



Research Report

Cals Model United Nations 2017

“Creating pathways to new opportunities”



Forum: Security Council

Issue: Resolving territorial disputes in the South China Sea

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Introduction

The current situation in the South China Sea (SCS) is a prime example of a territorial dispute. There is a dispute between Brunei, China, Malaysia, the Philippines, and Vietnam all of whom claim different islands, reefs, fishing grounds, and Exclusive Economic Zones (EEZs). The SCS is not only of vital political interest to the countries in the region, but also to various nations across the world. This is due to the fact that up to a third of the world's shipping transits go through the contested sea region. Over the last couple of years studies have indicated that there likely is an enormous amount of fossil fuel hidden in the region. All the more reason to ease tensions and to find a solution to the problem.

Definition of Key Terms

South Chinese Sea (SCS):

A maritime sea located in the south-eastern part of Asia, which is a part of the Pacific Ocean. It is about 3.500.000 square kilometres, home to some of the world's largest fishing grounds, and a major trade corridor.

Territorial dispute:

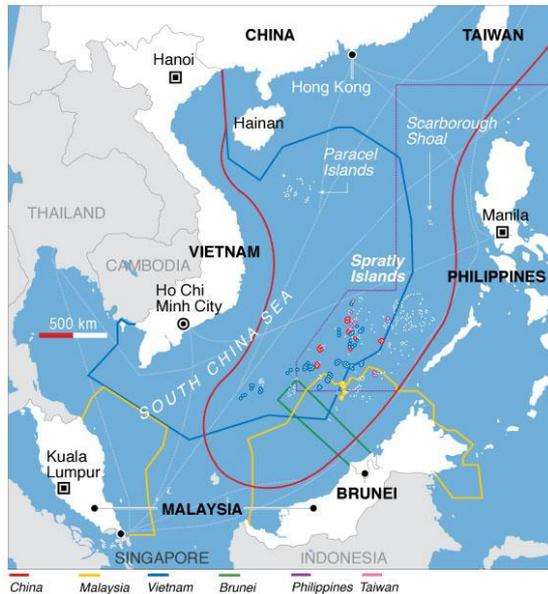
A disagreement between multiple countries over who is the rightful owner of a territorial region. In other words, this means that multiple countries claim sovereignty over the same region.

Exclusive Economic Zone (EEZ):

“An exclusive economic zone (EEZ) is a sea zone extending up to 200 nautical miles from the coast prescribed 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.”¹

¹ Exclusive Economic Zone, Article 56, 2011, United Nations Convention on the Law of the Sea

General Overview



This issue is mainly centred around the Spratly Islands, the Paracel Islands, and the ocean areas. Brunei, China, Malaysia, the Philippines, and Vietnam all lay claim to various parts of the region, as depicted in the picture on the left. On the picture one can see that China claims the biggest part of all the countries. In 1949 the Chinese drew the so-called “nine-dash line”. Originally the line consisted of eleven dashes, but this was reduced to nine by former Chinese prime-minister Zhou Enlai; China still claims the same area. The ICJ has ruled that the nine-dash line has no historical rights, but this ruling has been rejected by the Chinese government.

The many resources in the region that play an important role in the region can be divided into two groups, namely economic resources and food resources. Regarding the food resources, the region is home to around 3300 different fish species and therefore hosts very lucrative fishing grounds. The conflict is however mainly focussed on the economic resources. There have already been multiple discoveries of oil deposits, but these are mainly centred around the borders of the sea. Sightings of oil deposits near the contested islands groups have yet to be publicized.

When we look at the historical context of the issue and focus on the post-World War situation, we can see that China took over control of the Paracel Islands and the Spratly Islands from Japan after the war. Vietnam, however, disputed this claim and believed it was part of its own territory. In the 1970s Vietnam started building on the islands, which caused a diplomatic impasse between China and Vietnam. After Vietnam, other countries followed and started claiming part of the Spratly Islands. Currently, Vietnam controls 29 islands, the Philippines have 7, Malaysia has 3, Indonesia has 2 and Brunei has 1. China only has 9, with one owned by Taiwan.

Major Parties Involved

China:

Since 1949 the Chinese government has claimed the biggest part of the SCS region. There is no country laying claim on a part of the sea whose claims don't overlap with the Chinese. Inside the government there is a fundamental belief that the sea is rightfully theirs, this complicates the UNSC's ability to act on the issue extremely due to the fact that they can block all resolutions.

United States of America:

Although the United States itself has no claims in the South China Sea, it maintains important interests in ensuring freedom of navigation and securing sea lines of communication. It says it opposes restrictions on freedom of navigation and unlawful sovereignty claims. The United States will most likely support an agreement on a binding code of conduct and other confidence building measures. However, it has not yet ratified the United Nations Convention on the Law of the Seas. The USA has an alliance with the Philippines with whom it has a defense treaty as well.

Malaysia:

Malaysia claims some regions since they fall inside the borders of its EEZ and continental shelf. Its claim is primary on legal ground. Nevertheless, these claims overlap with claims from Brunei, China and Vietnam.



There are of course more countries involved, who also claim parts of the SCS, but these countries aren't represented in the UNSC and can therefore not participate in the debate. It might be up to their allies in the UNSC to, up to a certain extent, defend their interests.

Timeline of Events

1949 - The nine-dash line was proclaimed by China.

1976 - Philippines discovers the Nindo oil field, which is adjacent to the SCS. This is an indication of its significant potential in the SCS.

2016, February - Satellite images shows that China is currently expanding the North Island and Tree Island, both part of the Paracel Islands.

2016, February - China Deploys Missiles to Paracels

2016, March - Beijing will set-up an International Maritime Judicial Centre similar to the United Nations Convention on the Law of the Sea (UNCLOS) in order to help protect sea rights of countries.

2016, July - An arbitral tribunal in the Permanent Court of Arbitration in the Hague ruled that China has no legal basis to claim "historic rights" within its nine-dash line in a case brought by the Philippines. The tribunal judged that there was no evidence that China had historically exercised exclusive control over the waters or resources within the Nine-Dash Line. The ruling was rejected by the Chinese government.

Previous attempts to solve the issue

UNCLOS:

United Nations Convention on the Law of the Seas (UNCLOS) This international agreement set up by the United Nations in 1982 was the result of the United Nations Conference on the Law of the Sea (UNCLOS III), which took place between 1973 and 1982. It is also called the Law of the Sea Convention or the Law of the Sea treaty. There are currently 168 parties to the UNCLOS.

The Declaration on the Conduct of Parties in the South China Sea:

In 2002 the member states of the ASEAN, a group consisting of South-East Asian countries, signed a declaration on the matter. The aims were to promote confidence-building measures, engage in practical maritime cooperation, and setting the stage for the discussion and conclusion of a formal and binding so-called 'code of conduct'. This did, however, not work according to plan, since the agreement did not include specifics about monitoring nor did it have the power to limit activities of certain countries in the region.

Possible Solutions

In order to look for the best ways to solve the issue it might be a good idea to start with laying out which paths not to pursue. Saying that certain parts of the SCS belong to certain countries involved should not be considered as a solution, because it will merely result in a vetoed resolution. A better option could be to call for countries to implement legislation in which they specify which parts of the SCS are, in their opinion, rightfully theirs. This will only legitimise their claims, therefore not harm the countries, and will make it easier for the international community to overview the situation.

A second option could be to support the increasing of dialogue between military forces, because it has the potential to reduce the risk of conflict escalation. Communication

mechanisms like military hotlines to manage maritime emergencies could be established and implemented among all claimants. It could also support greater military transparency and help develop shared rules in the South China Sea.

The third solution proposed by the research report is for the UN to host a conference to which all the parties are invited. Although this is a very standard solution, it could help strengthening the dialogue between all parties. To ensure the independence of the conference observers to the conference can be officials from the UN. Observers can also be used to monitor the situation in the SCS, keeping track of economic, military and any other activity in the region.

Useful Documents

<http://unscr.com/en/resolutions/>

<https://www.cia.gov/library/publications/the-world-factbook/>

