

Committee: DISEC

Topic: The question of militarisation of the South China Seas

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Summary

The South China Sea is a widely contested area. It contains many economical resources, including crude oil, natural gas and fishing territories that makes it very appealing to many South Eastern nations. Furthermore, the South China Sea is in a key location for trade from South East Asia, where an estimated US\$3.37 trillion of global trade passes through the area annually. Most of the neighbouring states have some type of territorial claims on the islands in the region, including the People's Republic of China (PRC), Brunei, Malaysia, the Philippines, the Republic of China (ROC) and Vietnam. The PRC has the most disputed stance, as they have created what they call the nine-dash line, which marks the area they claim. It clashes with all other South East Asian territorial claims, as well as with the UNCLOS. Over the past decade, the PRC and Vietnam have started to build artificial islands in the South China Sea as an attempt to further their influence and control greater parts of the sea. These islands are often being militarised along with some of the natural islands. Large stores of missiles, anti-aircraft batteries and radar systems are employed, mainly by the PRC. These weapons are seen as a signal to intimidate all other claimant nations from their potential land claims and increase the tensions in the region.

Definition of Key Terms

Artificial Islands – Islands that have been created by humans. In this context, islands are built as an attempt to further a nation's officially recognized territorial water.

Exclusive Economic Zone (EEZ) – A region beyond territorial sea where sovereign states have jurisdiction over the natural resources, but not any other aspects. EEZs extend 200 nautical miles from the territorial sea, as determined by the UNCLOS.

Militarisation – The act of equipping a nation or specific location with military resources and defences.

Nine-Dash Line – The People’s Republic of China’s claimed territory in the South China Sea.

Territorial Sea – A region directly adjacent to an island or coastline where sovereign states have full jurisdiction over all aspects. Territorial sea can extend 12 nautical miles according to the UNCLOS

UNCLOS – The United Nations Convention on the Law of Sea, an international treaty signed in 1982.

Background Information

The territorial disputes in the South China Seas started a long time ago. After the Chinese Civil War, an eleven-dash line was drawn up of the South China Seas, which later was revised to a nine-dash line. When the PRC and Republic of China (ROC) split in 1949, both countries adapted the nine-dash line and viewed the region as theirs to conquest. This is what they base their historical rights to claim the territory. However, French Indochina were in control of most of the South China Sea and when the Republic of



Vietnam was given its independence in 1955, they viewed it clear that Vietnam would inherit all territory previously controlled by Indochina. This led to Vietnam’s claim on the islands in this region. The Philippines bought the claim of a self-proclaimed state in the Spratly Islands in 1978 and have kept a claim in this region since that occurrence. The creation of the UNCLOS in 1982 furthered any feelings of having the right to control the islands, if they were close enough to be in a nation’s territorial sea or even EEZ.

The South China Sea is an important economical region with a lot of resources. There is an estimate of 16-33 billion barrels of oil in the region and 14 trillion barrels of natural gas in the region. The South China Seas is also rich in marine life, which could be a huge asset to the fishing industry. This, on top of the trade passing through the sea, makes it very attractive to the countries in the region.

At the moment, the PRC, ROC and Vietnam dispute about the Paracel Islands that are controlled by the PRC. The Pratas Islands are claimed by both PRC and ROC, but are controlled by ROC. Finally, the Spratly Islands are contested and controlled by most countries in the South East Asian region.

The PRC has the most contested view which clashes with all other nations' claims. They have tried to justify their nine-dash line through placing themselves at an archipelagic status which would allow them to completely regulate the waters between the islands they control. They have further shifted the definition of EEZs to restricting innocent passage by shifts, although the UNCLOS states that they do not have any right to limit navigation or control exercises due to security purposes. The United States of America (US) have taken an opposite stance to the PRC. The US have staked a claim under the principles of international law and freedom of navigation, and hence strongly condemns the PRC's control over the region. With the more recent military build-up, these tensions have increased further. The missiles, radar systems and artificial air bases the PRC has stored can be used quickly in the case of conflict and their close proximity to the region limits the response time for the UN or US involvement that have been vital earlier to deescalate conflicts. In addition, the PRC has sunk and harassed commercial ships belonging to neighbouring countries, actions that have cast spotlight on the militarisation by the PRC.

Major Countries and Organizations Involved

Brunei – Brunei first asserted its rights to a small rectangular part of the South China Sea in 1984. Multiple disputed maritime features are included in their EEZ, such as Bombay Castle, Louisa Reef, Owen Shoal and Rifleman Bank. However, they only claim Louisa Reef which is part of the Spratly Islands and on their continental shelf. Brunei is known as the “Silent claimant” as it is the only claimant state without military presence in the region.

Indonesia – Indonesia does not have any territorial claims over the South China Sea. However, a section of their EEZ containing natural gas overlaps with the PRC's nine-dash line. There has therefore been tensions between Indonesia and the PRC.

Malaysia – Malaysia claims the region north of Borneo in the South China Sea. This area includes over twelve disputed islands in the Spratly Islands, only three of which are located on their continental shelf. The claimed region provides principal economic resources, where crude oil, natural gas and fishing are the main focus.

People's Republic of China – The People's Republic of China has constructed their nine-dash line, which claims sovereignty over all South China Sea islands due to “historical rights”. These island groups include the Spratlys, the Paracel islands, the Pratas and the Macclesfield Bank.

The People's Republic of China controls 7 islands in the Spratlys, 6 islands in the Paracels and the Scarborough Shoal. Their main interests lie in the economic and political benefits that the area provides, including oil, natural gas, fishing and trade. They have also created over 3000 acres of artificial islands. In 2016, the Hague Permanent Court of Arbitration ruled that the PRC's claims lacked any legal basis, although this ruling has not been accepted by the PRC despite them being a signature of UNCLOS.

Philippines – The Philippines first asserted their claim over the north-eastern section of the South China Sea in 1978 based on geographical terms. They control 8 of the islands in the Spratlys. Their main economical interests also lie in fishing, crude oil and natural gas.

Republic of China – Like the PRC, the Republic of China also claims sovereignty over all islands in the South China Sea and adjacent waters. Their claims lie especially on the Spratlys, the Paracel islands, Pratas Island and the Macclesfield Bank. The ROC controls Pratas Island and Taiping Island (Itu Aba) which is the largest island in the Spratlys. Their principal economic interest lies in the fishing, oil and natural gas industries.

Vietnam – Vietnam claims most of the western and central section of the South China Sea since 1974. They base these claims on historical evidence as well as the benefits the region provides. Vietnam controls 25 features in the Spratlys, the most important one being Spratly Island. As Vietnam declared independence from France in 1955, they claim that all the islands part of the French Indochina should be inherited by Vietnam. They have also created 120 acres of artificial islands. Economically, Vietnam is interested in the fishing industry and crude oil.

Timeline of Events

Date	Description
1949	The nine-dash line was created, which marks the PRC's territorial claims.
1955	Vietnam claims the Spratly Islands to be part of their country.
1982	The UNCLOS was created.
2015	The PRC finished turning Mischief Reef into an artificial island.

February 13, 2016	The PRC continues constructing artificial islands in the Parcel Islands, as well as helicopter bases across the islands it controls.
July 12th, 2016	The Hague Permanent Court of Arbitration ruling invalidated the nine-dash line claims by the PRC in the Philippines vs PRC case.
January-March 2018	The US increased its military and naval presence in the South China Sea, hosting freedom of navigation operations.
March-April 2018	The PRC increased its military activity in the region by conducting naval manoeuvres and exercised, along with constructing military and industrial outposts on artificial islands.
July-August 2021	British and German military ships and aircraft carriers travel through the South China Seas for the first time in a long time

Relevant UN Treaties and Events

The United Nations Convention on the Law of the Sea (UNCLOS) – The UNCLOS is an international treaty that was adopted in 1982. It defines the rights of a nation in using their surrounding waters based on whether it is classified as territorial sea, EEZ or continental shelf. This treaty tackles the practical aspects of who should have a right for certain actions in the case of territorial disputes, but it does not mention the sovereignty issues that are present in the South China Seas. The UNCLOS has been signed by over 150 member states.

The International Tribunal for the Law of the Seas (ITLOS) – This is the Tribunal that was set up under the UNCLOS. The judicial body has jurisdiction over any dispute concerning the UNCLOS or related issues that specifically mentions the Tribunal's jurisdiction over that issue. In respect to the South China Seas, maritime zone classifications (territorial sea or EEZ) can be taken up in the ITLOS.

The Hague Permanent Court of Arbitration ruling – The Philippines submitted a case to the Hague Permanent Court of Arbitration about the territorial conflict between the Philippines and the PRC.

The final court ruling on July 12th, 2016 was that the PRC's "historic rights" lacked any legal foundation, that the PRC's actions infringed on the rights of the Philippines and that the Spratly Islands are not entitled to territorial sea or EEZs by any nation, due to their classification as "rocks".

UNGA Resolution 74/19 – This resolution passed with 135 votes on December 10th, 2019. It reaffirms the main ideas of the UNCLOS, in particular the ideas of quantifying the sections of the sea with particular rights and standardizing this system. There is also a section for disputing states that are asked to turn to the legal system in order to settle their conflicts. The main systems nations are referred to are the International Tribunal for the Law of the Seas and International Court of Justice.

Previous Attempts to solve the Issue

The UNCLOS and the resolution mentioned in the above section have been utilized as a tool to try to settle the conflict in the South China Seas. Through classifying each zone outside a country in the sea, there have been specific rules set for what is allowed to do. However, neither of these resolutions specifically mention the main issue in the South China Seas when it comes to territorial disputes, which is how to handle multiple claims that are outside of the maritime zones. These resolutions also do not mention the militarization of the artificial islands which is a second concern in the South China Sea.

There has been a heavy focus on the court system to solve similar disputes to the one in the South China Seas. The ITLOS and the International Court of Justice are the main courts that are mentioned. The Philippines tried to directly counteract the conflict with the PRC using the court ruling in 2016. This was theoretically a good method to peacefully solve the territorial dispute. However, the PRC decided to reject this court ruling and no effects were caused by it. They continued to expand their influence in the South China Sea and militarised their already controlled areas instead. Even the ROC rejected the court ruling, indicating that there is an acceptance of the results of the legal system on an individual basis.

Possible Solutions

The current situation in the South China Sea has many components to it and has proven quite difficult to solve. One possible solution is that the South East Asian nations that are not currently in a territorial conflict should strengthen their relationship with each other. These can be economic, diplomatic or military ties. This could be done through creating stronger ties in the ASEAN. As the PRC continues to exert pressure and possibly take over more islands, a united front will prove vital to withstand it.

There are still a few countries that have not signed or ratified the UNCLOS. Through that action, the pressure to follow the treaty would increase and hopefully so would . Breaking any terms of the treaty would then also be taken more seriously, which could help prevent a large-scale conflict.

Another possibility is to host multilateral discussions between the South East Asian countries and the PRC. Although it is unlikely that a compromise will be reached directly, these talks could help ease the tensions gradually. Having multiple South East Asian nations present could allow the talks to focus on the full picture and reach a compromise that multiple parties can agree with.

Finally, one could implement a limit to the military ability that an island should be allowed to possess. Otherwise, if the tensions become too great, there might be unnecessary violent actions committed in the region. It is better to prevent a disaster than to handle it as it happens.

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