 2014.), Malaysia and Brunei: An Analysis of their Claims in the South China Sea. Center for Naval Analysis Occasional Paper by Yahuda-2012
\item \textsuperscript{40} China's Recent Relations with Maritime Neighbours
\item \textsuperscript{41} American University, Spratly Islands Dispute.
\end{itemize}
Irreconcilable territorial disputes between the Philippines and China are one of the key underlying causes of Southeast Asia's continued instability. It has also emphasized security considerations and highlighted the role of ASEAN in this debate.

The Philippines has had unbroken and continuous authority over nine islands. Furthermore, there are suspicions that the Philippine Navy patrols Irving Reef, the tenth natural feature, on a regular basis to protect the territory. China, Malaysia, Taiwan, and Vietnam all have ambitions for sovereignty over these islands, as do the Philippines. The Philippine government is primarily concerned with claiming the Scarborough Shoal and the Kalayaan island group. It had claimed the Kalayaan group in 1971 strongly affirming that they are not a part of the Spratly Islands and were not being claimed by any of the countries. Thus, it claimed that area and started using the hydrocarbons. So far out of all the countries Philippines’ contention are the strongest.

3.5 Vietnam’s Claim

Only eleven of Vietnam's twenty-one reefs can be proven to be continental shelves. On the Spratly and Paracel Islands, Vietnam likewise seeks to impose its full strength. It is a country in desperate need of an economic boost, which can be provided by the power derived from this conflict. Its claim to full power and dominance over the Spratly Islands stretches back to 1650, according to the idea underpinning it. The reunification administration acknowledged Vietnamese sovereignty over the entire archipelago, notwithstanding North Vietnam's government's agreement to Chinese claims of control over the islands in the 1950s. Vietnam officially contends that the San Francisco Allied-Japanese Peace Conference in 1951 awarded them the authority to the Spratly Islands, when Japan ceded all entitlements to the islands and Vietnam declared its claim. Also, they believe that the Vietnam's interests are based on Article 121 of the Law of the Sea, which relates with the continental shelf.

4. China’s ‘tongue like nine-dashed lines’ – Unanticipated Claims of China

China claims sovereignty over four groupings of islands in the South China Sea: the Paracel Islands, Spratly Islands, Pratas Islands, and Macclesfield Bank. China considered the Pratas island chain and the Macclesfield Bank to be less bothersome and vital. The Pratas and the Macclesfield Bank are of low value because their quarrel appears to have little impact on international politics. Because the Pratas is closer to China than the Macclesfield Bank, and the Macclesfield Bank is a completely submerged atoll, it's unclear whether what's underwater can be contested. The main

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43 treaties.un.org

44 STOREY, I. J. (1999). Creeping Assertiveness: China, the Philippines and the South China Sea Dispute.


45 ASEAN and the south China sea conflicts by To-1995

46 O. Saleem. ‘The Spratly Islands Dispute: China Defines the New Millennium’ [2000] 5 American University International Law Review 3 at 532

47 Analysis and Potential Alternatives for the Disputed South China Sea from Ocean by Tai-2015
motive behind the involvement of China into the dispute to strengthen its military, political and economic powers. History is a witness to the arbitrary ways of China and its plays for power. The preponderance of the dispute is claimed by China. China's claim was based on the oldest historical records, which date back to the year 110, when the Han Dynasty arrived in the Spratly Islands. China's operations in the South China Sea have been compared to "salami slicing" and "cabbage wrapping" tactics.48

The nine dashed lines earlier referred to as eleven dashed line or ten dashed line are the demarcation lines used by China in the South China sea. A U-shaped eleven dashed line was published by China in 1947 and later 2 lines were removed by the Chinese emperor thus, bring down the number to nine.49 Such divisions make up China's claim, and it is this claim that will help China's military strength. Despite having one of the world's fastest growing economies, 52 major seaports, a big shipbuilding industry, 16 inland ports, and one of the world's best fleets and mercantile, some experts feel China is still the most disadvantaged in the Asia Pacific region.

China's segmentation lines have constantly been criticised, but the Chinese government has never responded with an explanation. In 1996, China announced baselines around the Paracel Islands but left off the Spratly Islands, pledging to deal with the issue later. So far, no additional information on the map has been provided. China controls the majority of the SCS and uses a range of measures to achieve its goals. In 2009, China sent a note verbale to the UN Secretary-General reiterating China's intrinsic sovereignty over the SCS islands and waterways.50 The Note Verbale was accompanied by a map of the nine-dashed line. The world community, however, seriously doubts the veracity of the nine-dashed assertion. The u-shaped nine-dashed line extends southward from the Chinese mainland, passing by the Philippine and Vietnamese coasts before ending at the Malaysian coast. Taiwan and its surrounding waters are completely encircled by the nine-dashed line. The nine-dashed line covers 90 percent of the surface of the South China Sea. It's unclear whether China intends to claim the entire area bounded by nine dashes or only the EEZ around islands lying within the nine-dashed line. China's second Note Verbale, filed in 2011, does not mention the word "historical rights," but it does imply that China is asserting historical rights to minerals within the nine-dash line.51

The international community implicated in the conflict objected, contending that the historical right is not a sensible argument under UNCLOS. According to UNCLOS, a state can only extract natural resources from maritime zones around land or island territories, hence the Philippines and Vietnam have previously stated that they will not recognise China's historical entitlement to resources within the nine-dash line.

49Wu 2013, p. 79(at History of the U-shaped line)
50Sukma, Rizal, Lina A. Alexandra, and Rocky Intan. “The Future of The Seas in East Asia: Toward a Comprehensive Maritime Cooperation.” Edited by


51Ibid. pg no. 21
Furthermore, proving historical right to fish would be difficult for China because there are standards for identifying the species and ways of fishing to which the historical right applies.\textsuperscript{52} Therefore it is very difficult for China to prove their historical rights and would also need a valid source of evidence to prove the same.

The China interests have caused problems for all of the other claimants, such as when a Chinese boat intruded into Indonesia's exclusive economic zone. The South China Sea may have turned into a flashpoint between China and Indonesia. Indonesia recently rejected China's claims over a disputed portion of the South China Sea, calling them "illegal." It also objected to Beijing over a Chinese coastguard vessel exercising in its territorial seas.\textsuperscript{53}

5. What the International Law says about the Dispute?

5.1 Law of the Sea

The package deal for the 1982 convention was negotiated and adopted. The Law of the Seas is an international legal framework aimed at codifying international rules and laws concerning the sovereignty of internal seas, territorial waters, sea lanes, and ocean resources. It's known as a "constitution for the seas." The 1982 United Nations Convention on the Law of the Seas (UNCLOS), which was ratified by more than 150 countries and entered into force in 1994, established the Law of the Seas. The United Nations Convention on the Law of the Sea (UNCLOS I) was held in Geneva in 1958 and provided the basis for the 1982 UNCLOS. This conference drew on four conventions: Territorial Sea and Contiguous Zone Convention, Fishing and High Seas Conservation Resources Convention, and Continental Shelf Convention.\textsuperscript{54}

China, Taiwan, the Philippines, Indonesia, Malaysia, Vietnam, and Brunei are among the countries involved in the South China Sea (SCS) conflict. Territorial control, freedom of navigation, fisheries, shipping lanes, and the exploitation of natural resources such as oil and gas are all issues in the South China Sea.\textsuperscript{55} The contested areas in the South China Sea include the Spratly Islands, Paracel Islands, Mischief Reefs, Johnson, Hughes, Fiery Cross, Cuerteron, Gaven (North) and Subi Reefs, Scarborough Shoals,\textsuperscript{56} and other continental shelves and banks. Over the years, China has used the nine-dash line to exert influence in the region, constructing military outposts and facilities on the artificial islands in the Spratly and Paracel Islands. Maintain an Area Access Area Denial (A2/AD) strategy, obstructing the freedom of navigation of western naval assets, particularly those of the United States, as well as hegemonic interests in the region. Since the late 1950s, China has maintained a physical presence and claim in the region. China has conducted many oil research and

\textsuperscript{52}Ibid.


\textsuperscript{54}Peter Malanczuk, Akehurst’s Modern Introduction to International Law (New York; Routledge, 1997) p. 173

\textsuperscript{55}China’s domestic strategic debate and confusion over the South China Sea issue by Wenjuan-2017

\textsuperscript{56}JAPANESE EXPANSION INTO THE SOUTH CHINA SEA COLONIZATION AND CONFLICT, 1902-1939 by ULISE-2008
drilling missions off the coast of Vietnam near the disputed Paracel Islands in the South China Sea, resulting in a standoff.57

5.2 Territorial Sea

The sovereignty of a coastal state goes beyond its land territory and coastal waters, and in the case of archipelagic nations, it also includes their surrounding seas, which are regarded part of its territorial seas. Both coastal and archipelagic governments have the right to establish their territorial seas up to a limit of 12 nautical miles, according to Article 3 of Part II of the UN Law of the Sea Convention on "Territorial Sea and Contiguous Zone."58 Article 2 of the Convention establishes a limit that extends beyond the territorial waters and defines the airspace of the country.59 The UN Law of the Sea Convention's concept of "passage" allows States to navigate past a country's territorial sea to traverse the sea without entering internal waters in a timely manner.60 Passage is legal if it does not jeopardize the peace, good order, or security of the coastal state and is done in accordance with the agreement.61

5.3 The Archipelagic State

Part IV of the UN Law of the Sea defines the islands and archipelagic States to whom the legal status of territorial restrictions applies. Article 47 of the Treaty establishes the starting point for an Archipelagic State's 12 mile territorial sea. The baseline can't be longer than 100 nautical miles, and it can't be drawn to and from low-tide elevation unless a permanent structure, like a lighthouse, has been built above sea level.62 The territorial sea, contiguous zone, exclusive economic zone, and continental shelf shall all be calculated from the archipelagic baselines established in Article 47, according to Article 48. Part IV of the convention also discusses the Right of Innocent Passage. Article 52 of the convention grants all states the right of innocent passage over archipelagic waterways, as stipulated in Part II. In addition, archipelagic States have the authority to define maritime lanes and traffic entrance points on their territory under Article 53.

Exclusive Economic Zone

Every coastal state has the right to claim an Exclusive Economic Zone under Part V of the Convention (EEZ). This area is beyond and next to the territorial sea of its respective country.63 The Exclusive Economic Zone (EEZ) of a coastal State extends 200 nautical miles from its coastline or 188 miles from the outer border of a twelve-mile territorial sea, according to Article 56 of the treaty. The

58 Possible Future of the Contest in the South China Sea Table 1 by Kim-2016
60 Ibid. Article 18
61 Ibid. Article 19
62 Ibid.
coastal States will have the sole power to develop, authorise, and regulate construction and operation within the exclusive economic zone.\(^{64}\) In the South China Sea, this arrangement allowed Malaysia and Brunei to cover maritime territories overlapping some of the Spratly Islands' southernmost islands: seven for Malaysia, three of which are militarily occupied, and one for Brunei, Louisa Reef.

### 5.4 Continental Shelf

Part VI on the Continental Shelf, which justifies claims by Brunei, Malaysia, and the Philippines, is the fourth key part of the UN Law of the Sea. Part VI comprises the specifications for a country's continental shelf or to 200 nautical miles from the baselines of the breadth is measured where the outer edge of the continental margin does not extend to that distance as mentioned in article 76. The continental shelf is the underwater section of a country's coastline land mass, which includes both the seabed and the shelf's subsoil.\(^{65}\)

The Philippines has stated its continental shelf extension and claim, but its claim is weak because the Palawan Through separates the Spratly Islands from the Philippine archipelago, and there is no natural prolongation as required by Article 76 of the Law of the Sea Convention to extend a claim beyond the 200 nautical mile limit.\(^{66}\)

Malaysia's claim to the South China Sea stems from the Article 76 continental shelf argument, which seeks to safeguard Malaysia's enlarged maritime zones. It stems from Malaysia's signing of the Geneva Convention of 1958 on national seas and continental shelf boundaries in 1960. In 1966 and 1969, Malaysia approved its own Continental Shelf Act, describing it as "the seabed and subsoil of submerged areas contiguous to Malaysia's coast," up to 200 metres deep or the limit of exploitability.

Article 76 Section 1 of the Law of the Sea Convention only addresses "the seabed and subsoil of the submarine areas extended… [from a] a natural prolongation of its land to the outer edge of the continental margin,” not as Malaysia had claim of land or rocks that rises above sea level.\(^{67,68}\)

### 5.5 The Legal issues in the Dispute

Disputes over the Spratly Islands (claimed partially or entirely by China, Taiwan, Malaysia, Vietnam, the Philippines, and Brunei), the Paracel Islands (claimed by China, Taiwan, and Vietnam), and the Scarborough Shoal (claimed by China, Taiwan, and the Philippines) are the innate contributors of tensile stresses in the South China Sea. Island sovereignty and marine entitlements are the two fundamental challenges.\(^{69}\) The Spratlys area is the most complicated of the three because it involves the most stakeholders. This dispute's legal

\(^{64}\) UNCLOS Article 60 coastal states have the jurisdictional over any installations of structure and artificial islands.

\(^{65}\) UNCLOS Article 76

\(^{66}\) Valencia, Ludwig, Dyke. Sharing the Resources of the South China Sea. Pg 35

\(^{67}\) ibid. pg. 37

\(^{68}\) Sacha Amry, CUNY Academic Works, An Analysis of the South China Sea Dispute: Focusing on the

Assessment of the Impact of Possible Solutions on the Economies of the Region, 2015 Retrieved from "An Analysis of the South China Sea Dispute: Focusing on the Assessment" by Sacha Amry (cuny.edu)

\(^{69}\) Xuechan Ma, Perspective of International Law: South China Sea Dispute, April 2016, Retrieved from Jstor.org
problems can be described as follows: First and foremost, which state has stronger claims? Second, what kinds of interim agreements can be implemented until the ultimate settlement to keep the peace in this region? The third aspect has to do with the issue of Eurocentric international law. The Western world is where modern international law arose and developed. The countries participating in the Spratly Islands issue, on the other hand, are Asian. Other legal orders regulating the areas under issue may have existed prior to their awareness of European international law. Finally, states may claim to have contradictory state policies.

6. Philippines vs. People’s Republic of China

The Philippines initiated arbitral proceedings against the People's Republic of China on January 22, 2013, under Annex VII of the United Nations Convention on the Law of the Sea (the "Convention") and in the February of the same year China refused to partake. The arbitration was about the role of historic rights and the source of maritime entitlements in the South China Sea, the status of certain maritime features in the South China Sea, and the legality of certain Chinese operations in the South China Sea that the Philippines claimed were illegal. China took a non-acceptance and non-participation stance in the negotiations. According to the statement, China has violated its sovereign right to freedom of navigation in the South China Sea by extending its territorial claim, creating artificial islands, and maintaining an excessive presence of surveillance vessels, naval assets, and fishing boats in the region, jeopardizing its access to maritime entitlements.

6.1 Issues of the case

The main issue was that of the lawfulness of certain actions of China on the South China region along the others contended by Philippines. The other 4 issues were:

- To resolve the disputes between the parties regarding the source of maritime rights and entitlements
- To resolve the disputes between the parties concerning the entitlements to maritime zones that would be generated under the Convention by Scarborough Shoal and certain maritime features in the Spratly Islands that are claimed by both the parties
- To resolve a series of disputes concerning the lawfulness of China’s actions in the South China Sea, vis-à-vis interfering with Philippine’s rights, failing to protect and preserve the marine environment, and inflicting harm on the marine environment (through land reclamation and construction of artificial islands)
- To find that China has aggravated and extended the disputes between the Parties by restricting access to a detachment of Philippines Marines stationed at Second Thomas Shoal.

Whereas both China and the Philippines are parties to the UNCLOS, China officially said in 2006 that it would not accept compulsory dispute settlement for maritime boundary delimitation. Furthermore, China has

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70 Bardo Fassbender and Anne Peters (eds), The Oxford Handbook of the History of International Law (2012), 1035.

71 https://pca-cpa.org/en/cases/7/
expressed its displeasure with the Philippines' choice to take the case to arbitration and has opted not to accept the Tribunal's judgement or participate in the proceedings.

On its part, the Tribunal has taken note of these considerations and has stated that it would not deal with maritime boundary delimitation. Furthermore, the Tribunal did not dismiss the case based on UNCLOS Annex VII Article 972 of Annex VII. In addition, the Tribunal emphasized that, notwithstanding China's absence from the proceedings, the Tribunal's ruling would be binding on it because it is a party to the UNCLOS, as stated in Article 296 (1)73 and Article 11 of Annex VII.74

Philippines made 15 submission to the Permanent Court of Arbitration for the tribunal to decide upon. It also asked the tribunal to declare that their claims are 'entirely within its jurisdiction and are full admissible.' However, China did not accept it and furthered its motive not to participate in the arbitration. China gave a position paper stating that the tribunal does not have jurisdiction over this case."It will neither accept nor participate in the arbitration unilaterally undertaken by the Philippines," China has reiterated several times.

"[A]bsence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings," according to Annex VII. In the case that a party fails to participate in the proceedings, Annex VII states that the tribunal "must convince itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law."Providing historical evidence about features in the South China Sea to the Parties for comment.75 China has also made it clear—through the publishing of a Position Paper in December 2014 and other means—that it is committed to the rule of law. Official statements—that the Tribunal lacks jurisdiction in this case, according to them. "In the case of a disagreement as to whether a court or tribunal has jurisdiction, the subject shall be determined by decision of that court or tribunal," according to Article 288 of the Convention. As a result, in July 2015, the Tribunal held a hearing on jurisdiction and admissibility.

6.2 Settlement of Disputes under UNCLOS

The question of whether mandatory settlement of disputes binding on parties to UNCLOS would prevail over other means agreed to by the parties to settle disputes concerning the interpretation and application of UNCLOS arose earlier in the context of a dispute between Australia and New Zealand and Japan over conservation of Southern Bluefin Tuna (SBT) under the 1993

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72 "If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law."

73 "Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute."

74 "The award shall be final and without appeal unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute."

75 Annex VII, UNCLOS
Convention on the Conservation of the Southern Bluefin Tuna (SBT). This is a problem that was addressed by the Arbitral Tribunal in the SBT case between Australia and New Zealand and Japan, a Tribunal that was established for the first time in the SBT dispute between Australia and New Zealand and Japan. All three states are also parties to Annex VII of the LOS Convention. Japan objected to the jurisdiction, citing article 281(1), claiming that it was superseded by the parties' agreed-upon method for resolving disputes as part of the 1993 Convention. It should be noted that when New Zealand and Australia approached the International Tribunal for the Law of the Sea for provisional measures in connection with the same dispute, it granted them, rejecting the Japanese objections on the same grounds and holding that, in the absence of an express exclusion under the 1993 Convention, the Tribunal constituted under Annex VII had jurisdiction prima facie.

The primary norm is "free choice of ways of settlement," with the only requirement that they be "peaceful" and do not jeopardize "international peace, security, and justice." Parties to a dispute can pick among the options listed in Article 33 of the UN Charter. The Part XV system for resolving disputes is a default system. Only if the parties to a dispute have not committed themselves to any alternative way of resolving the disagreement of their own choosing, pursuant to article 281(1) of Section 1, does it come into effect. If the disagreement continues unabated after using the preferred method of resolution, the procedure set forth in Part XV will apply unless the parties to the agreement specifically exclude "any further procedure." Any return to the proceedings under Part XV of the Convention is likewise subject to any time restriction agreed upon by the parties, according to Article 281(2). Article 282 also prohibits the use of Section 1 processes if the parties to a dispute have agreed to a mandatory binding settlement of the matter through a general, regional, or bilateral agreement, unless the agreement specifically allows for Part XV proceedings. Many authors too alleged that the territorial sovereignty disputes over islands are governed by the principles and rules of general international law on the acquisition and loss of territory and not by the 1982 convention. However the tribunal held the exact opposites. It in return, dismissed China's claim in its Position Paper that the Parties' dispute is essentially about territorial sovereignty and thus not a Convention issue. The Tribunal acknowledged that the Parties had a dispute about jurisdiction over islands in the South China Sea but determined that the issues brought to arbitration by the Philippines are unrelated to sovereignty. It was determined that it would not be necessary to make an implied decision on sovereignty in order to respond to the Philippines' Submissions, and that doing so

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77 These include various means noted thereunder but first of all by negotiation in the order of priority and other means, such as enquiry, mediation, conciliation, arbitration, judicial settlement; as well as resort to regional agencies or arrangements, or other peaceful means of their own choice (articles 279, 280 and 284).

would not advance either Party's sovereignty claims to islands in the South China Sea.

6.3 Arbitration Award

On July 12, 2016, the Permanent Court of Arbitration in The Hague issued the case's final award after four procedural hearing orders. China had no legal basis for asserting ancient rights to marine boundaries and minerals in the Nine-Dash line, according to the ruling. The Tribunal also looked at the historical record to see if China had historic rights to resources in the South China Sea prior to the Convention's entry into effect. It acknowledged that there is evidence that Chinese navigators and fishermen, as well as those from other countries, have historically used the islands in the South China Sea, while it stressed that it did not have the authority to adjudicate on the islands' sovereignty. Their resources, on the other hand, are limited. Prior to the Convention, the Tribunal held that the waters of the South China Sea outside the territorial sea were legally part of the high seas, where vessels from any country might freely sail and fish. As a result, the Tribunal determined that China's historical navigation and fishing in the South China Sea amounted to the exercise of high seas freedoms rather than a historic right, and that there was no evidence that China had historically exercised exclusive control over the South China Sea's waters or prevented other countries from exploiting their resources. The Tribunal evaluated the status of features in the South China Sea, as well as China's prospective entitlements to marine areas under the Convention, in its Award of July 12, 2016. The Tribunal initially conducted a technical assessment to determine whether particular coral reefs claimed by China are or are not protected. At high tide, they are submerged. Features that are above water are protected by Articles 13 and 121 of the Convention. Features that are visible at high tide give rise to a territorial sea of at least 12 nautical miles, whereas features that are not visible at high tide give rise to a territorial sea of at least 12 nautical miles. Those who are submerged at high tide have no claim to maritime zones.

The Tribunal concluded that the Convention is clear in allocating sovereign rights to the Philippines with respect to sea areas in its exclusive economic zone, having found that Mischief Reef, Second Thomas Shoal, and Reed Bank are submerged at high tide, form part of the Philippines' exclusive economic zone and continental shelf, and are not overlapped by any possible entitlement of China. The Tribunal found that China had (a) interfered with Philippine petroleum development at Reed Bank, (b) purported to prevent Philippine vessels from fishing within the Philippines' exclusive economic zone, and (c) threatened to do so, (d) built installations and artificial islands on Mischief Reef without the Philippines' permission. As a result, the Tribunal found that China had infringed on the Philippines' sovereign rights to its exclusive economic zone and continental shelf.

The tribunal also considered the effect of China's action on the marine environment.

Finally, the Tribunal evaluated the legality of Chinese law enforcement vessels' actions at Scarborough Shoal in April and May 2012, when they attempted to physically block Philippine vessels from approaching or entering the Shoal on two occasions.

7. ASEAN’s Conflict Resolution – The Role of Non-Claimants
Indonesia, Malaysia, the Philippines, Singapore, and Thailand established the Association of Southeast Asian Nations in 1967. Later, the group grew and welcomed more members, including Brunei, Cambodia, Laos, Myanmar, and Vietnam. The organization was established to promote order and stability to the region by encouraging its members to engage culturally, economically, and to maintain security through dialogue and negotiations rather than force. ASEAN was designed to counterbalance China's dominance in the area. The first step for cooperation and resolution of the dispute was the 1992 issuing of the Declaration on South China Sea. But the efficacy was questionable as China and Vietnam did not sign the documents. When China attended the ASEAN meeting in Jakarta in 1996, it became the first country to participate in talks with the organization. The list of rules of conduct applicable in the South China Sea was the product of this ASEAN meeting. Even though China was in talks with ASEAN, it did not want to relinquish its territorial claims. For more than two decades, ASEAN and China have tried to establish a method to control interactions in the South China Sea, but efforts to move beyond the Declaration on the Conduct of Parties in the South China Sea (DoC) and into a more comprehensive framework and binding agreement have so far failed.\footnote{Mun, T. S. (2015). ASEAN-Japan Relations in Maintaining the Good Order at Sea: A Southeast Asian Perspective. In S. F. Muhibat & A. Stienon (Eds.), \textit{THE FUTURE OF THE SEAS IN EAST ASIA: FORGING A COMMON MARITIME FUTURE FOR ASEAN AND JAPAN} (pp. 52–55). Centre for Strategic and International Studies. http://www.jstor.org/stable/resrep14743.10}

Notwithstanding their geographic, political, and economic differences, it is evident that each of these non-claimant entities have very serious strategic interests in the South China Sea. Given regional players' reliance on essential sea lines of communication for shipping, this is perhaps unsurprising. The South China Sea is one of the world's major commercial lanes, with more than $5 trillion in annual seaborne goods passing through its seas.\footnote{Tim Kelly, “U.S. Navy Commander Warns of Possible South China Sea Arms Race,” Reuters, December 15, 2015, http://in.reuters.com/article/southchinesea-usa-idINKBNOTY03F20151215.} These are also critical energy lifelines, transporting a third of the world's crude oil and half of the world's liquefied natural gas. Dependence is particularly acute for East Asian countries like South Korea and Japan, with around 66 percent and 60 percent of their energy imports going through the South China Sea, respectively.\footnote{“The South China Sea Is an Important World Energy Trade Route,” U.S. Energy Information Administration, April 4, 2013, http://www.eia.gov/todayinenergy/detail.cfm?id=10671.} Given their strong economic interests, regional stakeholders are apprehensive of trade interruptions because of a geopolitical crisis or open confrontation over the disputed waters.\footnote{Robert D. Kaplan, “Why the South China Sea Is So Critical,” \textit{Business Insider Australia}, February 20, 2015, http://www.businessinsider.com.au/why-the-south-china-sea-is-so-crucial-2015-2}

Another thing that the non-claimant governments have in common is a strong desire to retain freedom of navigation, passage, and overflight in the South China Sea. All of the non-claimants likewise demand that the disputes be settled peacefully in conformity with international
norms and law. This is especially true of the two multinational institutions under consideration. As Alice Ba points out, ASEAN needs a peaceful, negotiated resolution to the conflicts; anything less would jeopardize the organization's fundamental approach of seeking consensus-based solutions in the face of great-power interests. Failure to accept international legal results would also jeopardize the European Union's approach to collective security, which, as Mathieu Duchâtel points out, sees itself as a normative force. Non-claimant countries' efforts to uphold a rules-based order and safeguard access to the marine commons can help to solidify a broader understanding of what the claimant states can do. This may increase the pressure on claimants who choose to engage in undesirable behavior over time. The South China Sea disputes are also perceived via the perspective of regional geopolitics for the majority of the non-claimants covered here. China's growing assertiveness in the South China Sea, along with its growing power and presence on the international stage, appears to be aimed at undermining the US-led regional order that has prevailed since WWII's end. This view has consequences for the United States' treaty allies Japan, South Korea, and Australia, as well as ASEAN. While the sovereignty conflicts continue to separate China and ASEAN claimants, non-claimant ASEAN member states are working to restore the China-ASEAN relationship.

7.1 Japan

Neither the Paracel nor the Spratly Islands are claimed by Japan. There are various reasons, though, why Japan is involved in the fight. Peace is important in the SCS because it is a Japanese neighborhood. Japanese trade is reliant on the SLOTs there, and any violent conflict in the SCS would have a significant impact on Japanese firms. Furthermore, if Japan's first enemy controls the SCS, it is not in Japan's best interests. Second, the Senkaku Islands in the East China Sea are the subject of a territorial dispute between China, Taiwan, and Japan. Japan has been indirectly embroiled in the SCS conflict since 2012, because of heightened tensions between China and Japan in the East China Sea. To weaken China, Japan provided financial aid to the Philippines and increased its involvement in ASEAN diplomatic negotiations. Because China's actions in the South China Sea are likely to create precedent for its behavior in the East China Sea, it is in Japan's interest to closely monitor Chinese activity in the SCS. If a dispute arose in the ESC, the US would be forced to intervene militarily.

7.2 India

Every year, India trades valued about $200 billion across the SCS waterways. These seas carry nearly half of India's trade with the Indo-Pacific region. In total, one-third of the world's shipping passes through these SLOCs each year, transporting over US$3 trillion in trade, including the majority of the world's demand for key commodities such as energy and raw materials.83 In October 2011, India and Vietnam inked an agreement to extend and promote oil exploration in the South

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China Sea. While China has always protested to India's oil exploration efforts in Vietnamese seas in the South China Sea, India has stated that it will continue to do so. India's economic vitality is dependent on reliable energy supplies and safe and secure trade routes in the area, especially the Malacca Straits. It, like many other countries, has a lot riding on maintaining the sea lanes open in the SCS (the intersection of the Indian and Pacific Oceans). India's economic vitality is dependent on reliable energy supplies and safe and secure trade routes in the area, especially the Malacca Straits. It, like many other countries, has a lot riding on maintaining the sea lanes open in the SCS (the intersection of the Indian and Pacific Oceans).

India, notwithstanding its geographical barriers from the South China Sea, maintains an open distance from any involvement in the dispute. Recent events, however, indicate that India's interest in the South China Sea dispute is growing. This is supported by Indian Prime Minister Narendra Modi's announcements at various platforms, such as the ASEAN Summit, and his joint statements with numerous countries, including the United States, Japan, the Philippines, and Vietnam, which clearly address the South China Sea conflict. Other circumstances urge India to play a significant role in the South China Sea dispute.

One, in light of the deterioration of the US-Asian alliance, the US wants India to play a role in regional security problems such as the South China Sea dispute. Second, China's ever-expanding ambitions have a chilling effect on India's security architecture, and New Delhi enjoys engaging in the South China Sea dispute to counter China. Third, there is a global maritime security interest in the region, and many countries want India to act as a counterbalance to the assertive and rising China, and they want it to intervene in the conflict in order to maintain regional peace and security. Fourth, India's Act East policy needs economic and defence relations with Southeast Asian nations, and many of them want India to play a significant role in resolving the South China Sea dispute. As a result of its expanding involvement in the conflict, India appears to be more prepared to listen to its ASEAN allies. Fifth, having a say in a significant regional security issue gives India a level of prestige that matches its regional power standing. As a result, India has been forced to participate in shaping the Indo-Pacific region's security architecture. In this setting, India, along with the United States and other major nations, is preparing to play a prominent role as a regional security provider.

Finally, India's South China Sea strategy is an example of New Delhi's "aggressive defensive" foreign policy. It is used to persuade China to retain its non-interference attitude toward India. As a result, this policy serves such limited purposes in maintaining a level playing field with China. Finally, while not being a party to the South China Sea dispute, India has every reason to keep the peace in its backyard. This has prompted India to become involved in the South China Sea dispute for three reasons: to maintain maritime security, to strengthen ties with ASEAN countries in order to implement its 84Vietnam briefs India about Chinese action in South China Sea", The Economic Times, July 29, 2019, https://economictimes.indiatimes.com/news
Act East strategy, and to challenge China in the Indian Ocean region.  

8. Possible Resolutions

Aside from the UN Convention on the Law of the Sea, the World Court (International Court of Justice) could be used to settle territory disputes in the Spratly Islands. To allow the International Court of Justice to hear a case and issue a binding judgement, all disputants must agree to allow the Court to hear the matter and render a binding ruling.

Recent events in the South China Sea can be described as a mix of unproductive occurrences and potential opportunities for peace, stability, and collaboration. As a result, solutions may exist, but each country in the region must renounce portions of its claims, particularly China, whose greed cannot be tolerated by the other countries or the United Nations Convention on the Law of the Sea.

9. Conclusion

China's intention to wield influence in the South China Sea continues to act as a deterrent to regional stability, security, and development. Because of the region's importance to the global economy, unrest in the South China Sea might be regarded as having a global impact. Armed conflict has the potential to devastate the region, and if the world's two most powerful economies become embroiled, the result could have far-reaching and long-lasting global consequences. Despite widespread regional censure, China has maintained an aggressive and expansionist stance in the region, as evidenced by her activities in the South China Sea. Perhaps characterized her approach, which is based on basic national interests and an unwillingness to accept the plainly stated viewpoints of other countries in the region. This has been worsened by China's clear unwillingness to follow international law, particularly that outlined in UNCLOS.

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