



MODEL UNITED NATIONS AT  AMMAN ACADEMY

Amman Academy Model United Nations

Topic 1: Tackling the
territorial disputes in the
South China Sea

Introduction:

China's expansive claims of sovereignty over the sea have enraged rival claimants Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam due to the estimated 11 billion barrels of undeveloped oil and 190 trillion cubic feet of untapped natural gas that are located there. Countries started making claims to islands and different regions in the South China Sea as early as the 1970s, including the Spratly Islands, which have abundant natural resources and fishing grounds.

China claims that it is illegal for foreign forces to conduct intelligence-gathering operations in its exclusive economic zone, such as reconnaissance flights, in accordance with international law (EEZ). According to the United States, claimant nations should have unrestricted access to EEZs in the sea under the UN Convention of the Law of the Sea (UNCLOS) and are not needed to inform claimants of military

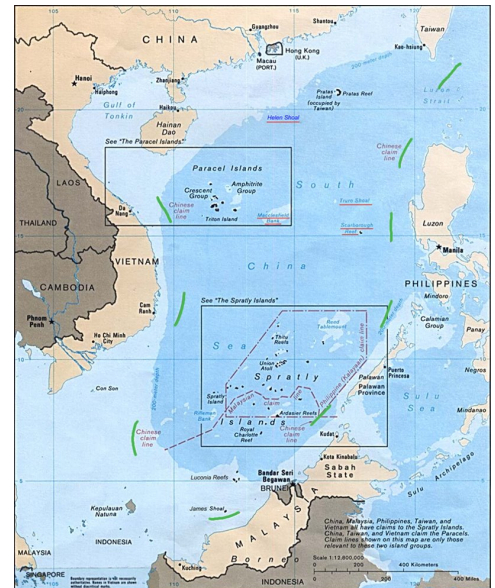
activity. The Permanent Court of Arbitration in The Hague rendered a decision in favor of the Philippines on practically all counts in July 2016 on a claim made by the Philippines against China under the UNCLOS. Despite being a party to the agreement that created the tribunal, China rejects the legitimacy of the court.

Satellite images have recently revealed China's escalating efforts to physically enlarge existing islands or to build whole new islands in the South China Sea. In addition to building ports, military outposts, and airports—particularly in the Paracel and Spratly Islands, where it has twenty and seven outposts, respectively—China has also piled sand over existing reefs. By sending fighter planes, cruise missiles, and a radar system, China has militarized Woody Island.

The United States has conducted FONOPs and increased assistance for Southeast Asian allies in order to counter China's aggressive territorial claims and land reclamation initiatives in order to safeguard its political, security, and economic interests in the area. Japan has also provided military weapons and ships to the Philippines and Vietnam in reaction to China's aggressive presence in the disputed zone in an effort to strengthen their maritime security capabilities and discourage Chinese aggression.

Why is this an Issue?

The United States has stated support for an agreement on a binding code of conduct and other confidence-building measures since it still has significant interests in maintaining freedom of passage and safeguarding maritime lines of communication



(SLOCs). SLOCs are crucial maritime routes that aid in trade and the movement of naval troops, but China's claims put them in danger.

The US has a responsibility to stop a military escalation brought on by the territorial conflict. The United States may become involved in a hypothetical China-Philippines battle over huge natural gas reserves or rich fishing grounds in disputed territory due to Washington's military agreement with Manila. The inability of the leaders of China and Southeast Asia to settle the differences via diplomatic channels may also weaken the international treaties that regulate maritime conflicts and promote destabilizing armaments builds up.

The Case in the ICJ:

The South China Sea Arbitration, also known as Philippines v. China (PCA case number 2013-19), was an arbitration case brought by the Republic of the Philippines against the People's Republic of China (PRC) in accordance with Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS, ratified by the Philippines in 1984 and by the PRC in 1996) regarding a number of issues in the South China Sea, including the nine-dash line established by the Republic of China (Ta The Permanent Court of Arbitration (PCA) was chosen by a panel of arbitrators to serve as the proceedings' registry.

China said that it will not take part in the arbitration on February 19, 2013. To further explain its view that, among other things, the tribunal lacks jurisdiction, it produced a white paper on December 7th, 2014. The Philippines appointed one of the five arbitrators in line with Article 3 of Annex VII of UNCLOS, whereas China made no appointments. On October 29, 2015, the tribunal determined that, subject to a few restrictions, it had jurisdiction to consider seven of the Philippines' proposals. The panel then decided to defer determination of its jurisdiction over the other eight submissions until the merits phase.

The arbitral panel decided in favor of the Philippines on the majority of its arguments on July 12, 2016. It was made clear that China's historical rights claims over maritime areas (as opposed to land masses and territorial waters) within the nine-dash line have no legal effect unless authorized by UNCLOS, despite the fact that it would not "rule on any question of sovereignty... and would not delimit any maritime boundary. Both Taiwan and China have disagreed with the decision. Eight nations demanded that the finding be upheld, 35 released generally supportive remarks that noted the decision but did not demand compliance, and eight governments criticized the decision. The Secretary-General "expressed his hope that the continued consultations on a Code of Conduct between ASEAN and China under the framework of the Declaration of the Conduct of Parties in the South China Sea will lead to increased mutual understanding among all the parties" on July 12. The United Nations itself doesn't have a position on the legal and procedural merits of the case or on the disputed claims.

Recent Advancements:

Even though China boosted its military operations in the South China Sea by conducting a number of naval maneuvers and drills in March and April 2018, tensions between China and the Philippines and Vietnam have lately decreased. China has created artificial islands in disputed waters on which it is still building military and industrial outposts.

In recent years, the US has increased its naval presence and military activities in the area, including freedom of navigation operations (FONOPs) in January and March 2018. President Donald J. Trump highlighted the significance of such activities and the need to guarantee free and unrestricted access to the South China Sea in a speech during his November 2017 tour to Southeast Asia. The US has carried out six FONOPs in the area since May 2017.

History:

The South China Sea's major dispute began in 1279, when China constructed a map of its power that encompassed the whole region. Since then, colonial nations and subsequently regional powers have fought for control of the area. However, the majority of people concur that the 1951 San Francisco Treaty, which came after Japan's surrender in World War II, is to blame for the majority of the current issues. Japan ceded the ownership of its islands in the South China Sea in accordance with the conditions of its surrender, creating a power vacuum in the area. China (the Kuomintang Government) underlined its advantage by submitting the now-famous "nine-dotted line" claim spanning nearly the entire South China Sea in 1947, despite the fact that no country was specifically assigned jurisdiction over these seas. This assertion was made official, and it is currently referred to as the "Nine-Dash Line" (Khoury, E., 2017). The exclusive economic zones were created by United Nations legislation in 1982. (EEZs). China immediately followed by restating its nine-dash line, refusing to define its boundaries and denying the claims of other claimant nations.

Since then, conflicts over ownership of the South China Sea have risen. The Paracels and Spratly Islands, an archipelago in the center of the South China Sea, have been the focal point of the war in the meantime. Part of the Paracels and Spratly Islands chain is now claimed by China, Malaysia, the Philippines, and Vietnam. By constructing tiny ships, ports, and even settlements on what is effectively a rock in the midst of the ocean, they have made their claims known.

Timeline 2000+:

Nov. 2002	ASEAN member states and China reach agreement on the non-binding Declaration on the Conduct of Parties in the South China Sea, pending a full-fledged Code of Conduct.
May 2009	China submits the “nine-dash line” map in response to a joint submission by Malaysia and Vietnam to the Commission on the Limits of the Continental Shelf.
April 2012	Attempted arrest of Chinese fishermen by the Philippine navy at Scarborough Shoal prompts a standoff. By July, China asserts control over the shoal.
Jan. 2013	The Philippines initiates an arbitration case under UNCLOS to challenge Chinese claims of “historic rights” and maritime entitlements to the Spratly Islands and Scarborough Shoal.
Late 2013	China starts carrying out land reclamation and construction on several features in the Spratlys.
May 2014	Vietnamese and Chinese law enforcement vessels collide as the Vietnamese manoeuvre to prevent placement of a Chinese oil rig in waters claimed by Hanoi.
Oct. 2015	The U.S. begins freedom of navigation operations ("FONOP"s) in the South China Sea.
July 2016	An arbitral tribunal at the Permanent Court of Arbitration in The Hague finds that China’s declared nine-dash line has no legal basis under UNCLOS.
Dec. 2019	A six-month standoff between China, Malaysia and Vietnam over the deployment of a Malaysian drillship begins.
March 2021	The Philippines demands that some 200 Chinese vessels, including suspected maritime militia boats, withdraw from waters around Whitsun Reef in the Spratlys.

Law of the Sea

A complex of international conventions, treaties, and practices known as the law of the sea is used by governments to preserve peace, productivity, and order on the seas. The baseline that designates the inner boundary of the territorial sea and the outer limit of internal waterways is provided by NOAA's nautical charts.

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