



Tackling the issue of ownership of the South-China Sea conflict



ASEAN+

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Forum: Association of Southeast Asian Nations

Issue: Tackling the issue of ownership of the South-China Sea conflict

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Introduction

Surrounded by Vietnam, The Philippines, Malaysia, Brunei, Taiwan, and China, the South China Sea is an area of water that has been highly disputed for the past four decades. Many countries in the surrounding area have claimed ownership of the small islands found in the sea and of the sea in itself. Currently, the South China Sea is regarded as the most strategically and economically important waterway in the world. Global trade of more than 5.3 trillion US dollars occurs through this area, and it is rich with important oil and gas reserves. As a committee, it is hoped that a solution can be found regarding which countries can have ownership of (certain parts of) the area.

Definition of Key Terms

Arbitral Tribunal

Arbitral Tribunals refer to panels of unbiased judges that focus on mediation and resolving disputes without having to go through judiciary systems like international courts.

Archipelagos

According to the National Ocean Service, an archipelago is an area that contains a chain or group of islands scattered in lakes, rivers, or the ocean. In this context, the Paracel and Spratly Islands are considered archipelagos, as well as the Philippines.

Declaration on the Conduct of Parties in the South China Sea (DOC)

The DOC was signed by China and the members of ASEAN in 2002 in light of the conflicts in the South China Sea, and asserted “freedom of navigation and overflight, peaceful settlement of disputes, and self-restraint in the conduct of activities.”

Exclusive Economic Zone (EEZ)

An Exclusive Economic Zone is an area of the ocean which normally extends 200 nautical miles from the coast of a nation, in which the nation has full jurisdiction over all resources in the area, including living and non-living, air, and water.

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

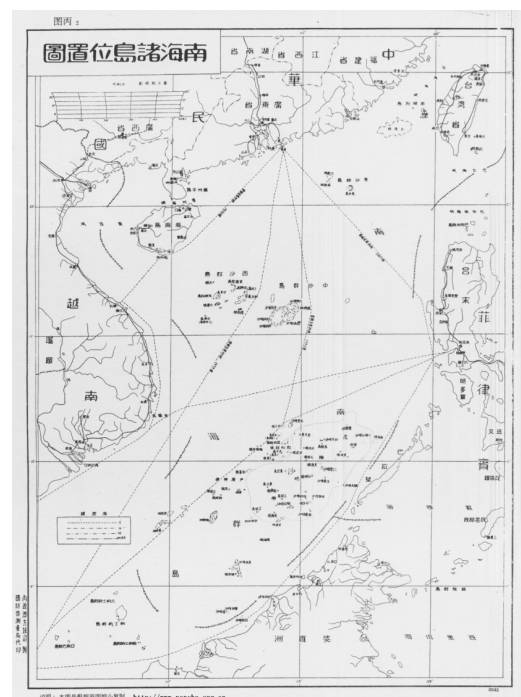
The UNCLOS, signed by 157 nations in 1982, established a legal framework for the use of oceans and resources all over the world. This convention really put into place the ideas of the EEZ. The convention was created to create order in the oceans and seas of the world and to make sure that its usage would be fair.

General Overview

Historical Context

The dispute regarding the South China Sea (SCS) has been around for a very long time. While the area has had a long history of sailors and cultural groups making use of the area, the real dispute started all the way in 1279, when China drew a map of its territories and influence, that included the entirety of the SCS. From that moment on, the region has been controlled by many different powers and nations, all claiming to own the area and most islands within it. In 1932, France officially claimed the Paracel and Spratly Islands in the SCS as theirs, to the displeasure of China and Japan. A year later, France formally included them in French Indochina.

In 1939, during World War II, Japan occupied the islands, using them for military purposes, and stating that no other nations had claimed the islands when the navy took over them. Soon after the war, in 1947, China drew up a map of the SCS, marking 9 dashes on it and claiming everything inside of it as theirs, stating that the area was of extreme importance to



China. The line included the Paracel and Spratly Islands. Taiwan backed up these claims as well. Many historians have criticized this map, as it never explicitly states what the line includes, and does not include any coordinates. It was also never clear whether China only claimed the land within the lines, or also the water and ocean ecosystems within. In 1958, China published the “Declaration of the Government of the People’s Republic of China on China’s Territorial Sea” to further define the meaning of the Nine-Dash Line.

In 1951, the San Francisco Treaty was signed, which was dedicated to ensuring peace between Japan and the Allied Powers after the Second World War. At this conference, Japan gave up its rights to the islands in the SCS, but no other country was given sovereignty of the area. China was not invited to these discussions, as there was a difference in opinion on whether the People’s Republic of China (PRC) should represent the country, or if the Republic of China (ROC) should. A compromise was to simply not invite China at all. The Geneva Accords were signed three years later, in 1954, in which China was a signatory. This brought an end to French Indochina and created the countries of Laos, Cambodia, and Vietnam. Vietnam was split into The Republic of Vietnam (South Vietnam) and the Democratic Republic of Vietnam (North Vietnam). Nothing was mentioned about the archipelagos in the SCS, but it was stated that South Vietnam would receive all of French Indochina’s territories, which included the Paracel and Spratly Islands. However, in 1956, North Vietnam officially accepted and stated that the islands were actually Chinese, contradicting South Vietnam's sovereignty over the area.

Throughout the next two decades, the islands within the SCS were transferred back and forth between Vietnam, China and the Philippines especially, and many conflicts arose between military ships from the different countries, but were quickly resolved and did not lead to anything major. On the 11th of June, 1978, the president of the Philippines decided that the Spratly Islands, known to them as the Kalayaan Island Group, were owned by the Philippines, and claimed an Exclusive Economic Zone (EEZ) of 200 nautical miles (NM) extending from the coasts of their lands. In May of 1984, two years after the United Nations Convention on the Law of the Sea (UNCLOS), the Philippines ratified it. They officially claimed the Spratly Islands and all other reefs within their EEZ as theirs.

Throughout the 1990s, more small disputes occurred, mostly happening between China and Vietnam, and between China and the Philippines. On the first of April, 2001, the Hainan Island incident occurred. A United States aircraft and a Chinese fighter jet collided mid-air over the SCS.

The aircraft landed on the Chinese island of Hainan, and the crew was arrested and interrogated. It took 11 days for them to be brought back to the United States, and started major tensions between China and the United States regarding the SCS. In 2002, ASEAN began talks with China and agreed to the Declaration on the Conduct of Parties in the South China Sea (DOC).

Only in 2011 would there be another major clash between the parties of Vietnam and China, when on the 26th of May, Vietnam accused Chinese patrol boats of cutting a Vietnamese oil and gas survey ship's cables. China denied these accusations, but the event inspired many protests against China in Vietnamese cities. A month later, a seismic conducting ship under the company of PetroVietnam fought with Chinese patrol boats inside Vietnam's EEZ, and Vietnam again claimed its cables were purposely cut. In 2012, an ASEAN summit took place to commemorate 10 years since the DOC, as tensions continued to rise throughout the region, but in August of 2013, the Malaysian Defence Minister claimed that they were in support of China's claims of the South China Sea, disregarding any other country's claims on the same area and stated that Malaysia "had no problem with China patrolling the sea".

In 2014, China began the placement of an oil rig in an area that both China and Vietnam saw as their territory. On the 2nd of May, Vietnamese and Chinese ships collided, and on the 26th of May, a Vietnamese fishing boat sank near the rig after hitting a Chinese ship. Both sides blamed each other, but a week later, Vietnam released video footage that proved that China had collided with the Vietnamese boat. Members of ASEAN showed their concerns about the incident and subsequent tensions in the area. They called for "self-restraint and peaceful acts from both sides." This was the first time that ASEAN members had really called out China, as they previously tried to avoid doing so in order to keep their economic interests.

On the 7th of July, 2015, the Philippines asked for an arbitrary tribunal to investigate the validity of China's Nine-Dash Line and its claim of the SCS, in relation to the UNCLOS. A year later, the tribunal ruled in favour of the Philippines and rejected the claims of the Nine-Dash Line, deciding it had no legal basis, as the Philippines suggested. China immediately rejected the ruling and deemed it void. In 2019, the Philippines accused a Chinese ship of colliding with a Filipino fishing boat. The boat had 22 people on board, and they were rescued by Vietnamese people in the vicinity.

The Current Situation

As of now, the situation remains tense, with small conflicts rising every so often during the past year. At the beginning of 2023, the Philippines claimed that Chinese ships had been shining lasers at their boats, causing the crew to be temporarily blinded. They also accused Chinese ships of dangerous actions, as they were sailing too close and blocking the Filipinos' paths. In early November of 2023, China began discussions with ASEAN again to negotiate a non-aggression pact regarding the escalating tensions in the area. The pact said to be concluded within three years, also aimed to dissolve tensions between the United States and China, as a week prior, two fighter jets from the countries came close to colliding over the sea, with both parties blaming each other. These tensions continued until the end of the year. On December 4th, the Chinese military stated that a United States naval ship had intruded into the area near the Second Thomas Shoal, a reef off the coast of the Philippines. The US responded by saying they were "conducting routine operations in international waters ... consistent with international law." The map below shows the current claims on the South China Sea.

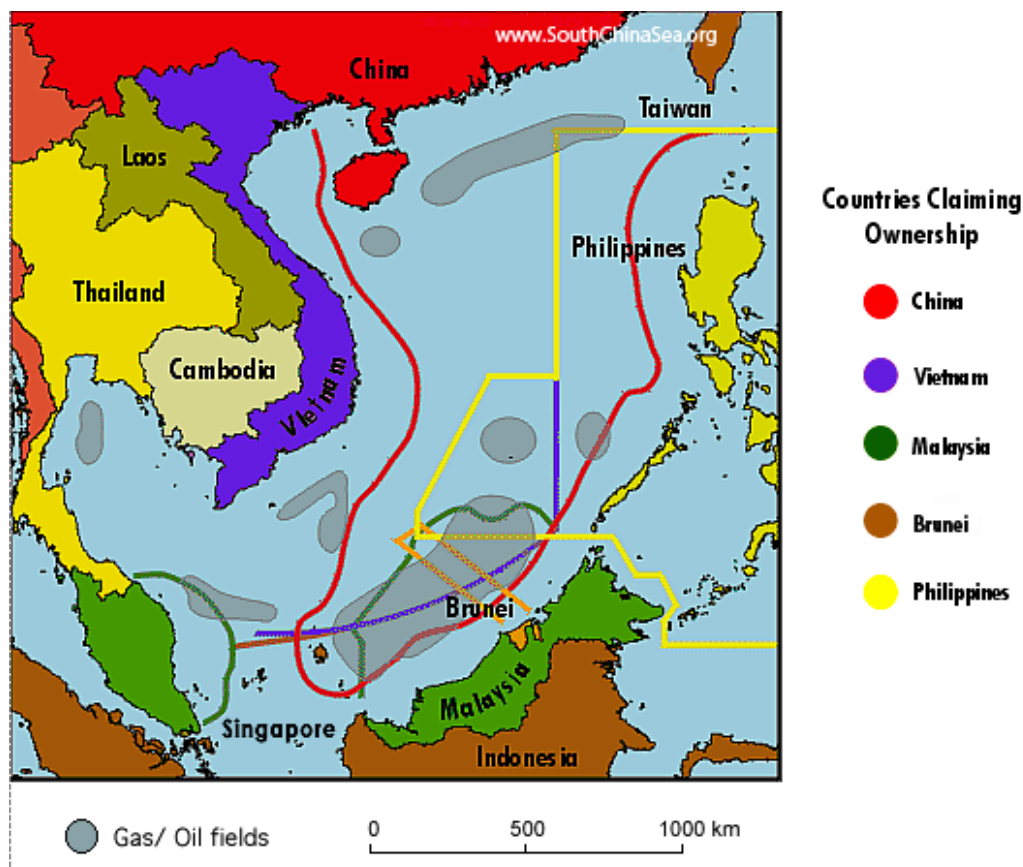


Figure 2: Countries claiming ownership of the South China Sea

Timeline of Key Events

Date	Event
6th of April, 1932	France includes Paracel and Spratly Islands in French Indochina
31st of March, 1939	Japan occupies the islands and uses it for military purposes
1st of December, 1947	Nine-Dash Line is introduced by China
8th of September, 1951	San Francisco Treaty is signed, China is not invited.
26th of April, 1956	Geneva Accords occur, all of French Indochina territory is handed over to the Republic of Vietnam
11th of June, 1978	Exclusive Economic Zone is claimed by the Philippines
4th of November, 2002	ASEAN Declaration on the Conduct of Parties in the South China Sea
2nd of May, 2014	Chinese and Vietnamese ships clash after China sets up an oil rig in an area that both parties claim their own
7th of July, 2015	Philippines asks to invalidate China's claims of the Nine-Dash Line
12th of July, 2016	Tribunal rules against China in the case
3rd of November, 2023	Talks of a non-aggression pact between ASEAN and China begin

Major Parties Involved

Association of Southeast Asian Nations (ASEAN)

The Association of Southeast Asian Nations (ASEAN) was formed in 1967, by Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei, Cambodia, Lao, Myanmar, and Vietnam joined around 20 years later. ASEAN has stressed multiple times the importance of peace in this area and has served as a negotiator between the nations and China.

China

China has been involved in the area of the South China Sea for thousands of years, claiming that cultural groups and fishermen had been using the area, and stating that it rightfully and

historically belongs to China. China has stood by their 1947 declaration of territory, marked by the Nine-Dash Line.

Philippines

The Philippines has a major fishing industry, providing up to 1.6 million jobs to Filipinos, as well as over half of their source of protein. This being said the South China Sea is very important for the citizens of the Philippines. They believe that the Nine-Dash Line infringes on their territory as marked by the UNCLOS and the Exclusive Economic Zone. The Philippines therefore plays an important role in the conflict, also claiming ownership of some islands in the sea, such as the Spratly Islands.

United States of America

In 2010, Hillary Clinton made a statement that the South China Sea was “a matter of U.S. national interest”, due to their commitment to “freedom of the seas and maritime law”. While the United States does not claim any territory in the area, they continue to monitor the seas with military ships and jets.

Vietnam

Vietnam, like the Philippines, has claims on the Spratly Islands, as well as the Paracel Islands. They also believe that the Nine-Dash Line submitted by China cuts into their EEZ, and that Vietnamese people were in the area instead of Chinese. The country banned the showing of the Barbie movie due to the Nine-Dash Line being drawn on a map in a scene. Vietnam also has a long bordering coastline with the sea, stretching over 3,000 km, making the sea strategically important for them as well.

Possible Solutions

A possible solution for this conflict is something that has been seen to work in other circumstances in the area: creating a Non-Governmental Organization (NGO) to review evidence and allocate territory to countries in that manner. This can similarly be done through the United Nations' International Court of Justice (ICJ), as seen with a dispute between Malaysia and Singapore over uninhabited islands in the Singapore Strait in 2008.

Another possible solution is instead of creating an NGO or going through the ICJ, an arbitral tribunal is another effective method to dissolve the conflict and could be more favoured by some

countries within the ASEAN. It is important that this dispute does not lead to more violence and conflict, and that the most peaceful solutions are brought up. It is in every nation's best interest to settle this dispute as soon as possible.

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