

Committee: SPECPOL 1

Topic: The Question of the Spratly Islands

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Summary

The South China Sea is subject to several overlapping territorial disputes involving Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam. The conflict has remained unresolved for decades but has emerged as a flashpoint in China-US relations in Asia.

Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam hold different and occasionally overlapping territorial claims over the sea, based on various accounts of history and geography. China claims over 80 per cent of the South China Sea, while Vietnam claims sovereignty over the Paracel Islands and the Spratly Islands. The Philippines states ownership of the Spratly archipelago and the Scarborough Shoal, while Brunei and Malaysia have claimed sovereignty over southern parts of the sea and some of Spratly Islands.

Over the years, claimants have seized control many sea features such as rocks, islands and low-tide elevations. China has implemented a 'nine-dash line' geographical marker to assert its claim. Despite territorial waters being allowed to extend 22.km from the baseline of a coastal state, China's 'nine-dash line' stretches as far as 2,000km from the Chinese mainland, reaching waters close to Indonesia and Malaysia.

Definition of Key Terms

Demarcation: The act of fixing the boundary or limits of something.

Exclusive Economic Zone (EEZ): A sea zone approved by the United Nations Convention on the Law of the Sea, over which a state has special rights regarding the exploration and use of marine resources, including energy production from water and wind. It stretches from the baseline out to 200 nautical miles (nmi) from its coast.

Island (according to UNCLOS): A naturally formed area of land, surrounded by water, which is above water at high tide. The territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

Low-tide elevations: A naturally formed area of land which is above water and surrounded by water at low tide but submerged at high tide. It may be a mudflat or reef. Low tide elevation can be important in determining the baseline which defines a nation's territorial waters.

Maritime features: A term that seems to be used most commonly in reference to Spratly Islands, simply the things present at sea, which may not be accessible at all times due to changes in tide.

Maritime Zones: Drawn using baselines, that are fixed to begin at the low-water line along the coast. The low-water line is derived from the coastal State's own charts.

Nautical miles: A nautical mile (symbol M, NM or nmi) is a unit of distance, set by international agreement at being exactly 1,852 meters (roughly 6,076 feet).

Territorial waters: The waters under the jurisdiction of a state. Specifically, the part of the sea within a stated distance of the shore, traditionally three miles from the low-water mark.

Background Information

The South China Sea is a key commercial passage connecting Asia with Europe and Africa. One third of global shipping (a total of US \$3.37 trillion of international trade), passes through the South China Sea. Around 80 percent of China's oil imports arrive through the Strait of Malacca in Indonesia, and then sail across the South China Sea to China. The South China Sea also accounts for 10 per cent of the world's fisheries, meaning it is a significant source of food for hundreds of millions of people.

The seabed is rich in natural resources, and is believed to contain major reserves of natural gas and oil. The US Energy Information Administration estimates the area contains at least 11 billion barrels of oil and 190 trillion cubic feet of natural gas. Other estimates are as high as 22 billion barrels of oil and 290 trillion cubic feet of gas.

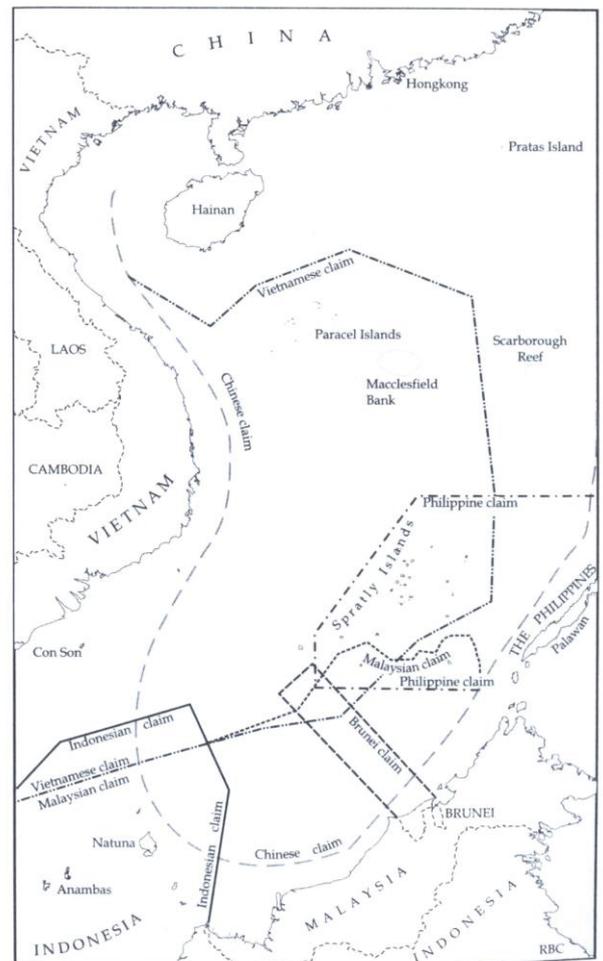


Territorial claims involve Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam. Most of the disputed area is under surface of water during high tides meaning the exact number of islands and rocks are difficult to determine. Only a few of the dozen islands are truly habitable.

Of the disputed islands and rocks, Vietnam took 30, the Philippines 9, Malaysia 6, Brunei 1 and China 7. The dispute of demarcation of sea territory and EEZ in the area surrounding Spratly Islands involves Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam. The dispute focused on the right of fishery before the 1960's. After the 1960s, the focus of the dispute has been on the right of fishery and ownership of the oil and natural gas.

The dispute on the ownership of oil and natural gas reserves has become the major concern in recent years. Of the two sides, the dispute on the territorial claim is the crucial one. According to the United Nations Convention for the Law of the Sea (UNCLOS), once the ownership of territory is decided, the territorial sea, maritime zone and EEC can be set according to the UNCLOS clauses.

In 2014, the utilization of a Chinese drilling rig in waters near the Paracel Islands led to several clashes between Chinese and Vietnamese ships, which triggered protests in Vietnam. During 2014, Beijing began land reclamation operations in parts of the Spratly archipelago. Beijing increased the surface area with man-made structures and built military installations on them. China has also established a new city on one of the islands, called Sansha on Woody Island, leading to an increase in Chinese tourism.



In July 2016, a ruling by an international tribunal in The Hague determined China had no “historic rights” over the sea and ruled that the rocky outcrops claimed by several countries could not legally be used as the basis for territorial claims. Beijing rejected the ruling and described it as having “no binding force”.

(A good website for looking at maps of territorial claims: <http://www.southchinasea.org/maps/territorial-claims-maps/>)

Major Countries and Organizations Involved

Association of Southeast Asian Nations (ASEAN): Southeast Asia regional intergovernmental organisation, formed of ten countries. Promotes intergovernmental co-operation, facilitates political, economic, military, education and sociocultural integration among its members and other countries in Asia.

Brunei: Claims part of the Spratly Islands, but is the only country that does not occupy any of the maritime features. Claim is based on a straight-line projection of its EEZ as stipulated by the United Nations Convention on the Law of the Sea.

China: Claims the whole of the South China Sea. Bases on historical background (according to Chinese history), Spratly and Paracel islands were first discovered by the Chinese, some Chinese historical document describes the area as Chinese territory since 300AC. However, its continuous control of the disputed area was interrupted in modern history. Under current international law, it will be hard for China to defend its claims. China has refrained from using legal terminology to specify its demands, but the Chinese Congress passed a law to claim the territorial water.

France: Conducted operations in conjunction with UK authorities 2018 to dispute the claims on the Sea and grant the free passage of commercial ships in its waters.

Malaysia: Claims part of the Spratly Islands. claims of the features in southern Spratly that fall inside the border of Malaysia's continental shelf. Therefore, its claim is primary on legal ground.

Philippines: Claims part of the Spratly Islands on the continental shelf, also bases claims on historical arguments. However, their claims are too modern compared to the historical claims made by China and Vietnam. The Philippines has never claimed the main island of Spratly, which is outside the Exclusive Economic Zone of the Philippines.

Taiwan: Claims part of the Spratly Islands.

Vietnam: Claims part of the Spratly Islands. Vietnam acknowledged Chinese sovereignty over the disputed islands during its war with France and the U.S. It started to dispute China's claim after relations with China deteriorated in the early 1970s.

UK: Conducted operations in conjunction with French authorities during 2018 to dispute the claims on the Sea and grant the free passage of commercial ships in its waters.

USA: Is allied with several of the countries bordering the South China Sea, such as the Philippines, Singapore and Vietnam. South China Sea is a vital trade route in the global supply chain, as it is used by American companies who produce goods in the region. Has conducted Freedom of Navigation operations, designed to challenge excessive claims on the Sea and grant the free passage of commercial ships in its waters.

US Energy Information Administration: Provides data on natural resources in the Spratly Islands.

Timeline of Events

Date	Description
1947	The Republic of China publishes the first map including the "nine-dash line" looping around almost the all of the South China Sea, claiming

waters adjacent to Malaysia, the Philippines and Vietnam, for the government of Chiang Kai-shek.

- 1951 Japan officially relinquishes empire. The Treaty of San Francisco, signed by Japan and a host of Allied powers, officially ends World War II and Japan's empire. The treaty annuls all of Japan's claims to the South China Sea Islands but no official resolution is reached on sovereignty over the Spratlys.
- 1984 The Philippines joins the 1982 U.N. Convention on the Law of the Sea.
- 1988 Vietnamese sailors killed in skirmish with China. Tensions between China and Vietnam in the South China Sea rise, after 70 Vietnamese sailors are killed in a naval battle between the two nations near the Spratlys.
- 1994 The 1982 U.N. Convention on the Law of the Sea, under which the Philippines has taken China to arbitration, goes into effect after 60 countries ratify it. The agreement defines territorial waters, continental shelves and exclusive economic zones. and China in 1996. The U.S. has never ratified it.
- 1995 China takes control of disputed territory, Mischief Reef. Builds octagonal huts on stilts that Chinese officials claim will serve as shelters for fishermen. The Philippines places a complaint through the Association of Southeast Asian Nations.
- 1996 China joins the 1982 U.N. Convention on the Law of the Sea.
- 1997 Philippine naval ships prevent Chinese boats from approaching Scarborough Shoal, provoking a protest from China. The uninhabited reef, Huangyan Island, is 230 kilometres (145 miles) off the Philippines and about 1,000 kilometres (600 miles) from China. The Philippines arrests Chinese fishermen on numerous occasions, for alleged illegal fishing in the area in the subsequent years.
- 2009 Vietnam and Malaysia make applications for recognition of extended continental shelves, that would give them further resource rights. In response China submits its nine-dash line map to the United Nations, stating it "has indisputable sovereignty over the islands in the South China Sea and the adjacent waters.". The Philippines, Vietnam, Malaysia and Indonesia protest China's claim.
- 2011 The Philippines files a diplomatic protest after a chartered ship searching for oil and gas in Reed Bank near the Spratly Islands as it was being harassed by two Chinese patrol boats, forcing it to change course.
- 2012 China takes control of Scarborough Shoal after a tense standoff between Chinese coast guard ships and a Philippine naval vessel that stopped a Chinese fishing boat in order to inspect it.

- March 2012** China detains 21 Vietnamese fishermen in the Paracel Islands, alleging they had been fishing in Chinese waters illegally.
- June 2012** Vietnam passes a new maritime law claiming sovereignty over the Spratly and Paracel Islands. China raises the administrative status of the disputed islands to the prefecture level.
- January 2013** The Philippines brings its dispute with China to the Permanent Court of Arbitration in The Hague, angering Beijing. A five-member panel of international legal experts is appointed in June to hear the case.
- November 2013** China announces an air defence identification zone in the East China Sea surrounding the Senkaku/Diaoyu Islands, claiming the right to monitor and intercept aircraft it finds within the zone. The US flies two jets through the airspace shortly afterwards.
- 2014** The Philippine government summons China's top envoy in Manila in February to protest what it said was the firing of a water cannon by a Chinese government vessel to drive away Filipino fishermen from Scarborough Shoal. China ignores the protest and calls its sovereignty there "indisputable."
- 2014** China issues a position paper in December arguing that the panel does not have jurisdiction over the case, because it concerns issues of sovereignty and boundary definition, which are not covered by the U.N. convention, and that the Philippines and China had agreed to settle their dispute only through negotiation.
- 2015** The arbitration panel in The Hague rules in October that it has jurisdiction over at least seven of the 15 claims raised by the Philippines. A hearing on the merits of the claims is held in November. China does not participate. China's foreign ministry asserts that the Philippines has breached a 2002 code of conduct agreed upon by it and ASEAN nations.
- June 2016** A brief show of unity from ASEAN countries collapses as a statement expressing "serious concerns" over developments in the South China Sea is abruptly retracted. The Indonesian navy says it has fired warning shots at Chinese fishing boats operating in the Natuna Sea, part of Indonesia's exclusive economic zone. China intensifies its media campaign to discredit the validity of any ruling from the Philippines case after the tribunal, then says it will announce its ruling on July 12. Newly inaugurated Philippine president Rodrigo Duterte says his country might be willing to enter new talks with Beijing after the ruling.
- July 12, 2016** The Permanent Court of Arbitration rules that China has no legal basis for claiming much of the South China Sea. That it had aggravated the regional dispute with its land reclamation and construction of artificial islands that destroyed coral reefs and the natural condition of the disputed areas. The

Philippines, which sought the arbitration ruling, welcomed the decision, and China rejected it outright.

June 24, 2019	ASEAN leaders call for restraint in disputed South China Sea, as US-China trade war rages on.
July 2, 2019	China announces drill near disputed Parcel Islands as US official reports missile sighting.
July 3, 2019	Pentagon calls China missile test in South China Sea 'disturbing'.
July 6, 2019	China denies U.S. accusations of South China Sea missile tests.
July 16, 2019	Chinese survey ship mission to disputed reef in South China Sea results in China and Vietnam stand-off.
July 23, 2019	China calls U.S. criticism over South China Sea slander.

Relevant UN Treaties and Events

- **10th of December 1982: United Nations Convention on the Law of the Sea** - Summary: Defines the rights and responsibilities of nations with respect to their use of the world's oceans, it has guidelines for businesses, the environment, and the management of natural marine resources.
 - Accessible at:
https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en
- **2002: A Code of Conduct on the South China Sea** - Summary: Stipulates that the dispute should be dealt with in accordance to international laws. Expresses the will of all claimants to restrain from escalating the dispute and to cooperate in possible fields for the purpose of confidence building measures. The first multilateral agreement reached between all claimants.
- **2003: Treaty of Amity and Cooperation in South-East Asia** - Summary: Laid the foundation for peaceful resolution of the dispute in the South China Sea.

- Accessible at:

<https://asean.org/treaty-amity-cooperation-southeast-asia-indonesia-24-february-1976/>

- **2017: Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, Law of the Sea** - Summary: Tribunal concluded in Philippines favour, as there was no legal basis for China to claim historic rights to resources, in excess of the rights provided for by the Convention (on the Law of the Sea), within the sea areas falling within the “nine-dash line”.

Visit page 28 for a detailed account on “Permanent Court of Arbitration: The South China Sea Arbitration (The Republic of the Philippines v. The People’s Republic of China), 12 July 20163”

- Accessible at:

https://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/LOS_9_1_WEB.pdf

Previous Attempts to solve the Issue

- There have not been many attempts to properly solve this issue in its entirety, as Southeast Asian nations have traditionally rejected a bilateral solution with China. Despite this, one year after Philippine’s ruling against China's territorial claims, Philippine President Rodrigo Duterte agreed to solve the dispute with China through bilateral talks. Vietnam, usually the most outspoken critic of China, has also softened its stance. In April 2018, the government said it would be willing to hold talks with China to resolve disputes in the area “in accordance with international law”.
- ASEAN has been working with China on an official code of conduct to avoid clashes in the disputed waters. A binding agreement has been discussed for years and in August 2018 it was revealed all the parties had agreed on a single draft negotiating text.

Possible Solutions

- Legal solutions: If all claimants agree to submit the dispute for arbitration to the International Court of Justice (ICJ).
- Political solutions: All parties discuss the dispute in formal occasions, either at bilateral or multilateral levels with the inclusion of ASEAN.
- Confidence building measures: Such as undergoing joint projects in the disputed projects.
- Respecting Sovereignty and keeping the peace: Attending to all claimants' issues, by ensuring the security and stability of sea lanes and natural resources South China Sea, and building on previous foundations of peace seen in the treaties section.

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