



Disarmament and International Security Committee

## Resolving the South China Sea dispute

### Introduction

Territorial disputes in South China Sea have dominated the region for centuries, but it has not been until recent years that tensions pushed this regional problem into international awareness. The clashes concern mainly the Paracel islands and Spratly islands alongside with other islets, reefs and shoals in the region. Further on in the East China Sea, it also concerns the Diaoyu/Senkaku Islands. Apart from national sovereignty that comes into question, the countries wrangle over this area as it is potentially rich in natural resources (especially gas and oil), it is home to about 8% of the world fishing catches and it presents one of the most important business routes in the world (270 ships pass daily).

China claims the so-called 9-dash-line area with reference to historical background, which is; however, unclear especially due to WW2 when the area was invaded by Japan. Now, the region is home to the conflict between China, Taiwan, Vietnam, Singapore, the Philippines, Malaysia, Brunei, Cambodia, Indonesia and Japan (in East China Sea). Without international discussion, this area could be a target of armed conflict so it is crucial to agree on basic policies regarding the dispute.

### Legal background

UNCLOS stands for United Nations Conventions on the Law of the Sea

Internal waters: According to UNCLOS, this zone includes area on the landward side of the baseline (low-water line along the coast).

Territorial sea: According to UNCLOS, territorial sea is the area of sea, seabed, subsoil and air space measured from the baseline with maximum breadth of 12 nautical miles.

Right of innocent passage through territorial sea: According to UNCLOS, every country, both coastal and landlocked, enjoys right of innocent passage through territorial sea, if:

1. Passage is continuous and expeditious (can include stopping and anchoring if ordinary);
2. Passage is not prejudicial to peace, good order and security (no practice with weapons, no threats, no use of force, no fishing activities, no survey activities);
3. All underwater vehicles navigate on surface and show flag.

Delimitation of territorial sea between states: According to UNCLOS, when sea has to be divided between two states, neither state has a right to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two states is measured. This; however, does not apply to cases where it is necessary to alter this policy due to historical background (and this is where China Sea dispute comes into question)

Contiguous zone: According to UNCLOS, this zone does not exceed 24 nautical miles from baseline where coastal state can exercise control to prevent infringements of laws and regulations.

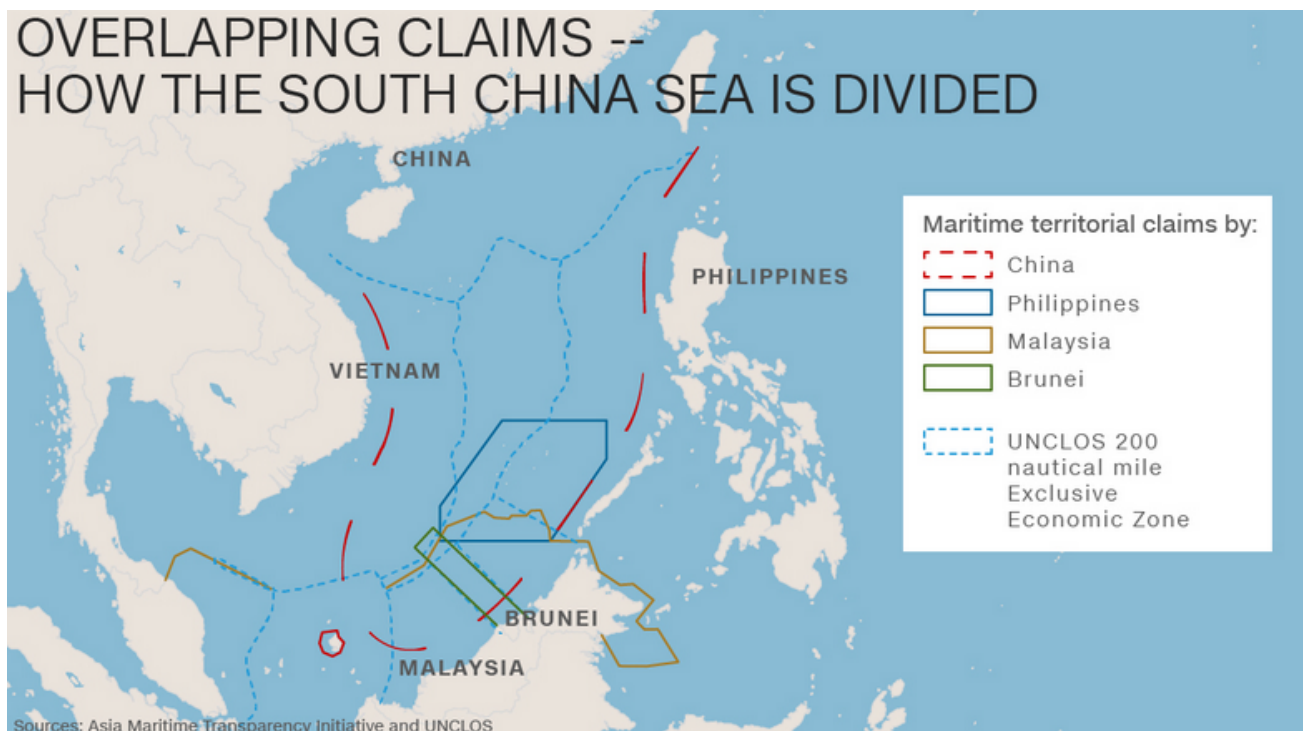
**Exclusive economic zone (EEZ):** According to UNCLOS, this zone does not exceed 200 nautical miles from baseline where coastal state can explore and exploit natural resources; construct artificial islands and where other states can exercise all of the above, but only with permission of the coastal state.

**High seas:** According to UNCLOS, high seas include all waters that are not a part of EEZ, Contiguous zone, Territorial sea and internal waters where all states can exercise fishing activities, navigate freely, construct artificial islands, carry scientific research (all with due regard for interests of other states).

## Area of dispute

The disputes concern the 9-dash-line area claimed by PRC which overlaps EEZs of Brunei, Indonesia, Malaysia, Philippines, Singapore, Taiwan and Vietnam. Among many islets, rocks and shoal, the main points of interest are different maritime boundaries and archipelagos – Paracel islands, Pratas islands and Sparty islands. Further on to the east, more disputes appear between China and Japan concerning Diaoyu/Senkaku Islands.

Even though the estimates are differed, the area is potentially rich in natural resources, especially oil and gas. Furthermore, South China Sea is one of the busiest world merchant routes. This is partly caused by China's huge energy consumption, as more than a half of oil tonnage passes through this area each year. Compared to other important routes, it is three times as busy as the Suez Canal, and five times as busy as the Panama Canal. The estimated number of merchant ship passing each day is nearly 300.



## Historical context

Behind the territorial disputes lie centuries of intricate historical events and international relations. However, for the current situation, the most important is the evolution during WW2 and onwards:

1930s France occupies and surveys the Paracel islands.

1937 Japan invades the South China Sea – Pratas islands, Sparty islands, Hainan Island.

1945 - 1952 Diaoyu/Senkaku Islands come under the US order when Japan surrenders.

1945-1972 US occupies Okinawa.

1947 First version of today's nine-dash-line is created (at that time 11-dash-line), to this day, China uses this area as a historical basis for the dispute.

1948 China claims the islands and calls for their return and finally regains them.

1951 Forty-eight nations sign the Treaty of San Francisco ending WW2, due to which Japan has to (among others) renounce claims to Taiwan and administer Okinawa. The question is whether the treaty meant the Diaoyu/Senkaku islands as a part of Taiwan or Okinawa, as this would determine its current status.

1960 US and Japan sign the Treaty of Mutual Cooperation and Security, which obligates each nation to take action if the other one is attacked. This can therefore be applied to the islands, as forceful invasion could be taken as an attack and therefore USA would be obliged to engage in the conflict.

1972 After many years, China and Japan sign the Sino-Japanese reconciliation, which is the beginning of normalizing relations between the two states. Mutual trade eventually deescalates the first round of disputes.

1974 China occupies the Paracel islands.

1982 UNCLOS is established.

1988 China sinks three Vietnamese military vessels in the Sparty archipelago, marking first armed conflict in the area.

1992 Based on historical facts (or estimates) dating back to the Xia dynasty, China claims the entire South China Sea (nine-dash-line area) in its Law on the Territorial Sea.

1996 Battle between Chinese and Philippine naval forces on the Sparty archipelago revives US-Philippine military ties.

1998 & 2002 conducts between China, Us and ASEAN (Association of Southeast Asian Nations) states are passed; these however seem to have no positive influence on the disputes.

2009 Vietnam and Malaysia submit UN claims, which lead to aggressive reaction from China's side, and are taken as efforts to bring the disputes into international awareness.

## **Current situation**

Since 2009 when the disputes were brought into international attention, USA started concentrating its attention onto the Asia-Pacific. Even though it presented itself as neutral, it is clear that USA stands on opposite side as China, which is proven by its New Defense Pact with The Philippines in 2014.

Currently, the number of conflicts between both civil and naval ships continues to rise. Other signs of possible armed conflict include increase military budget (Japan, Vietnam), calling the area West Philippine sea instead of South China sea, new maritime laws (Vietnam), purchase of Diaoyu/Senkaku islands from private owners (Japan) and so on. The situation escalated especially when China started building artificial islands in the disputed area. These structures are believed to possible accommodate bombers and other military forces.

China, however, is not the only one possessing military bases in the South China sea; Vietnam, the Philippines, Taiwan and Malaysia also have (smaller) theirs. USA does not have any military

installation in the area, but does have some in Japan (since the occupation of Okinawa). Nevertheless, its Defense pact with The Philippines and evidence of joint exercise between US Navy SEALs and Philippine naval forces as well as the US-Japan military treaties show that USA would surely be engaged in the conflict.



## Policy options

The United Nations' First Committee was established in order to prevent armed conflicts using international dialog. Cooperation and sharing of resources could be an option to mitigate the conflict, but in the current situation, it seems rather unrealistic. What definitely appears as an effective solution is to bring the conflict in front of international arbitration. International court of Justice, or possibly the Tribunal for the Law of the sea, could resolve the disagreement; however, the probability of China's opposition is very high. The most promising option is building a multilateral framework, similar to that of 2002 (Declaration of Conduct of Parties in the South China Sea), which would set a code of conduct in order to bring ASEAN countries closer together and it might lead to significant risk reduction.

Special interest should be devoted to areas of possible conflict between:

### 1. USA & China

USA and China have very large armies in comparison with other world countries so it is very important to prevent any possible armed conflict between these military superpowers. Even though the history of crisis management between these countries shows that for both of them, discussion is infinitely preferable to any conflict, USA is obliged to help Japan and the Philippines in case of an attack, so USA would unwillingly be drawn in anyway, even if the crisis would not happen directly between USA and China.

### 2. China & ASEAN states

Increasing military alertness could encourage negative response among other involved states, so it might be a better option to set diplomatic and economic sanctions, but even those could destabilize situation in the area as it might affect international trade. Making sure that hot-lines between military official are available in order to prevent misunderstandings or possible clashes is the most straight-forward and effective possibility, but it is understood that it is not enough.

## Further research

This research paper has covered most of the international background concerning this issue. Each delegate should, however, do further research concerning:

- His country in general
- His country's position on this topic
- Did it sign and ratify UNCLOS?
- Is it engaged in the issue somehow?
- Does the country exploit any sea resources in the area?
- Does the country have any special defense/cooperation treaties with either of the countries involved in the issue?
- Does it have any allies/enemies?

## Sources and links:

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