

# JECRC MUN 2016

## Background Guide

### GA-DISEC

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# Introduction to the agenda

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**Territorial disputes in the South China Sea** involve both island and maritime claims among several sovereign states within the region, namely Brunei, the People's Republic of China, Taiwan, Malaysia, the Philippines, and Vietnam.

There are disputes concerning both the Spratly and the Paracel islands, as well as maritime boundaries in the Gulf of Tonkin and elsewhere. There is a further dispute in the waters near the Indonesian Natuna Islands. The interests of different nations include acquiring fishing areas around the two archipelagos; the potential exploitation of suspected crude oil and natural gas under the waters of various parts of the South China Sea; and the strategic control of important shipping lanes.

The South China Sea is a critical commercial gateway for a significant portion of the world's merchant shipping, and hence is an important economic and strategic sub-region of the Indo-Pacific. It is also the site of several complex territorial disputes that have been the cause of conflict and tension within the region and throughout the Indo-Pacific.

# Geography

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Geographically, the South China Sea plays a significant role in the geopolitics of the Indo-Pacific. The South China Sea is bordered by China, Malaysia, Brunei, Singapore, Vietnam, the Philippines and Taiwan. Their significant economic growth over the last 20 years, as well as activity in other Asian economies including Japan and South Korea, has contributed to a large portion of the world's commercial merchant shipping passing through these waters, from which it continues on through the Malacca, Sunda and Lombok Straits. The South China Sea also contains rich fishing grounds and is reported to hold significant reserves of undiscovered oil and gas, which have in part driven many of the territorial disputes that characterise the region. The major island and reef formations in the South China Sea are the Spratly Islands, Paracel Islands, Pratas Islands, Natuna Islands and the Scarborough Reef.

# Territorial dispute

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The defining characteristic of the South China Sea and a significant source of tensions in the region are the competing legal claims of territorial sovereignty over its islands. The United Nations Convention on the Law of the Sea (UNCLOS), which was concluded in 1982 and came into force in 1994, was meant to establish a series of legal measures and laws on the economic rights of nations based on their territorial waters and continental baselines. This is encompassed in the Exclusive Economic Zone (EEZ), a 200 nautical mile area that extends from the baseline of the coastal nation and gives the nation sole natural resource exploitation rights within the zone.

While UNCLOS has been signed and ratified by nearly all the coastal countries in the South China Sea, legal and territorial disputes still persist, primarily over the Spratly and Paracel Islands as well as the Scarborough Shoal. In terms of the Spratlys, more than 60 geographic features have been reportedly occupied by claimants, which consist of Taiwan, Vietnam, the Philippines, China and Malaysia. The Paracel Islands are the subject of overlapping claims from China, Vietnam and Taiwan. In 1974 South Vietnamese troops were driven from the Paracels by Chinese forces in a battle that resulted in their occupation by China. A further clash between Vietnamese and Chinese forces occurred in 1988, with reports of significant Vietnamese casualties. Another major dispute is over the Scarborough Shoal, which is claimed by China, the Philippines and Taiwan.

# Recent flashpoints

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The most serious trouble in recent decades has flared between Vietnam and China, and there have also been stand-offs between the Philippines and China:

- In 1974 the Chinese seized the Paracels from Vietnam, killing more than 70 Vietnamese troops.
- In 1988 the two sides clashed in the Spratlys, with Vietnam again coming off worse, losing about 60 sailors.
- In early 2012, China and the Philippines engaged in a lengthy maritime standoff, accusing each other of intrusions in the Scarborough Shoal.
- In July 2012 China angered Vietnam and the Philippines when it formally created Sansha city, an administrative body with its headquarters in the Paracels, which it says, oversees Chinese territory in the South China Sea.
- Unverified claims that the Chinese navy sabotaged two Vietnamese exploration operations in late 2012 led to **large anti-China protests** on Vietnam's streets.
- In January 2013, Manila said it was taking China to a UN tribunal under the auspices of the UN Convention on the Laws of the Sea, to challenge its claims.
- In May 2014, the introduction by China of a drilling rig into waters near the Paracel Islands led to multiple collisions between Vietnamese and Chinese ships.

- In April 2015, satellite images showed China building an airstrip on reclaimed land in the Spratlys.
- In October 2015, the US sailed a guided-missile destroyer within 12-nautical miles of the artificial islands - the first in a series of actions planned to assert freedom of navigation in the region. China warned that the US should "not act blindly or make trouble out of nothing".

# Who claims for what?

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China claims by far the largest portion of territory - an area defined by the "nine-dash line" which stretches hundreds of miles south and east from its most southerly province of Hainan.

Beijing says its right to the area goes back centuries to when the Paracel and Spratly island chains were regarded as integral parts of the Chinese nation, and in 1947 it **issued a map** detailing its claims. It showed the two island groups falling entirely within its territory. Those claims are mirrored by Taiwan.

Vietnam hotly disputes China's historical account, saying China had never claimed sovereignty over the islands before the 1940s. Vietnam says it has actively ruled over both the Paracels and the Spratlys since the 17th Century - and has the documents to prove it.

The other major claimant in the area is the Philippines, which invokes its geographical proximity to the Spratly Islands as the main basis of its claim for part of the grouping.

Both the Philippines and China lay claim to the Scarborough Shoal (known as Huangyan Island in China) - a little more than 100 miles (160km) from the Philippines and 500 miles from China.

Malaysia and Brunei also lay claim to territory in the South China Sea that they say falls within their economic exclusion zones, as defined by UNCLOS - the United Nations Convention on the Law of the Sea.

Brunei does not claim any of the disputed islands, but Malaysia claims a small number of islands in the Spratlys.

#### Summary of disputes

Area of dispute	Brunei	Cambodia	China	Indonesia	Malaysia	Philippines	Singapore	Taiwan	Vietnam
The nine-dash line area	✓		✓	✓	✓	✓		✓	✓
Vietnamese coast	✓	✓	✓		✓	✓		✓	✓
Sea area north of Borneo	✓		✓		✓	✓		✓	✓
South China Sea Islands	✓		✓		✓	✓		✓	✓
Sea area north of the Natuna Islands		✓	✓	✓	✓			✓	✓
Sea area west of Palawan and Luzon	✓		✓		✓	✓		✓	✓
Sabah area				✓	✓	✓			
Luzon Strait			✓			✓		✓	
Pedra Branca area					✓		✓		



# Conclusion

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The South China Sea disputes are extremely complex when viewed from the perspective of international law and the law of the sea. They involve sensitive issues of sovereignty over offshore feature. They also involve on how the LOS convention applies to the feature in the South China Sea, including whether the features are Islands of being subject to a claim of sovereignty and a territorial sea of their own, whether the islands are entitles to an EEZ (EXCLUSIVE ECONOMIC ZONE) and continental shelf of their own, and how to delimit the maritime boundary when there is an overlap between the EEZ from the mainland and an EEZ from an offshore island. These disputes would be very complicated even if only twoStates were involved. They are even more complex when several States are involved.

While tensions in the South China Sea are continuing to evolve, there are several processes and dialogues underway in an effort to build confidence within the region and establish a common code of conduct. In 2002, ASEAN and China issued a joint 'Declaration on the Conduct of Parties in the South China Sea', which affirmed the signatories' commitment to international law and the freedom of navigation in the South China Sea. The Declaration also called for the adoption of a code of conduct for the South China Sea, to be negotiated by the parties subsequently. It is unclear how the possible negotiation of a code of conduct will be affected by international legal action that has been taken by the Philippines against China, or how ASEAN will respond to China's recent policies in the South China Sea. However, as a basis for a code to be negotiated, confidence between the maritime powers in the South China Sea will first need to be established