

Forum: Security Council
Issue: Solving the issue of territorial disputes in South China Sea
Student Officer: Nicolas Stamatopoulos
Position: Deputy President

PERSONAL INTRODUCTION

Dear Delegates,

My name is Nicolas Stamatopoulos, I am 16 years old and attend the 11th Grade in the German School of Athens. I will have the honor of serving as the co-chair of the Security Council in this year's PSMUN. This will be my 12th time in a conference and my 5th time as a chair and I am proud to have been active in MUN for as long as this.

In this Study Guide I will be elaborating on the topic of the disputes in the South China Sea so as to provide you with a comprehensive view over the causes of the conflict, the dangers it possesses and measures in order to prevent it from escalating into a major conflict. Note however that the purpose of this study guide is not to be your sole research material but rather the basis of further research on the topic so that having read this study guide you can proceed with further research going more into details of treaties and related UN documents as well as the policies of the countries you represent.

Should you wish to ask any questions do not hesitate to contact me at my e-mail address stamatopoulosni@gmail.com.

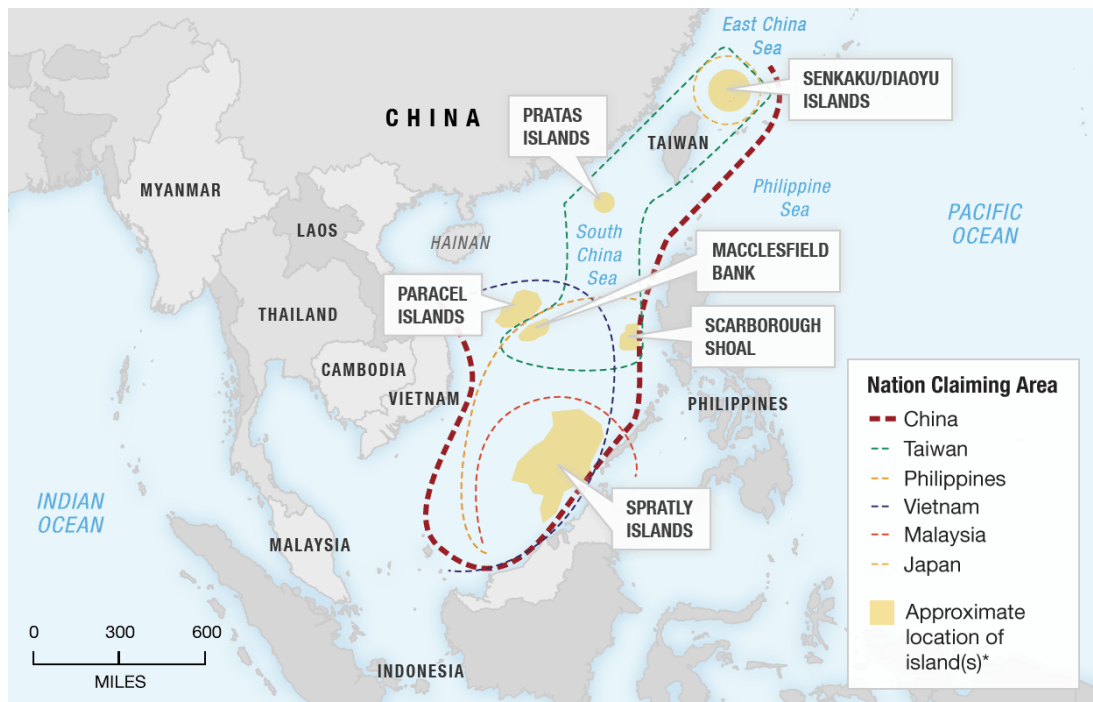
I wish you best of luck and look forward to seeing you at the conference.

Best regards,

Nicolas Stamatopoulos

INTRODUCTION

The South China Sea is a 3.5 square km stretch of water ranging from Singapore to Taiwan and due to its geographical position is one of the most important trade routes for the countries surrounding it and additionally possesses a large number of natural resources. Due to this there have been tensions by all the surrounding countries as to the territory each one claims over the area. Most notably there are concerns regarding the Spratly Islands, the Paracel islands, the Diaoyu/Senkaku Islands and multiple reefs all of which estimated to contain large oil reserves.



As can be seen from the figure however due to the location of the surrounding countries there are many overlapping claims over the area. According to the United Nations Convention on the Law of the Sea each state has claims over an area of 200 miles from its mainland as an exclusive economic zone. However not only do these zones overlap but states have ventured to make historical claims over the area which further enhances the disputes. While there has been no armed conflict yet, there has been heavy militarization in the area which is still increasing and could lead to an armed conflict in the future.

DEFINITION OF KEY TERMS

United Nations Convention on the Law of the Sea (UNCLOS)

Open for signature in 1982 and entering into force in 1994 the UNCLOS is the primary UN treaty concerning international nautical law. Included among its topics are the

settlement of disputes and defining nautical borders. It has been ratified by 168 countries.

Exclusive Economic Zone (EEZ)

As stated in the UNCLOS: “The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime in this Part [UNCLOS Part V], under which the rights and jurisdiction of the coastal state and the rights and freedoms of other states are governed by the relevant provisions of this convention”

It goes on to further define “The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured” and states that in the EEZ a state has the right among other for resource management and establishment of artificial islands, installations and structures.

Nine-dash line

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



BACKGROUND INFORMATION

General overview of the conflict

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

While Vietnam, Malaysia, Philippines and Taiwan have also reclaimed land, China has been doing so in a much larger scale. In fact, according to a US defense department report¹ it is projected that China has reclaimed over 2900 acres since December 2013

¹ https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF digital page 20, original page 16

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

Additional cause for concern is the building of multiple facilities that could potentially host military forces causing concern for the militarization of the area. Therefore, there are worries about the scenario that China decides to establish its power over the area with the use of military. There are even allegations that China has threatened surrounding states to halt their work in the area and furthermore, the US has conducted various Freedom of Navigation operations claiming to be ensuring the safe passage of ships passing through the area.

Legal Background

The UNCLOS proposes a variety of solutions for the solution of disputes in cases where the EEZ of two states overlap and negotiations fail. These include:

- “(a) the International Tribunal for the Law of the Sea established in accordance with Annex VI [of the UNCLOS];
- (b) the International Court of Justice;
- (c) an arbitral tribunal constituted in accordance with Annex VII [of the UNCLOS];
- (d) a special arbitral tribunal constituted in accordance with Annex VIII [of the UNCLOS] for one or more of the categories of disputes specified therein.”².

However, China has refuted these solutions claiming that negotiations are the “most direct, effective and universally used means for peaceful settlement of international disputes”³. This was demonstrated in a case initiated in 2013 by the Philippines against China regarding the Matter of Jurisdiction in the South China Sea Arbitration, which China disputed with the argument that it did not fall under the rulings defined by Article 287 and Annex VII of the UNCLOS. The Permanent Court of Arbitration however undertook the issue and ruled against China deciding that the nine-dash line is not a legal claim over the area.⁴ However due to the lack of enforcement of this ruling, China has stated it does not accept it and has had no repercussions.

China remains firm on wishing for diplomatic solutions to the problem, however it has been clear that they remain firm on the nine-dash line and the surrounding states believe any sort of talks to be one-sided considering the considerable strength of China.

Moreover, the report by the US Defense Department claims that there are more violations of international law in the area such as Malaysia attempting to restrict

² http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf part XV article 287

³ http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1217147.shtml paragraph 86,87

⁴ <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>

military activities in its EEZ, Vietnam requiring notification prior to the passage of warships and multiple states drawing coastal baselines, which are the lines from which the breadth of nautical borders are measured, inconsistent with international law.⁵

Main disputed territories

This map provides a clear overview as to which states claim which part of the South China Sea.

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

Taiwan also lays claim to the entirety of the area based on the nine-dash line similarly to China, it has however focused more on the landmasses themselves rather than the waters.

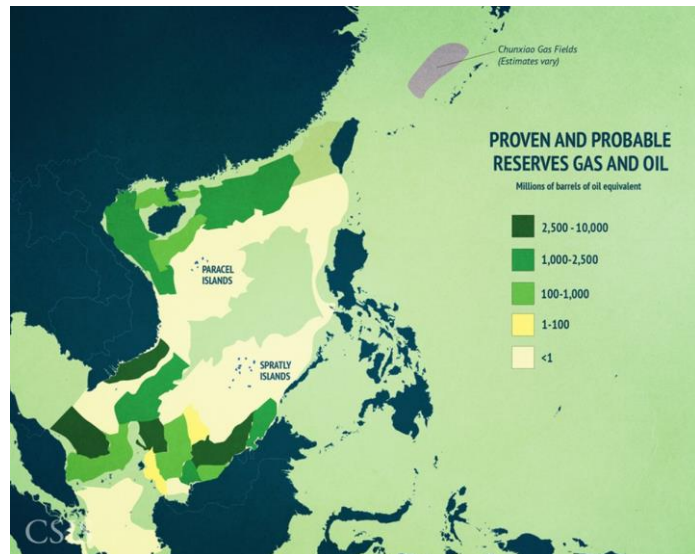
Brunei, Malaysia and the Philippines all lay claim only to specific parts of the area as can be seen on the map based on geographical proximity and their EEZs.



⁵ https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF digital page 11 original page 7

Reason for conflict

The conflict has this importance due to the large amount of oil and other natural resource reserves this area is projected to have as well as due to its large importance as a trading route. As can be seen in the figure estimations show a huge amount of gas and oil reserves which the surrounding states want to gain access to.



TIMELINE OF EVENTS

December 1947	Publication of the eleven (now nine) dash line by China laying claim to a large area of the South China Sea.
1974	China seizes control of the Paracel Islands from Vietnam after a skirmish resulting in about 70 deaths of Vietnamese troops
1988	Vietnam clashes with China over the Spratly islands resulting in more deaths
16 November 1994	UNCLOS comes into effect
2002	The ASEAN-China Declaration of Conduct in the South China Sea is signed
2012	China and the Philippines have a maritime standoff disputing over Scarborough Shoal
2013	Philippines initiates a case against China regarding “the Matter of Jurisdiction in the South China Sea Arbitration” at the Permanent Court of Arbitration (PCA)
2014	China submits a position paper on the aforementioned case stating that the PCA does not have jurisdiction on the matter and emphasizing that negotiations are the optimal solution to the issue
2016	The PCA rules in favor of the Philippines stating that China has no justifiable legal claims based on the nine-dash line.

COUNTRIES AND ORGANIZATIONS INVOLVED IN THE ISSUE

People's Republic of China

This is the country with the biggest impact on the situation. Remaining firm on its nine-dash line, acknowledged by a select few countries and ignoring the rulings of the PCA it has provoked multiple concerns. It has furthermore developed an increasingly strong stance on the issue, notably in an ASEAN (Association of Southeast Asian Nations) meeting stating, "China is a big country and other countries are small countries, and that's just a fact".⁶ Since 2014 it has started reclaiming a large amount of the area and building artificial islands and infrastructure which could potentially lead to militarization of the area.

Republic of China (Taiwan)

Similarly, to China, Taiwan remains steadfast on the nine-dash line since it was part of China when the claim was issued so it continues to have claims on it. It has also declared it does not accept the ruling of the PCA on this issue. It has placed a greater focus however on the landmasses in the nine-dash line and not to the entirety of the waters in it.

Indonesia

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

Philippines

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

Vietnam

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

⁶ <http://edition.cnn.com/2017/08/08/asia/singapore-trump-china/index.html>

Malaysia

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

Brunei

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

USA

The USA has shown to be interested in the dispute, considering its Defense Department published a report detailing every aspect of it. It has opposed the nine-dash line by China and has also claimed other states involved have violated international law. Furthermore, it has used the conflict as a reason to dispatch Freedom of Navigation missions, claiming to wish to ensure safe passage in the area. It is worth noting that it is the only state involved not having ratified the UNCLOS.

Association of Southeast Asian Nations (ASEAN)

ASEAN's goal is strengthening cooperation between Southeast Asian Nations. It consists of 10 states including the Philippines, Malaysia, Brunei, Indonesia and Vietnam. In 2002 together with China, ASEAN states signed a Declaration of Conduct on the South China Sea aiming to promote cooperation and peaceful resolution of disputes, which has not however been achieved.

POSSIBLE SOLUTIONS

This is a particularly difficult issue to tackle, as there are many countries involved in the issue all of which have a claim, or at least believe to have one, over the disputed areas. So while tackling the issue it is important to not only resolve the more major issue of the nine-dash line but also the other claims of states. This also must be done in a manner which will prevent the escalation of the disputes into a large-scale conflict. First of all, measures must be taken in order to properly enforce the law of the sea which has been violated by many of the involved states without repercussions. This includes the violations of the UNCLOS due to the control of military ship passage within the states' EEZs and the enforcement of the ruling of the PCA regarding the nine-dash line. Furthermore, until the disputes are settled, regulations must be imposed in order to prevent the reclamation of disputed land and the militarization of it. It must be kept in mind that some of the states are dependent on the natural resources of these waters and should they be left without any resources to take advantage of, they may have large problems. Additionally, in the case of negotiations between the states it

must be noted that due to China's superior strength in comparison to the other countries, such negotiations may prove to be one-sided as some are dependent on China or do not wish to oppose it. There are other measures proposed in the UNCLOS for settling such disputes and one of those could be suggested. Lastly measures must be taken in case China remains adamant on its nine-dash line, which is the most likely scenario.

BIBLIOGRAPHY

- Anon, (2018). *ASIA-PACIFIC*. [online] Available at: [https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P Maritime Security Strategy-08142015-1300-FINALFORMAT.PDF](https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P%20Maritime%20Security%20Strategy-08142015-1300-FINALFORMAT.PDF) [Accessed 7 Jan. 2018].
- ASEAN | ONE VISION ONE IDENTITY ONE COMMUNITY. (2018). *DECLARATION ON THE CONDUCT OF PARTIES IN THE SOUTH CHINA SEA - ASEAN | ONE VISION ONE IDENTITY ONE COMMUNITY*. [online] Available at: http://asean.org/?static_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2 [Accessed 7 Jan. 2018].
- Atimes.com. (2018). *Malaysia speaks softly in the South China Sea*. [online] Available at: <http://www.atimes.com/article/malaysia-speaks-softly-south-china-sea/> [Accessed 7 Jan. 2018].
- BBC News. (2018). *Why is the South China Sea contentious?*. [online] Available at: <http://www.bbc.com/news/world-asia-pacific-13748349> [Accessed 7 Jan. 2018].
- Cochrane, J. (2018). *Indonesia, Long on Sidelines, Starts to Confront China's Territorial Claims*. [online] Nytimes.com. Available at: <https://www.nytimes.com/2017/09/10/world/asia/indonesia-south-china-sea-military-buildup.html> [Accessed 7 Jan. 2018].
- dispute, A. (2018). *A timeline of what happened in the South China Sea dispute*. [online] Business Insider. Available at: <http://www.businessinsider.com/ap-timeline-the-china-philippines-south-china-sea-dispute-2016-7> [Accessed 7 Jan. 2018].
- Katie Hunt, C. (2018). *Showdown in the South China Sea: How did we get here?*. [online] CNN. Available at: <http://edition.cnn.com/2015/10/28/asia/china-south-china-sea-disputes-explainer/index.html> [Accessed 7 Jan. 2018].
- Katie Hunt, C. (2018). *South China Sea: Philippines wins court ruling against China*. [online] CNN. Available at: <http://edition.cnn.com/2016/07/12/asia/china-philippines-south-china-sea/index.html> [Accessed 7 Jan. 2018].
- Poling, G. (2018). *South China Sea: Vietnam takes up fight against China*. [online] CNN. Available at:

<http://edition.cnn.com/2017/08/14/opinions/vietnam-south-china-sea-gregory-poling/index.html> [Accessed 7 Jan. 2018].

- Sea, T. (2018). *This map shows what China claims is its share of the South China Sea*. [online] Business Insider. Available at: <http://www.businessinsider.com/map-of-china-in-the-south-china-sea-2016-6> [Accessed 7 Jan. 2018].
- Shannon Tiezzi, T. (2018). *Taiwan: South China Sea Ruling 'Completely Unacceptable'*. [online] The Diplomat. Available at: <https://thediplomat.com/2016/07/taiwan-south-china-sea-ruling-completely-unacceptable/> [Accessed 7 Jan. 2018].
- Un.org. (2018). *Overview - Convention & Related Agreements*. [online] Available at: http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm [Accessed 7 Jan. 2018].
- Un.org. (2018). *PREAMBLE TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA*. [online] Available at: http://www.un.org/depts/los/convention_agreements/texts/unclos/part5.htm [Accessed 7 Jan. 2018].
- Villamor, F. (2018). *Philippines Halts Work in South China Sea, in Bid to Appease Beijing*. [online] Nytimes.com. Available at: <https://www.nytimes.com/2017/11/08/world/asia/philippines-south-china-sea.html> [Accessed 7 Jan. 2018].