

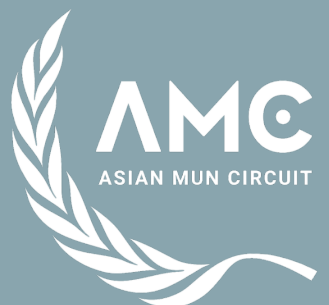
National Institute Of Technology Calicut Model United Nations (NITCMUN)

UNGA - DISEC Delegate preparation
study guide

November 27 - November 29, 2020



NITC MODEL UNITED NATIONS





United Nations General Assembly
DISEC

Territorial Disputes due to misinterpretations of UNCLOS

NITCMUN'20

From the Executive Board

Dear Delegate,

For the two or three days that you'd be a part of this committee, forget all identity and existence of yourself as an individual and be present as only the delegate of the said nation you'd represent. Know, think and feel as a person of the same nation would do and try to share similar values and be the voice of those who've been undermined and underprivileged in the same. Your voice though heard only to us is a gateway into realising some of most devious problems that often go unheard of. Stand your ground, speak for your country, let your voice be heard and together, let's bring to the table solutions that make use of your independence, creativity, vigour and courage.

Change begins the second we realise that all that we're living in isn't enough for all those around.

Begin change.

Rahul Radhakrishnan
Chairperson – UNGA DISEC

Aditya Chowdhury
Vice Chairperson – UNGA DISEC

Jerry Peter
Director - UNGA DISEC

Introduction to the Committee

DISEC – UNGA First Committee

The Disarmament and International Security Committee was first created in the United Nations Charter, under Chapter IV, with intentions of advocating, debating, and solving matters of international disarmament and security. Out of six General Assembly committees, DISEC is also known as the First Committee in the United Nations. Under the United Nations Charter Article 9, all 193 UN members are automatically eligible as representatives in DISEC's body and have equal vote.

It is important to note that DISEC, while it deals with important security issues, cannot specifically mandate individual state action, sanctions, or armed intervention. DISEC however can recommend all of these actions to the Security Council. The First Committee deals with disarmament, global challenges and threats to peace that affect the international community and seeks out solutions to the challenges in the international security regime.

It considers all disarmament and international security matters within the scope of the Charter or relating to the powers and functions of any other organ of the United Nations; the general principles of cooperation in the maintenance of international peace and security, as well as principles governing disarmament and the regulation of armaments; promotion of cooperative arrangements and measures aimed at strengthening stability through lower levels of armaments.

The Committee works in close cooperation with the United Nations Disarmament Commission and the Geneva-based Conference on Disarmament. It is the only Main Committee of the General Assembly entitled to verbatim records coverage.

The First Committee sessions are structured into three distinctive stages:

1. General debate
2. Thematic discussions
3. Action on Drafts

It is the only Main Committee of the General Assembly entitled to verbatim records coverage pursuant to Rule 58 (a) of the rules of procedure of the General Assembly.

What is the UNCLOS?

The **United Nations Convention on the Law of the Sea (UNCLOS)**, also called the **Law of the Sea Convention** or the **Law of the Sea treaty**, is the international agreement that resulted from the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place between 1973 and 1982. The Law of the Sea Convention defines the rights and responsibilities of nations with respect to their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources

It is to be noted that the USA and a few South American countries have not ratified the UNCLOS till date..

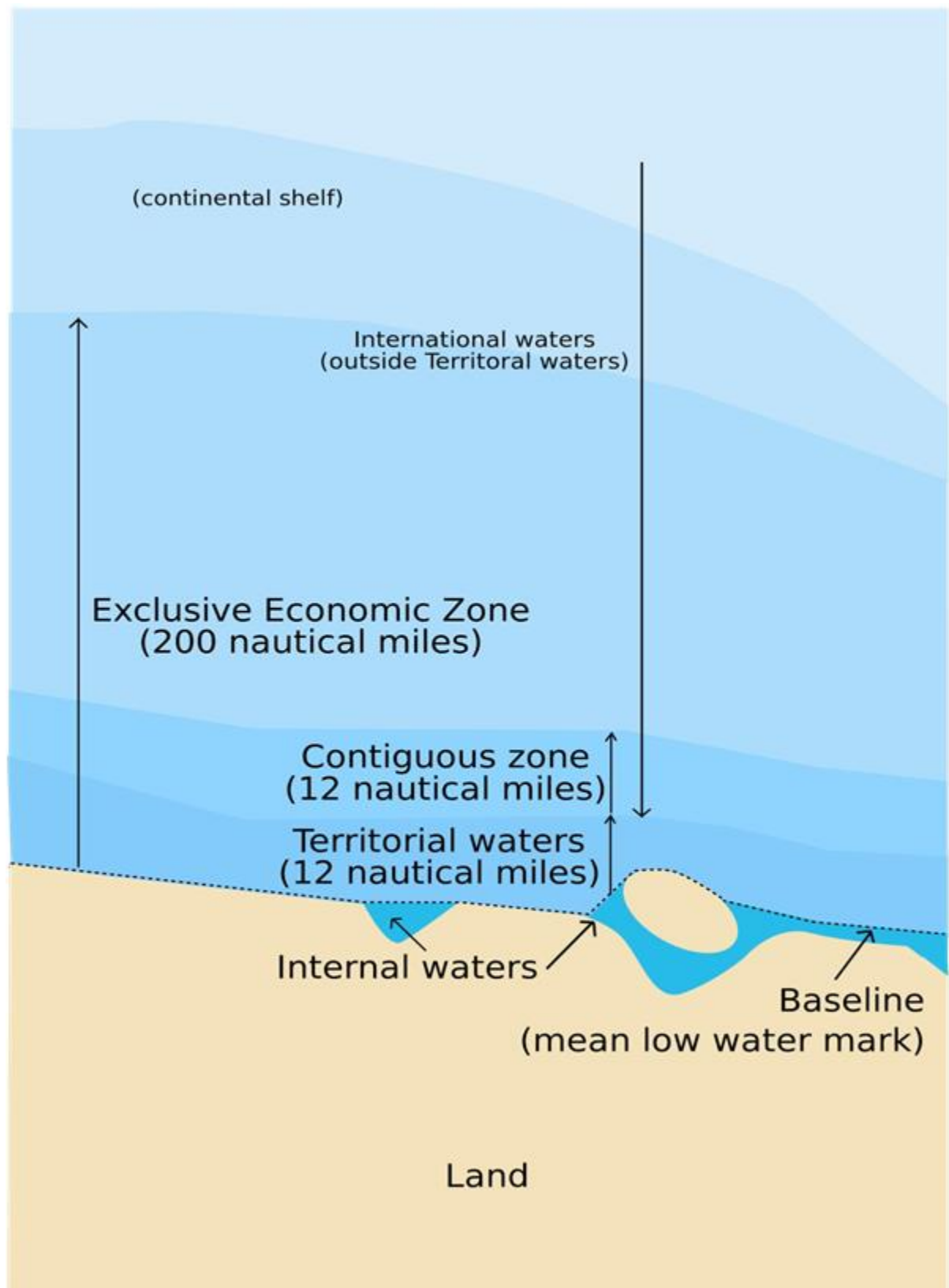
The convention defines various areas, from a defined baseline, and gives the distance up to which countries can exercise their rights on the seas. Normally, low baselines are used to define from the coast, but if the coast is deeply indented, or has fringed islands, then a straight baseline is used. Few of the areas defined are:

1.Internal Waters:

Internal waters solely belong to the coastal state. All waters on the landward side of the baseline are called internal waters. The coastal state has the right to formulate laws, govern usage of resources in that region. No other country's vessel has a right to passage within internal waters.

2.Territorial Waters:

Territorial waters of a coastal state are up to 12 nautical miles (14 miles, 22 km). Ships and vessels from other countries have the right to innocent passage. This is extended to the seabed (submarine passage) and the air (passage of aircrafts). According to the Convention, innocent passage is defined as passing through waters in an expeditious and continuous manner which is not prejudicial to the peace, good order of the coastal state. When submarine and other underwater vessels travel, for innocent passage, they should travel on the surface and display their flags. Fishing, polluting, using weapons and spying in territorial waters cannot account for innocent passage. Nations can suspend innocent passage at times, if they feel their security is compromised.



3.Archipelagic Waters:

Part IV of the Convention defines Archipelagic waters as all waters inside a baseline drawn between the outermost points of the outermost islands, provided the points are close to each other. The state has full sovereignty over these waters, but foreign vessels can have innocent passage, like in territorial waters.

4.Contiguous Zone:

Contiguous zone is defined as distance of 12 Nautical miles from the initial 12 nautical miles from the baseline, i.e, a further 12 nautical miles from the territorial waters. Here, a state can continue to enforce laws in Customs, immigration, taxation and pollution, if the infringement started from its territorial waters, or it is bound to spread to its territorial waters. Therefore, this region is hot pursuit.

5.EEZs (Exclusive Economic Zones):

The EEZs stretch to a distance of 200 nautical miles from territorial waters. In casual terms, even territorial waters and continental shelf can be considered as EEZs. In this region, the coastal state has the sole authority to exploit natural resources. The EEZs were brought in to halt the increasing fights over fishing rights, although it has lead to the fight for oil in some regions. Foreign vessels and aircrafts have the right to passage in this region, subject to regulation by the coastal state.

6.Continental Shelf:

It can be defined as the natural prolongation of the State's territory, to the edge of the continental margin or a distance of 200 Nautical milees from the territorial waters, whichever is greater. The continental shelf can exceed 200 nautical miles till the natural prolongation ends. But it cannot exceed 350 nautical miles or 100 nautical miles from the 2500m isobath (line connecting a depth of 2500m). Coastal states have the right to harvest minerals and non living resources attached to the subsoil in the continental shelf. They also have the exclusive right over living resources till the end of EEZ.

A map depicting the different zones is shown here:

The Convention meets obligations of safeguarding marine environment, and promotes research and study on high seas and has brought about a legal route to tackle mineral exploitation in the seas.

Though proven to be very effective, currently there are disputes with regard to the ownership of certain seas, notably, the South and East China Seas.

South China Sea and East China Sea- Span:

The South China sea is a part of the Pacific Ocean, stretching from Karimata and Malacca Straits to the Strait of Taiwan. The area is around 1400000 sq. miles. The South China sea is of extreme importance, as one third of all sea trade of the world, is through it.

The East China Sea, is a marginal sea east of China. It spans about 482000 sq. miles. To its south lies the South China sea, to its east lie the Japanese islands of Kyushu and Ryukyu and the Asian continent on the west. The countries bordering the East China sea are Japan, South Korea, Republic of China and the People's Republic of China.

Contested Areas:

South China Sea:

The South China Sea consists of two archipelagos that are contested: the Spratly and the Paracel Islands. The South China Sea is a part of one of the most important water routes in the world, and trade in Asia heavily depends on this region. The amount of trade every year is nearly \$5 trillion, and the USA accounts for 20% of this.



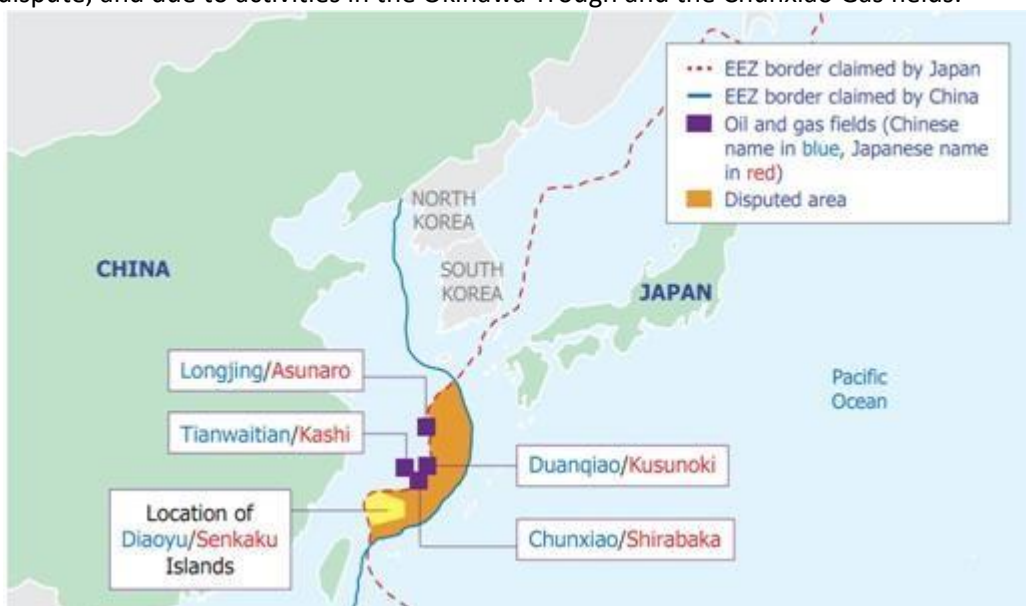
The map shows the claims made by the People's Republic of China. Their claim virtually extends over the entirety of the South China Sea, which is combination of both the misinterpretation of the UNCLOS and a reference to their historical claims over the region.

As it is evident, the claims by China overlap the legitimate EEZ regions of a number of countries bordering the South China Sea, namely, Vietnam, Philippines, Malaysia, Indonesia and Brunei.

The basis of the Chinese claims is the Nine Dash Line proposed by them.

East China Sea:

The disputes in the East China Sea are primarily between China, Japan and South Korea. The contested areas include the uninhabited Senkaku Islands controlled by Japan, the Socotra Rock dispute, and due to activities in the Okinawa Trough and the Chunxiao Gas fields.



The disputes in the East China Sea stem because of the overlap of the Exclusive Economic Zones (EEZ) of the countries mentioned.

Another reason for disputes is the overlapping of the Air Defense Identification Zones, as shown in the map below:



Claims based on historical context:

South China Sea:

At the end of World War II, there was not even one occupant (in terms of countries) on any of the islands in the South China Sea. China started building a few features in the Spratly Islands in 1946 and in 1947, acquired control of the Woody Island, a part of the Paracel Islands. This resulted in a race for control over the sea, and in 1955, China and Taiwan started creating a permanent presence in many of the islands, eventually paving the way for other countries also to do the same. At one point of time, there was a Philippine individual- Thomas Cloma, who claimed ownership of the majority of the Spratly Island chain.

East China Sea:

The administrative control of the Senkaku islands was handed over to Japan by the USA in 1971. Three years prior to this, there was a discovery that there could be potential undersea oil reserves in the region. The US decision to hand over control to Japan even after this, is quite puzzling.

However, China and Taiwan have both disputed the ownership of the islands by Japan, claiming it to be illegitimate possession.

The Chinese argument states that the island was under their control from the 14th century. Japan had control over the region from 1895, till they lost WW II.

Socotra Rock in the East China Sea is a submerged reef. According to the UNCLOS, it cannot be considered a sovereign territory of any country. But South Korea and China dispute that it falls within their respective EEZs which overlap.

Diplomatic Context:

South China Sea:

ASEAN and China came together in 2002 and signed the Declaration of conduct by parties in the South China Sea. The parties promised to “ **exercise self-restraint in the conduct of activities that would escalate or complicate disputes and affect peace and stability, including, among others, refraining from actions of inhabiting currently inhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.**”

Though this seemed to work for a considerable amount of time, the action now moved away from the waters to a series of notes and verbales being sent condemning the actions carried out by countries. In May 2009, Malaysia and Vietnam send a joint note to the Commission on the Limits of the Continental Shelf, describing a few of their claims. This resulted in a flurry of notes being sent by other claimants, who disputed the claims by these countries.

East China Sea:

China has always condemned the actions of other countries in the Socotra Rock and other contested areas. In 2006, Chinese external Affairs Ministry spokesperson Qin Gang stated that China objects Korean infrastructure in the region, when he was referring to the Science observation facilities constructed there and called it “illegal”.

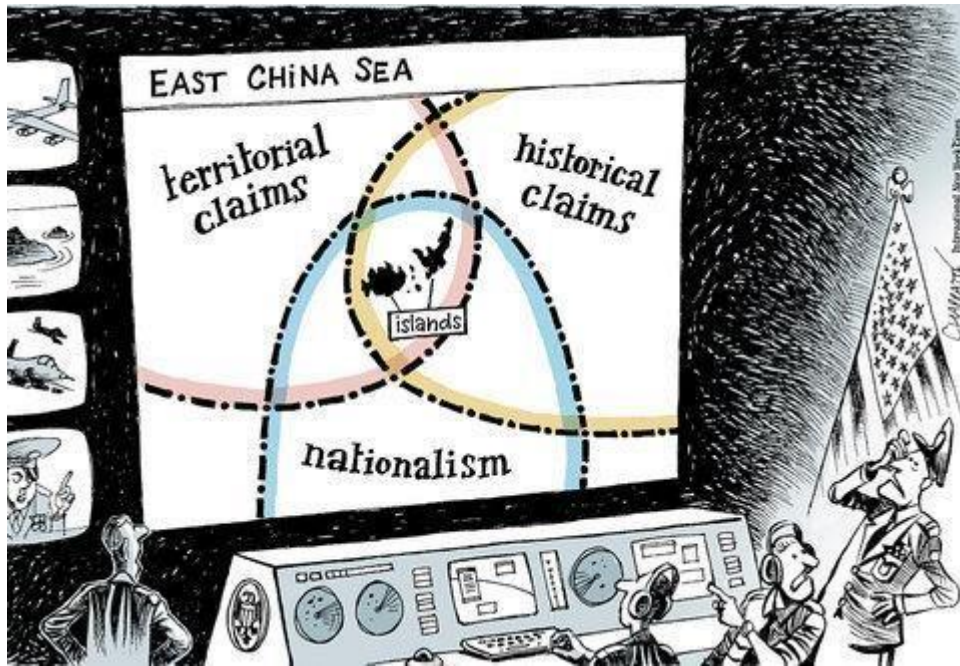
With regard to the Senkaku Islands, these Islands are covered under the Treaty of Mutual cooperation and Security signed by Japan and USA. If there are attacks on these islands by the other claimants, it would bring USA to Japan's aid. The situation in the islands is regarded one of the “most serious” since WW II.

In June this year, 3 Russian warships along with frigates from the Chinese Navy entered the Senkaku island region, prompting the Govt. of Japan to summon the Chinese Ambassador and they demanded that the warships leave immediately.

China's stance:

In May 2009, China sent 2 note verbales to the Secretary General of the UN and requested that it be circulated to all member states. The note stated that “ **China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and the subsoil thereof.**”

This note was sent along with a map that depicted China's claimed sovereignty. The region China claimed was marked with nine dashes and virtually covered the entirety of the South China Sea. These dashes came to be known as the **Nine Dash Line**. China also added that the sovereignty and rights it enjoys are supported by historical, legal evidence, though it is not clear if China was referring to the UNCLOS by any chance.



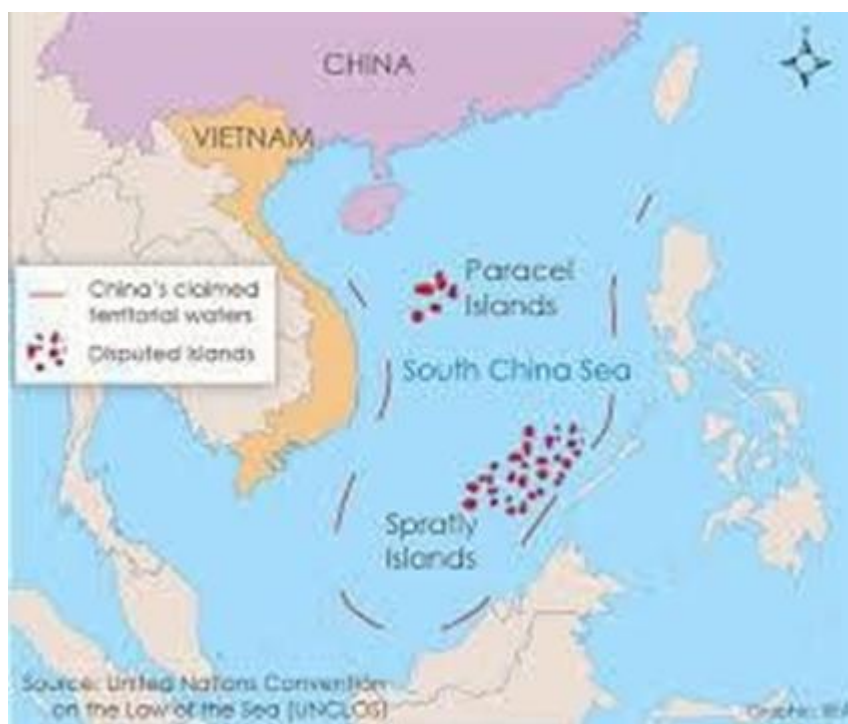
China did not make any claim over the Senkaku islands when it was under the control of the USA. However, when they were getting ready to end their administration and hand it over to Japan, China started pushing for ownership of the islands. Chinese claims coincided with the discovery of potential oil reserves, as stated earlier.

Both the People's Republic of China (PRC) and the Republic of China (ROC) respectively separately claim sovereignty based on arguments that include the following points:

1. Discovery and early recording in maps and travelogues.
2. The islands being China's frontier off-shore defence against wokou (Japanese pirates) during the Ming and Qing dynasties (1368–1911).
3. A Chinese map of Asia, as well as the *Sangoku Tsūran*
Zusetsu map compiled by Japanese cartographer Hayashi
 Shihei in the 18th century, showing the islands as a part of China.
4. Japan taking control of the islands in 1895 at the same time as the First Sino-Japanese War was happening. Furthermore, correspondence between Foreign Minister Inoue and Interior Minister Yamagata in 1885, warned against the erection of national markers and developing their land to avoid Qing Dynasty suspicions.
5. The Potsdam Declaration stating that "Japanese sovereignty shall be limited to the islands of Honshū, Hokkaidō, Kyūshū, Shikoku and such minor islands as we determine", and "we" referred to the victors of the Second World War who met at
 Potsdam and Japan's acceptance of the terms of the Declaration when it surrendered.
6. China's formal protest of the 1971 US transfer of control to Japan.

China introduced the ADIZ (Air Defence Identification Zone) in the East China Sea in November 2013. It means that all inbound aircrafts have to give prior information about the purpose and their type. About half of this overlaps with the Japanese ADIZ, which has led to simmering tensions in the region.

The Nine dash Line:



a. Dash 1



b. Dash 3



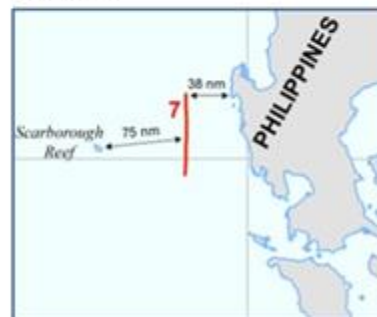
c. Dash 4



d. Dash 5



e. Dash 7



f. Dash 8



The Nine dash line claim by China on the South China sea infringes on the EEZ of other countries in the region, namely Vietnam, Philippines, Brunei, Malaysia etc

China has established a capital Sansha to govern the Paracel islands. It has also started governing bodies in these islands, sparking off protests against the move. China conducts military exercises in the region to deter the claims and activities of other countries. And they have been accused of capturing fishing boats well outside their waters.

The islands have started witnessing the construction of military bases by the countries claiming sovereignty over them. This is resulting in a mad race to arm each one of them and disputes are bound to happen more frequently.

.Implications of actions by countries:

China snatched the Scarborough Shoal away from Philippines and as a result, an arbitration case was slapped on Beijing by Philippines in 2012. Manila says that maritime issues have to be solved first, but Beijing asserts that territorial issues need to be sorted out initially to even move on to maritime issues.

China has been very assertive in its position. In 2014, an oil company moved its rig close to the waters claimed by Vietnam south of the Paracel islands, resulting in protests. China gave in to the pressure and withdrew the rig in mid July of the same year.

Very recently, Beijing even questioned the competence of the Hague tribunal that said China's claims had no legal base.

China said it could establish a military air defence zone in the South China Sea, but combined its hardening position with a fresh offer for dialogue with the Philippines in July this year.

China's offer for diplomatic engagement with the new government in Manila followed a firm rejection by President Xi Jinping of the ruling by the permanent court of arbitration in The Hague that Beijing's claims in the South China Sea had no legal basis.

"China will not accept any proposition or action based on the decision Tuesday by the South China Sea arbitral tribunal", Mr. Xi said, according to Xinhua news agency.

China also accused the Tribunal of being financially supported by Philippines.

Current state of affairs in few of the contested areas:

Paracel and Spratly Islands:

Runways and military are being established as we speak in the island chains by the various players involved. China has vowed "never to stop" construction in the South China Sea. China also partly sealed off the South China Sea as a part of a military drill in July. In March 2015, a satellite grab showed the extent of building of air strips undertaken by China in a month.



Scarborough Shoal:

China seized control of Scarborough after a two-month stand-off with the

Philippines in 2012, which began when a Philippine Navy frigate seized eight Chinese fishing boats suspected of poaching coral and giant clams around the shoal.

The United States eventually mediated a deal. Both sides were told to withdraw from Scarborough. The Philippines pulled out its ships, but China stayed and later roped off the mouth of the lagoon, sealing off the entire atoll. Since then, China has been chasing fishermen from the Philippines away from Scarborough.

In March, US President Barack Obama warned Chinese President Xi Jinping that there would be serious consequences if China reclaimed land at Scarborough, located just 220km west of the main Philippine island of Luzon. Mr Obama raised the stakes with Mr Xi after US intelligence concluded that China was moving towards reclaiming land at the shoal. Some officials worry that China may install radars and missiles there. Along with facilities in the Paracel and Spratly islands, that would enable China to create a strategic triangle, which could threaten the US military presence in Hawaii and Guam.

Socotra Rock:

South Korea has deployed its newest and largest coastguard ship to watch over waters near an islet in dispute with China.

The 5,000-tonne Lee Cheong-ho arrived at a new naval base on Jeju Island on Thursday. The ship was named after a coastguard officer who was killed on duty in December 2011 in a clash with Chinese fishing boats.

South Korea maintains a research station on an oil-rig like structure atop the rock. Ieodo (Socotra) is also claimed by China, with Chinese fishermen often operating in the region and reportedly clashing with South Korean maritime patrols. The islet, along with others in the region, is now in overlapping regions of the air defence identification zones (ADIZ) of China, South Korean and Japan. Ieodo used to be outside

South Korea's ADIZ but inside Japan's. In November, 2013, China declared its East China Sea Air Defence Identification Zone to include both Ieodo and the Diaoyu islands, aka Senkaku islands, which also lay inside Japan's ADIZ. Two weeks later, South Korea extended its ADIZ south to include Ieodo.

Senkaku Islands:

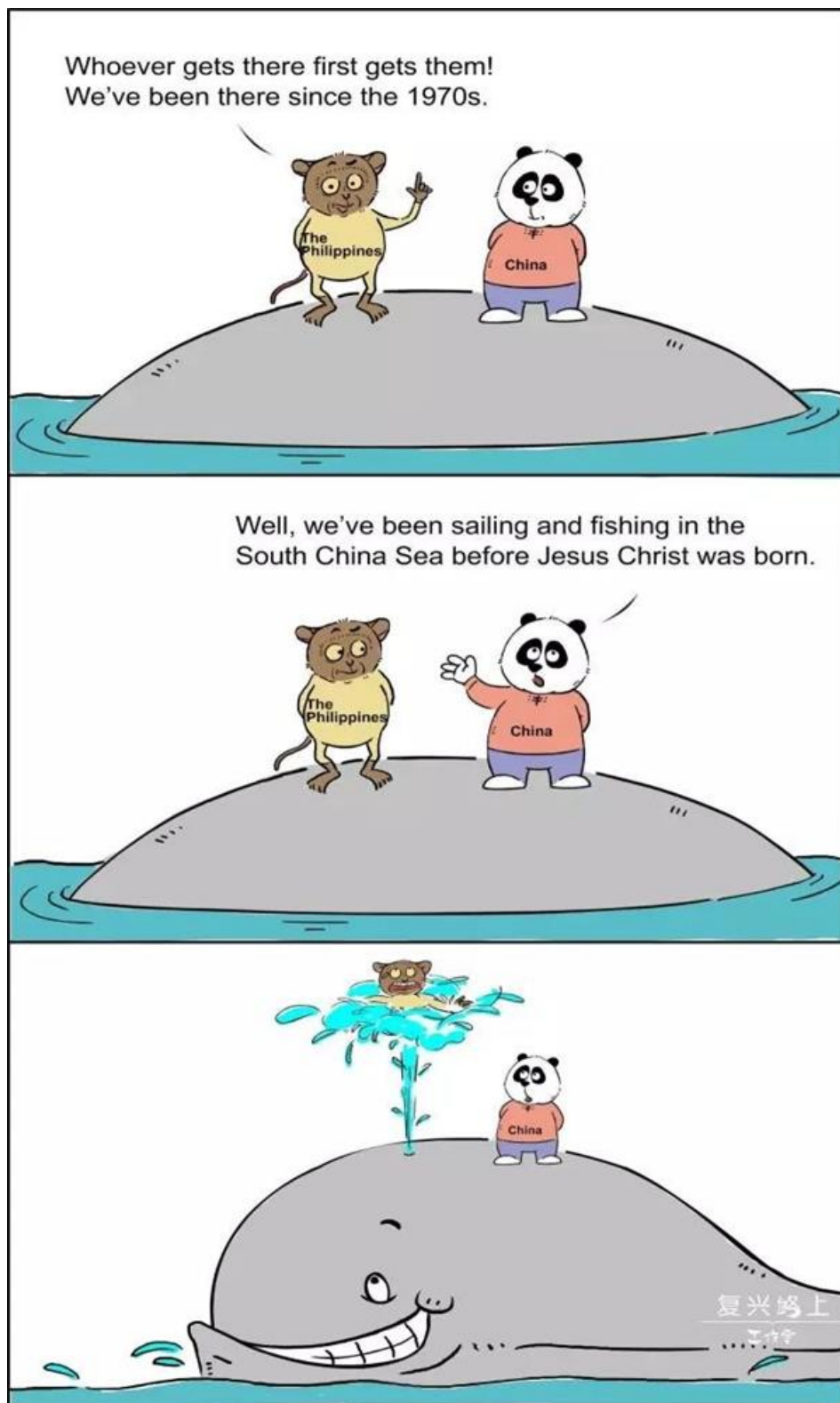
On Sept 11, 2016, the Japanese government said that four China Coast Guard ships entered territorial waters around the disputed Senkaku/Diaoyu Islands in the East China Sea. The vessels entered the 12 nautical mile territorial waters around the islands at approximately 10:30 a.m., leaving after 90 minutes. Japan administers the Senkaku/Diaoyu Islands, which are claimed by China. The incident marks a continuation of ongoing tensions between Japan and China in the East China Sea that intensified earlier this year after a period of relative calm. Sunday's incident is additionally the first in the East China Sea since Chinese President Xi Jinping and Japanese Prime Minister Shinzo Abe met briefly on the sidelines of the Hangzhou G20 meeting in China.

At that meeting, which was the first between Abe and Xi in 17 months, the two leaders agreed to "accelerate talks for establishing a communications mechanism between the two countries"

naval and air forces.” China and Japan have been pursuing a crisis management mechanism for the East China Sea for more than a year. Both China and Japan are additionally party to the Code for Unplanned Encounters at Sea (CUES), which was finalized at the 2014 Western Pacific Naval Symposium.



In addition to this, there have been reports that China is indulging in expansion of islands/rocks by pouring sand into the South China sea. Coral reefs also have been subject to addition of sand, to convert them into artificial islands. China deploys dredging ships for such operations that it carries out.



As the most powerful country in the region, China's actions will decide the nature of the dispute. China briefly made a course correction after 2002, but returned to its assertive ways soon after.

Now with the Hague Tribunal leaving a bad taste in its mouth, the situation is very precariously placed, and one can naturally expect China to retaliate. Possible forms of retaliation include landing fighter jets on airstrips Beijing has built in disputed areas, declaring an air defence identification zone, or ADIZ, over the South China Sea or kicking off a dredging campaign at Scarborough Shoal, which is claimed by both the Philippines and China.

There are more than 100 features in the South China Sea alone that are currently being contested. The UNCLOS provides a framework for proper implementation, but in special cases like the East China Sea, where EEZs of different parties overlap, implementation becomes difficult and leads to tension.

Islands, low tide elevations, rocks, submerged features and artificial islands are the different classifications of features in a sea according to the UNCLOS. Low tide elevations, for example surface above the water level during low-tides. There is a distinct possibility of converting these into artificial islands by the parties that are at dispute, and implementation of the Law becomes difficult at such times.

Questions for Discussion.

1. What is at stake for the countries involved in the East and South China Sea disputes (China, Japan, the Philippines, Vietnam, Malaysia, Taiwan, and Brunei)?
2. How do China's maritime disputes in the East and South China Seas differ? How are they similar?
3. How have Beijing's policies regarding its territorial claims in the East and South China Seas shaped regional efforts to settle the disputes?
4. What are Japan's strategic interests in the East and South China Seas? How have these interests shaped Japan's approach to its own territorial claims?
5. What role does nationalism play in the disputed maritime regions? What role has nationalism played in the past in these areas?
6. Is armed conflict between China and its neighbours imminent?
7. What are the United States' interests in the region? How have they shaped U.S. policy and security commitments to its allies?
8. What role could Washington play in easing regional tensions and facilitating greater cooperation among claimants? What role has it played in the past?
10. What would the ramifications be for the United States if armed conflict broke out in the region?
11. Should the United States become more involved, less involved, or maintain its current level of involvement in disputed maritime territories in Asia?

12. Would U.S. military intervention in China's maritime disputes ever be justified? If so, what would justify military action?

Questions a Resolution must answer.

- What type of regulations regarding international routes and navigation should be implemented?
- Measures to avoid the blocking of a communication route by a country?
- How to protect the right of passage in the South China Sea?
- How to ensure that the right to innocent passage is respected?
- Measures to take if a foreign vessel enters national waters?
- How to address the issue of piracy?
- What about acts of piracy committed by States?

Position Paper

A Position Paper/Policy Paper, is a document, normally one page, which presents your country's stance on the issue/topic your committee will be discussing. A solid position paper has three parts

- 1) Country's position,
- 2) Country's relation
- 3) Country's Proposal

Every delegate is expected to submit a position paper by November 21st, 2020.

WORKING PAPERS AND RESOLUTIONS

Working papers are used to collect and circulate delegate ideas. The ideas in a working paper are debated and eventually moulded into formal documents written in the style of actual UN resolutions.

After formal introduction in committee, resolutions are debated, amended, and voted on by the body. Passed resolutions represent hours of debate, negotiation, and compromise.

While it is satisfying to see the hard work of the committee culminate in a resolution, our philosophy emphasizes the process of negotiation rather than the resolution itself. A committee must not necessarily pass a resolution to be considered a success.

A UN Guide to Drafting Resolutions: <https://www.un.org/en/model-united-nations/drafting-resolutions>