



**SPRIMUN**

SCIENCES PO RENNES INTERNATIONAL  
MODEL UNITED NATIONS

# STUDY GUIDE

UN SECURITY COUNCIL

# FOREWORDS

Distinguished delegates,

On the behalf of the 2020 organizing team, it is a pleasure to welcome you in Rennes for SPRIMUN. Along with the two chairs of this committee, Denis Wielert and Yuseong Choi, we hope that those three days of diplomacy will be full of success for you.

But most importantly, welcome to the UN Security Council, dear delegates, place of the harshest and strongest negotiations. You are reunited here to take decisions that could change the world's stability for ever.

The two topics you'll have to address require a high level of diplomacy, they are both extremely challenging. A very careful preparation is needed not to bump into one of the many obstacles they present. Only keep one thing in mind: a resolution must be found!

Denis and Yuseong have done an important work on this study guide, which gives you the opportunity to be perfectly ready for the conference. It gives you an overview of the main issues concerning the two topics and orients your researches in order to settle your country's position. Your position paper, and later, your speeches will have to reflect the information that you have been provided here.

To be successful in the committee and maybe even win awards, a careful preparation is needed, and includes a specific attention to this study guide. Two points are important in a MUN: your ability to represent the position of your designed country and, at the same time, your ability to work around this position in order to reach a fruitful compromise in the adopted resolution. Please keep in mind that it is strictly forbidden to bring already written draft resolutions to the conference, as all the working papers and draft resolutions should be only developed during SPRIMUN, not before.

Should you have any inquiry regarding the preparation of the conference, do not hesitate to contact us. We will do our best to make sure you live a great experience!

We wish you good luck in your preparation.

Best regards,

Adèle Billon and Nolwenn Le Meaux  
SPRIMUN 2020 Committees and Delegates Managers

Dear delegates,

I am Denis Wielert, one of the Chairs in the Security Council. I would willingly start by presenting my sincere congratulations to every single one of you, and wishing you a warm welcome, a lot of luck and most of all a wonderful time during sessions. I will try my best to help you to have a productive and enjoyable conference.

With each of my MUN participations, I got to know new places, people and cultures. That's what makes me a passionate MUN participant. I hope that SPRIMUN will give you the same opportunities.

I am extremely excited for chairing the Security Council with my co-Chair. I wish you a productive and enjoyable conference.

See you soon!

Denis

Greetings, distinguished delegates.

Welcome to the United Nations Security Council. My name is Yuseong Choi, and it is my pleasure to welcome you to this Council as co-chair. The Security Council has a unique dynamic and purpose, and I hope that you can enjoy such uniqueness as much as I have in my past experiences as a delegate. I shall try my best to assist you in making this a memorable and enthusiastic conference. Staying up to date by conducting research, knowing one's country's stances upon the agenda, and willingness to cooperate during sessions can be several areas to start with in creating such a conference. I look forward to meeting you all in March.

Best wishes,

Yuseong Choi

#### How to use this study guide:

This document is not an exhaustive guide on the Kashmir issue or South China Sea dispute. The study guide provides guidelines and references to help the delegates in doing their own research on the issues.

## **UN SECURITY COUNCIL OVERVIEW**

The United Nations Organization is widely considered to be one of the greatest successes in international relations. Founded in the aftermath of one of the most destructive international conflicts in human history - the Second World War - the hope was that it would improve international cooperation and promote international peace and security.

The United Nations Security Council is one of the principle bodies of the United Nations Organization. It consists of fifteen state members, including five permanent members (also known as the P5 group: China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America) and ten non-permanent members.

By the mandate of the United Nations Charter, the Security Council is primarily responsible for the maintenance of international peace and security. Article 24 of the Charter particularly stresses the need for "prompt and effective action" by the United Nations, which is why in Article 25 of the Charter all United Nations member states commit to "accept and carry out the decisions of the Security Council," regardless of their membership or non-membership therein. One of the unique features of the workings of the Security Council is the requirement of zero opposing votes from permanent member states in order for any substantive decision to be taken, which is often the source of a perceived impasse in its work.

The mandate of the Security Council is derived from its above-mentioned primary responsibility, but is otherwise virtually limitless. Chapters VI and VII of the United Nations Charter outline some of the possible courses of action that the Security Council might take in pursuit of the peaceful settlement of disputes or in order to respond to threats to international peace and security. It is important to note that, when acting under Chapter VII of the Charter, decisions taken by the United Nations Security Council members are legally binding, be it towards every member of the international community or towards only a select few (as per the Security Council's decision).

# TOPIC A:

## THE SITUATION IN KASHMIR

### INTRODUCTION TO THE TOPIC

The Kashmir dispute started from the British-ruled India in 1947. Neither Pakistan, nor India has been willing to consider a solution, which would leave the other country to control this region. Kashmir is a rugged land from Tibet and Sinkiang into the Indian subcontinent, surrounded by inhospitable mountains<sup>1</sup>. It is known as the world's largest and most militarized territorial dispute with portions under the de facto administration of China (Aksai Chin), India (Jammu and Kashmir), and Pakistan (Azad Kashmir and Northern Areas)<sup>2</sup>. Jammu and Kashmir is an Indian-administered part of the majority-Muslim region. It has its special status within the constitution.

This special status gave rise to controversy among involved actors. The Indian Government revoked this special status on August, 5, 2019 to place it under tighter central control. Pakistan claimed that the move is in violation of international law. 3 days after the Indian government revoked the special status of Kashmir in the constitution, UN Secretary-General, António Guterres, stated that he had been following the situation in Jammu and Kashmir « with concern, » making an appeal for « maximum restraint, » while recalling the Simla Agreement. This agreement between Pakistan and India states the final status of Jammu and Kashmir, which is to be settled by peaceful means in accordance with the UN Charter<sup>3</sup>. Areas are separated by a "Line of control" : the Northern region of the line is claimed by Pakistan, whereas the South is claimed by India.

On September, 27th of 2019, Imran Khan urged the United Nations to intervene in Kashmir dispute, wary of bloodbath and nuclear war. In an address to the United Nations General Assembly in New York, Khan described the situation in Kashmir <<as a test for the UN>> and warned that a conflict between India and Pakistan would have "consequences far beyond the borders"<sup>4</sup>.

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<sup>1</sup> <https://www.cia.gov/library/readingroom/docs/CIA-RDP79T00472A000600010008-7.pdf>

<sup>2</sup> <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/in.html>

<sup>3</sup> (<https://news.un.org/en/story/2019/08/1044401>)

<sup>4</sup> <https://www.theguardian.com/world/2019/sep/27/pakistan-india-kashmir-provoke-war-nuclear-states-imran-khan>

## Borders in Kashmir: Pakistan - China - India



The United Nations has already recognized the gravity of the agenda and is moving to resolve the dispute. Delegates must come up with different measures to tackle the agenda, whilst seeking methods to improve existing initiatives.

## HISTORY

The Kashmir dispute has proven to be the most tenacious issue dividing India and Pakistan since 1947. It has been thrice the theatre of war between Pakistan and India.

Kashmir was one of the 562 Princely States of the British Indian Empire, possessed by a Muslim majority population ruled by a Hindu dynasty. The Dogra, (name of the dynasty that formed the royal house of Jammu and Kashmir) found himself faced with an armed revolt from his Muslim population. The uprising led to the intervention of the tribesmen from the bordering area of Pakistan. Hari Singh the Maharaja, asked India for military help and acceded to the Dominion of India on October 26 in 1947, after signing the deed of accession which caused the intervention of Pakistan. At that time, Lord Mountbatten, who was the Governor-General of India accepted the intervention under one condition, "that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people". This condition was reaffirmed in UN resolutions, which were accepted by India and Pakistan. In the meantime, Nehru asked the United Nations to call upon Pakistan to withdraw its forces from Kashmir, with a view to holding this referendum. Since this withdrawal never took place, there was no referendum. The fighting between both countries led to a ceasefire

arranged under the UN on January 1st of 1949 in Karatschi. In July 1949, both countries concluded the Karachi Agreement defining the ceasefire and the line in Kashmir, which marked the limit of Indian and Pakistani control (line of control) in the area. Pakistan held the Gilgit region, Baltistan and a narrow strip of Kashmir Province (Poonch) along the West Punjab border. India held the bulk of Kashmir Province, Jammu and a half of Poonch. After the defeat of India with China, India started to invest a lot of money in the Army. This is the reason why Pakistan started to change their defensive strategy to an offensive one after having experienced relations with India without any attack.

In December 1971, a second conflict between both countries erupted; a counter-coup that left very serious traces in Pakistan, involving liberation of Bangladesh by the Bengali insurgents of East Pakistan wanting to succeed them, with the help of the Indian army. This put an end to the two-headed Pakistan of 1947. The fight in Kashmir was confined to those areas that of which were vital, strategic interest to the respective two combatants. Pakistan's attempt at acquisition was by cutting off India's communications link with Kashmir. India responded by attacking the North in order to seize posts overlooking the road to Leh. However, Pakistan was not able to overcome India's pressure, resulting in President Bhutto abandoning confrontational policies against India. In 1972, Shimla agreement was signed between Indira Ghandi and Zulfikar Ali Bhutto. Both wanted to open negotiations regarding Kashmir. The agreement also stated that the representatives of the two sides would meet to discuss the modalities and arrangements for the establishment of a durable peace and normalization of the relations, including a final settlement of Jammu and Kashmir. Furthermore, both sides agreed to settle their differences by peaceful means through bilateral negotiations (Article 2)<sup>5</sup>.

Another clash between India and Pakistan occurred in 1984 concerning the tensions in the Siachen Glacier. In April 1984, Indian troops occupied the glacier whereupon Pakistani troops mobilized to counterattack. However, when they arrived, all strategic positions were occupied by the India troops. The importance of this glacier lies in its location. By occupying this glacier, India blocked the link road between Pakistan and China.

The third and last war between both countries was about Kargil in 1999. For a long time, Pakistan and India demonstrated their nuclear capability. The General Pervez Musharraf had planned to send his troops over the line of control, dressed up as fighters in the winter months. He hoped that the frost would prevent the Indian troops from counterattack. Furthermore, the fear of nuclear escalation would prevent the Indians from launching a massive counter strike against the Commandos and advancing beyond the Line of Control. However, this offensive failed due to thawing weather, enabling Indian troops to cross the mountain passes<sup>6</sup>.

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<sup>5</sup> Mustafa, Zubeida. "THE KASHMIR DISPUTE AND THE SIMLA AGREEMENT." *Pakistan Horizon*, vol. 25, no. 3, 1972, pp. 38-52. JSTOR, [www.jstor.org/stable/41403844](http://www.jstor.org/stable/41403844). Accessed 17 Jan. 2020.

<sup>6</sup> Rothermund, D. *Z Außen Sicherheitspolit* (2018) 11: 621. <https://doi.org/10.1007/s12399-018-0735-4>

## CURRENT SITUATION

India occupies the most populated part of the country, Jammu, which has a Hindi majority (Dogra language) with Muslim districts, Ladakh in the East, which is the largest populated province, and Leh which remained Buddhist due to its proximity to Tibet. The territories under Pakistani control are located in the north of the Line of Control. The most populated part is the Poonch region which rose up in 1947 against Singh and those who wanted to join Pakistan. This was proclaimed with the approval of Pakistan Azad Kashmir (Free Kashmir). These regions have a government and a president but remain under the tutelage of Pakistan. They speak Punjabi, and are Sunni Muslims. Other Pakistani provinces are Gilgit and Baltistan which are majority Shiite. However, they do not have the status of Pakistani provinces. They have a council, but no real power. This caused the emergence of independence movements.

Several months ago, the Indian government called into question the autonomy of Jammu and Kashmir after seven decades, in particular regarding the Article 370, which allows the state a certain amount of autonomy in the Indian constitution, a separate flag and freedom to make laws. The reason why the Indian government, especially the Prime Minister Narendra Modi, is revoking this Article was due to the party's 2019 election manifesto. They argued that Kashmir should become a part of India without any difference. Kashmir would no longer have a separate constitution but would have to abide by the Indian constitution like any other state. Furthermore, non-Kashmiris would be able to buy land. This clause is very controversial due to the ensuing demographic changes. According to the Constitution, Article 370 could only be modified with the agreement of the state government. In addition, experts question the legitimacy of such a change.

Furthermore, several non-states actors are involved in this conflict such as groups as Lashker-e-Taiba, Hizbul Mujahideen who are considered to be pro-Pakistani, or the Jammu and Kashmir Liberation Front<sup>7</sup> (JKLF), founded in 1977, which is a secular group that has sought the independence of Kashmir from both India and Pakistan<sup>8</sup>.



<sup>7</sup> <https://www.bbc.com/news/world-asia-18738906>

<sup>8</sup> <https://www.cairn.info/revue-le-debat-2002-1-page-156.htm>

## **BLOC POSITIONS**

### **Pakistan**

Asked the right of self-determination for the Muslim population in Kashmir. In addition, there is an economic aspect that Pakistan must take into consideration, given its dependence on the water of the Indus River system. Since 1947, Pakistani leaders have feared that India would exploit this potential. That's what India eventually did, in crises of 1948 and 1965. From a strategic point of view, for Pakistan, Kashmir is very important to maintain its relations with India, Afghanistan and China due to a provided vital border by China. Communication lines have developed, and now there are two main roads connecting Gilgit with Sianking. The most important remains the Karakoram Highway which passes through the Khunjerab Pass constructed for heavy traffic. It is also the reason why the strategic importance of Kashmir for China and Pakistan is continuously on the rise.

### **India**

Kashmir represents for the Hindus in India a concept of secularism and unity of the motherland. Years have passed and India has veered way from the plebiscite in Kashmir. Meanwhile, the Indian Government proceeded to integrate Kashmir with the Indian Union. Article 370 of the Indian Constitution is guaranteeing a special status but in reality the Indian administrative has extended its control in defense, communication and foreign affairs.

People of Kashmir : The public opinion in Kashmir conflict centers around two schools of thought : one which accepts to be a part of India (extremists Hindus who are a minority but are superior economic status), the other one which demands the right of self-determination for the people on the basis.

### **China**

There is a border dispute between China and India in the Ladakh region. In the 1950s, China stayed relatively neutral until it developed closer ties with Pakistan. That's why Kashmir became an important pivot in China's South Asian policy. China is supporting the right of self-determination in Kashmir, and has secured a special status for itself with the Kashmiris. People in Kashmir still hope to obtain help from China in their struggle against India<sup>9</sup>.

### **The UN**

In January 1948, The United Nations the UN Commission for India and Pakistan (UNCIP) to investigate and mediate the disputed between both countries. The council decided to enlarge the

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<sup>9</sup> Mustafa, Zubeida. "THE KASHMIR DISPUTE AND THE SIMLA AGREEMENT." Pakistan Horizon, vol. 25, no. 3, 1972, pp. 38-52. JSTOR, [www.jstor.org/stable/41403844](http://www.jstor.org/stable/41403844). Accessed 17 Jan. 2020.

power of this commission in April 1948 by enlarging the membership of UNCIP and to recommend various measures as the ability to stop fighting by the observers. These observers became thanks to the Karachi Agreement important actors for establishing a ceasefire and formed the stone of the United Nations Military Observer Group in India and Pakistan (UNMOGIP). The UNMOGIP is charged to report and investigate complaints of ceasefire violations and submits its finding to each party and to the Secretary-General<sup>10</sup>.

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<sup>10</sup> <https://peacekeeping.un.org/mission/past/unipombackgr.html>

## **GUIDING QUESTIONS**

1. How can the Security Council bring the immediate escalation of military tensions between India and Pakistan to an end?
2. If a ceasefire between the various parties is one of the solutions to the current crisis, how can we ensure this measure effectiveness?
3. Which diplomacy can the Security Council members adapt for the issue concerning the remove of Article 370 in the Indian Constitution?
4. How can other issues in relation to the crisis, such as environmental damage, terrorism, mental health problems, be mitigated?
5. What is the Security Council's position in the long-term future of Kashmir such as the possibility of a two state solution?
6. What is the Security Council's position regarding the referendum that must have been held years ago?
7. How can the Security Council contribute more for humanitarian aid for Kashmiris ? How can the Security Council protect the civilian population from attack's made by the Army of both parties?

## **LINKS AND USEFUL SOURCES**

CIA FACTBOOK:

<https://www.cia.gov/library/readingroom/docs/CIA-RDP91T01172R000200290028-0.pdf>

CIA FACTBOOK LIBRARY:

<https://www.cia.gov/library/readingroom/docs/CIA-RDP78-03061A000300010013-5.pdf>

First Resolution from 17 January 1948 (S/RES/38) adopted by the SC:

[https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_38.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_38.pdf)

Resolution from 30 March 1951 (S/RES/96) adopted by the SC:

[https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_96.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_96.pdf)

Resolution from 4 September 1965 (S/RES/209) adopted by the SC:

[https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_209.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_209.pdf)

Resolution from 21 December 1971 (S/RES/307) adopted by the SC:

[https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_307.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_307.pdf)

Karachi Agreement 29 July 1949: [https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/karachi\\_agreement\\_1949.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/karachi_agreement_1949.pdf)

Agreement on Bilateral Relations between the Government of India and the Government of Pakistan 2 July 1972 (Simla Agreement) :

[https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/simla\\_agreement\\_1972.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/simla_agreement_1972.pdf)

All UN Resolutions and useful Reports:

[https://www.securitycouncilreport.org/un\\_documents\\_type/security-council-resolutions/?ctype=Jammu%20and%20Kashmir&cbtype=jammu-and-kashmir](https://www.securitycouncilreport.org/un_documents_type/security-council-resolutions/?ctype=Jammu%20and%20Kashmir&cbtype=jammu-and-kashmir)

## TOPIC B: THE SOUTH CHINA SEA DISPUTE

### INTRODUCTION TO THE TOPIC

The South China Sea, which refers to the sea surrounded by the People's Republic of China (PRC), the Indo-China peninsula, Brunei islands, and the Philippines- has long been an area of dispute by adjacent countries. These countries involve Brunei, the PRC, Taiwan (Republic of China- ROC), Indonesia, Malaysia, the Philippines, and Vietnam. This sea serves as one of the most important pillars of global trade. It is estimated that an approximate of 3.37 trillion dollars (USD) worth of global trade passed through it in 2016, while 40% of all Liquefied Natural Gas (LNG) trade is known to transit through this sea. The sea is also known to be the access point of trade to the Indian Ocean for countries such as Japan and South Korea. According to estimates by the US Energy Information Administration (EIA), the sea has 11 billion barrels of crude oil buried underneath. These statistics champion the significance of the South China Sea to countries around the world.

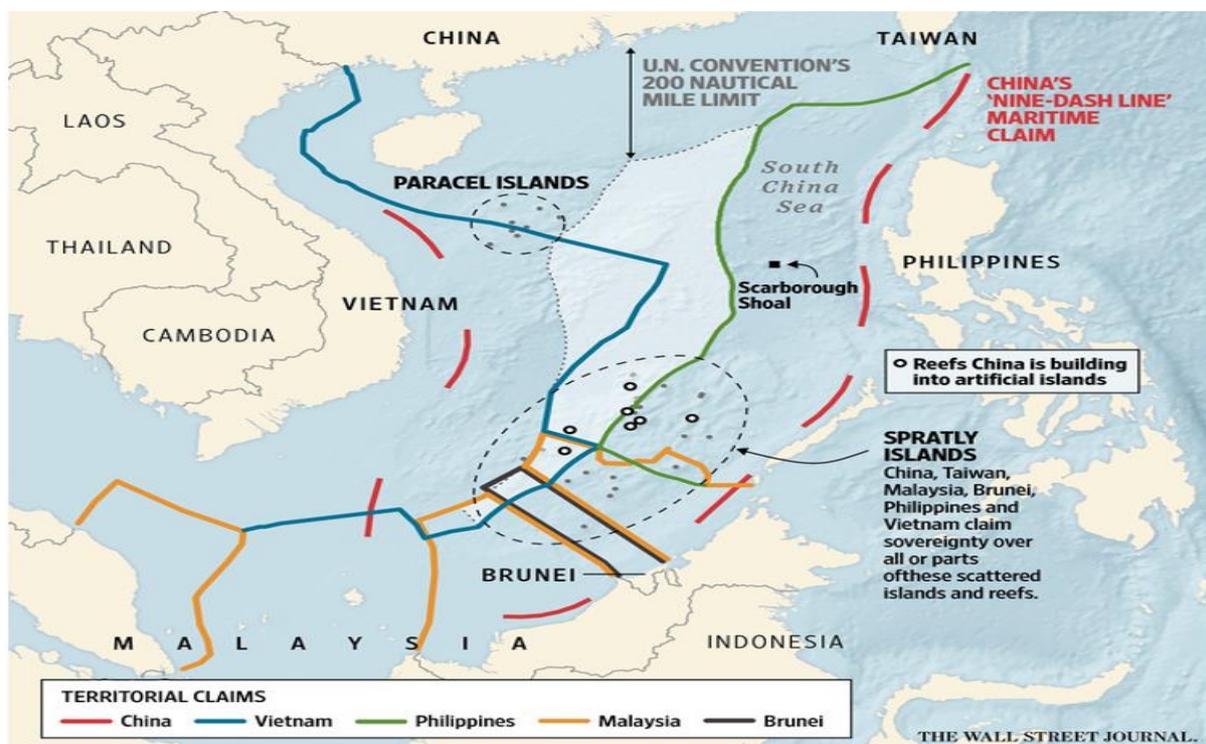


Figure 1: Overview- territorial claims of South China Sea

Such significance, however, has resulted in nearby states issuing territorial claims, leading to disputes and skirmishes. While each claimant state presents different views, the disputed

territories can mainly be narrowed down to the following: Spratly Islands, Paracel Islands, and Scarborough Shoal. Although these areas are not an exhaustive list, they represent the most disputed regions in which claims from different states overlap. The agenda of the South China Sea dispute requires a multi-angle approach, as it is not only comprised of legitimacy of territorial claims, but also involves issues of fishing stock, exploration and exploitation of natural resources rights, and that of acquisition of strategic control of important shipping lanes. Most importantly, delegates must contemplate upon the role of the UNSC in resolving the agenda.

## **HISTORY**

The beginning of this dispute climbs all the way back to the Second World War, when Japan was utilizing the South China Sea as its base for military operations. Their reason for using these islands in the region was that no other state has claimed them before Imperial Japan Navy took control over them. In 1947, the Kuomintang government of ROC published the "11-dash line" to issue claims for the South China Sea. Zhou Enlai of the PRC revised this in 1949 to the "nine-dashed line", which the Chinese present as the justification for their territorial claims. In 1951, the Treaty of San Francisco was signed, which made Japan relinquish all of its claimed islands in the South China Sea. This treaty, however, did not specify the new status of the released islands. The Geneva Accords of 1954, which ended the First Indochina war, granted South Vietnam control over the Paracel and Spratly islands. Yet, two years later, North Vietnam claimed these islands as belonging to the PRC. With South Vietnam losing the following Vietnam war, subsequently in 1974, the PRC used military force to take away Yagong Island from South Vietnam. All of the islands that belonged to South Vietnam were taken over by the PRC, with the US promising non-involvement in the issues of the South China Sea to the PRC.

While other countries seemed to be silent in such movements by the PRC, the Philippines were the first to break the silence. On June 11<sup>th</sup>, 1978, the Philippines' President Ferdinand Marcos issued Presidential decree No.1596, declaring Northwestern part of the Spratly Islands as Philippine territory. In 1982, the 'Declaration on the Conduct of Parties in the East Sea' (DOC) was signed under the United Nations Convention on the Law of the Sea (UNCLOS), but did not have much effect, as in 1988, Vietnam and the PRC collided over the Johnson Reef, when the PRC was constructing observation posts in the Fiery Cross Reef. Vietnam sent its own ships to monitor the construction, which resulted in a skirmish between the two forces, with China coming out as the victor. In 1994, China occupied the Mischief Reef, an area close to the Philippines, resulting in direct confrontation with the

Philippine forces. Such continuous skirmishes and conflicts resulted in features of Spratly islands being claimed by multiple countries at the end of the 1990s. The PRC claimed all features of the Paracels and 5 features of the Spratlys. Vietnam claimed 29 features of Spratlys, Philippines claimed 8, Malaysia also claimed 8 features as well, while Taiwan claimed 1 feature of the Spratlys.

In 2002, the ASEAN (Association of Southeast Asian Nations) and China signed the "Declaration on the Conduct of Parties in the South China Sea", which called for all relevant parties to undertake exercises of 'self-restraint'. On July 20<sup>th</sup>, 2011, the PRC, Brunei, Malaysia, the Philippines, Taiwan, and Vietnam agreed upon a set of preliminary guidelines to the implementation of the "Declaration of Conduct of Parties in the South China Sea", also known as DOC. The document addressed issues such as marine environmental protection, scientific research, safety of navigation, search and rescue. It excluded the aspect of oil and natural gas drilling, while leaving room for further advanced consultations to take place to draft a "Code of Conduct in the South China Sea" (COC), and implement it by 2021.

While such series of diplomatic attempts were made, on July 22<sup>nd</sup> 2011, an Indian naval vessel 'INS Airavat' was on a friendly visit to Vietnam, when it was accused by the People's Liberation Army (PLA) of China, of having crossed the PRC's territorial waters and was ordered to remove itself immediately. India and Vietnam both claimed rights to freedom of navigation. In September 2011, the Oil and Natural Gas Corporation (ONGC) of India agreed on a joint development of the oil sector with PetroVietnam in the South China Sea, to explore certain specified blocks. China indirectly condemned the Indo-Vietnamese deal, expressing deep concern over India's presence in the area. In 2012, after the Philippine navy took actions against Chinese fishing boats fishing in the area, the PRC took over the Scarborough Shoal. In 2013, China began to build artificial islands in both the Spratly and the Paracel archipelagos, in an attempt to reclaim maritime territory by expanding its land. The action was greatly condemned worldwide.

In 2015, with the US taking the lead, accompanied by France and the United Kingdom, 'Freedom of Navigation' operations (FONOP) were conducted. This involved the sailing of naval vessels from these respective states transiting through waters to ensure freedom of navigation. In July 2016, at the request of the Philippines, an Arbitration Tribunal against China was invoked under Annex 7 of UNCLOS. The Tribunal dismissed the claims of the Chinese, and gave the Philippines the upper hand on majority of the contested claims, while not ruling upon the ownership of islands specifically. Both the PRC and ROC openly rejected the Tribunal ruling, and claimed that bilateral negotiations were necessary to resolve the situation. In July 2019, a Chinese energy survey ship was detected patrolling

an oil / gas block on the Vietnamese continental shelf, which resulted in the Vanguard Bank Standoff. Vietnamese accused China of illegitimacy, whereas China claimed its patrol as legitimate.

## STATUS QUO

Given that territorial disputes involve issues of legality, this section will be divided into two main sections : discussing legal terminology and governance of maritime zones, and the currently ongoing disputes regarding the agenda.

### Legal terminology regarding maritime zones

Delegates must understand several concepts that are related to science as well as terminologies used in governing the territorial claims of seas. These rules are applied unanimously in ruling out disputes for territorial claims on seas.

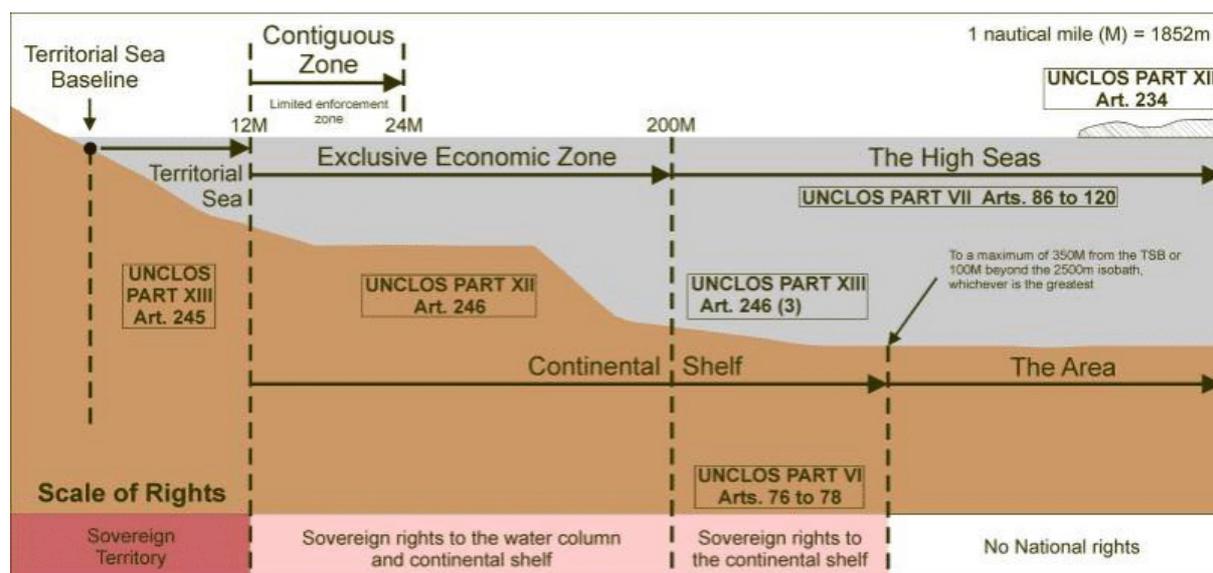


Figure 2: UNCLOS Maritime zone

The standard in defining which territories are given rights and which are not are outlined by the UNCLOS, the United Nations Convention on the Law of the Sea. The following explanations of several of the concepts are included in Figure 2.

**Internal waters** are a terminology that refers to all waters and waterways on the landward side of the baseline. If a baseline is set, then any boundary of water that is between the baseline and the land is considered to be internal waters. Within the boundaries of internal waters, the coastal state is free to set laws, regulate the use of passages to internal waters, and is free to use any forms of resources. Foreign vessels have no right of passage within

internal waters. This means that foreign vessels, no matter whether their intentions are innocent or not, cannot pass through these waters.

**Territorial waters**, the most often used standards to define a nation's territorial boundaries overseas, is set to 12 nautical miles from the baseline. Nautical miles is a standard of measurement used in determining maritime zones. The idea of territorial waters is mostly similar to the one of internal waters, but is different in the fact that passages of foreign vessels are allowed. Normal foreign vessels are given right of innocent passage through territorial waters. According to the definition provided by UNCLOS, the conditions for an innocent passage are:

*"Passage is innocent so long as it is not prejudicial to the peace, good order, or security of the coastal State."*

In other words, if a foreign vessel is deemed to threaten the security of a nation, then the coastal state has full rights to deny that vessel an innocent passage. When the vessel is granted an innocent passage, it means fishing, polluting, weapons practice, and spying cannot be allowed while passing through territorial waters. Military crafts or vessels can be granted transit passages through strategic straits. Authorization of transit passages allows military crafts postures that would otherwise be illegal in territorial waters.



Figure 3: Archipelagic Waters

EEZ, Exclusive Economic Zone, is a zone designated for coastal states to exploit resources within the boundaries of up to 200 nautical miles from the edge of the territorial sea from the baseline. Within the 200 nautical miles, the coastal state reserves all rights to exploit the natural resources. Foreign states possess the freedom to navigate, fly over, and lay submarine pipes and cables within the zone.

Last but not least, **continental shelf** refers to the prolongation of the land territory to the continental margin's outer edge. As Figure 2 and Figure 3 indicate, the continental shelf has a minimum of 200 nautical miles to the maximum of 350 nautical miles. Coastal states

have the right to harvest mineral and non-living material resting within this area. However, coastal states only have exclusive control over living resources attached to the continental shelf, and do not have control over creatures in the waters beyond the EEZ.

## Disputed borderlines and issues

Currently, there are three different kinds of disputes surrounding the South China Sea :

- Conflicting claims of sovereignty over offshore maritime features
- Normal maritime boundary demarcation exercises
- Legal status of maritime features in the South China Sea

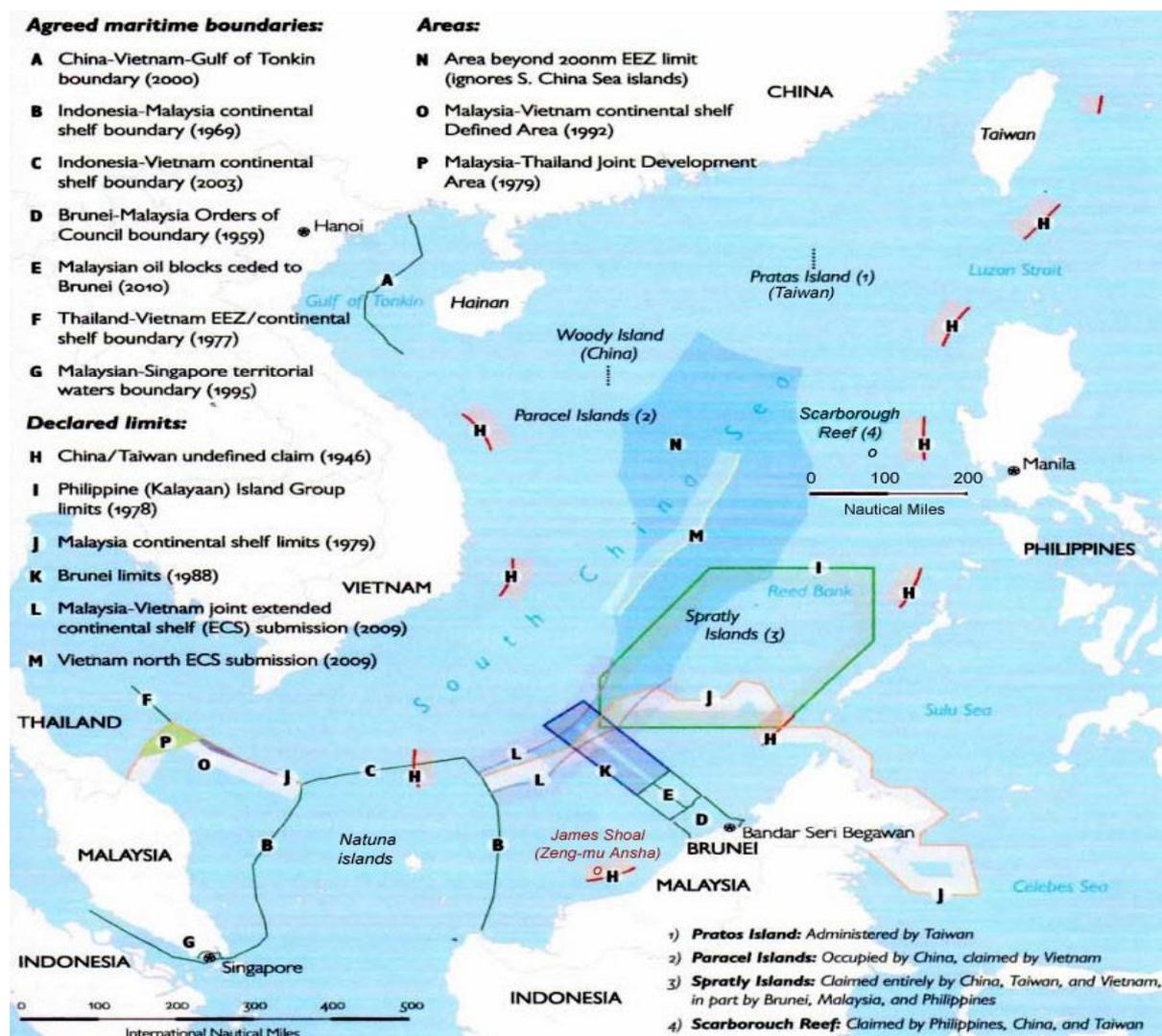


Figure 4: Contested territorial claims in South China Sea

Regarding the first type of dispute, China and Vietnam conflict over the Paracel Islands, whereas China, Brunei, Malaysia, the Philippines, and Vietnam conflict over the Spratly

Islands. Regarding the second type of dispute, which involves the overlapping of maritime zones and EEZ, Vietnam and Malaysia have an overlapping claim of EEZ, and China's nine-dash line overlaps with the rest of the countries' UNCLOS borderlines.

Last but not least, according to UNCLOS, 'islands' and 'rocks' have different legal effects. While China seems to claim sovereignty over all of the maritime space according to a diplomatic note of 2011, it has failed to distinguish geographic features of 'islands' or 'rocks'. The problem is that all the features in the Spratlys islands are not 'islands', nor are they entirely 'rocks' or 'low-tide elevations'. For example, 'rocks' generate the 12 nautical miles of effects equivalent to defining territorial waters, whereas 'low-tide elevations' do not have any independent maritime zones. Thus, Chinese claims have come under legal question.

In addition to these legal disputes, as aforementioned, China has caused disturbance in Malaysia, the Philippines, and Vietnam's economic activities in their respective EEZs, while denouncing the rulings of the Tribunal invoked under compulsory procedure of Chapter XV of UNCLOS.

## **BLOC POSITIONS**

### **People's Republic of China**

The PRC has proclaimed the area of the South China Sea as of "core-interest" and a "non-negotiable" issue. Regarding the controversy over fishing boats, it has warned states that have detained the PRC's fishing boats such as Philippines and ROK, that they should "prepare for the sound of cannons". The PRC has directed its fishing fleet into disputed waters, while being accompanied by its own coastguard ships. In 2013, it has added a tenth-dashed line to its original nine-dashed line, which the PRC claims as its historical grounding for territorial sovereignty. On May 2<sup>nd</sup>, 2014, it has shifted its oil drilling platform, Ocean Oil 981, to near the Paracel Islands, and claimed it as legal in spite of Vietnam's accusation of violating territorial claims. The PRC has continuously advocated for the necessity of bilateral negotiations to resolve the disputes, and one of such outcomes was the MOU (Memorandum of Understanding) signed with the Philippines on November 2018, on joint cooperation on oil and gas development. It has opposed negotiation with the ASEAN. The PRC has also declared in its White Paper issued in August 2019 that it will increase military deployment in the South China Sea, while continuously deploying nonmilitary ships to waters controlled by other countries. So far, the PRC has maintained the militarization of islands by constructing a 10,000-foot runway and artificial harbor at Fiery Cross Reef, located over 370 km relative to the Philippine coast. This allows for the

Strait of Malacca to be within range of their forces, thus neutralizing the First Island Chain defense strategy of the USA against China.

## Philippines

The Philippines have argued for territorial claims mostly on the basis of geographical proximity. Scarborough Shoal is one of such cases. It has shown to aggressively prosecute any illegal fisherman or ship that intrudes upon its territory. In May 2013, the Philippines have gunned a Taiwanese fisherman down, while it has pledged to increase its coastguard capacity, in light of the growing challenges from Chinese coastguards and fishing vessels. As aforementioned, it has signed the MOU with China on November 2018.

## Vietnam

Vietnam has been the strongest voice among the ASEAN claimant states regarding the South China Sea. It has also assumed chairmanship of the ASEAN in 2020. Vietnam has denounced the historical account of nine-dash, asserting that Chinese have not claimed sovereignty over the islands before 1940s. Moreover, Vietnam claims that the Paracels and Spratlys were under their rule since the 17<sup>th</sup> Century. Vietnam has had a clash with China in Spring 2014, when China moved its oil rig 'Haiyang Shiyou' near the Paracel islands. The clash resulted in 17 Vietnamese injured, with damage sustained to both nations' vessels. In its national defence white paper issued in October 2019, Vietnam has expressed concern over "new developments" in the South China Sea, which involves "*unilateral actions, power-based coercion, violation of int'l law, militarization, change in the status quo, and infringement upon Vietnam's sovereignty, sovereign rights, and jurisdiction as provided in int'l law.*"

## Indonesia

Indonesia has claimed to be an 'honest broker' among claimant states regarding the dispute. However, it has taken a strong stance towards Chinese fisher boats. When the Chinese invoked nine-dash line to justify the fishing near the Natuna Islands by referring to it as 'traditional' fishing areas, Indonesia dismissed the claims, warning it would destroy the fishing boats. Following increased activity of Chinese fishing vessels escorted by

Chinese Coast Guard, Indonesia has increased presence of the Indonesian National Armed Forces in the region by deploying 8 additional navy warships in 2020.

## United States of America

While the United States did pledge non-involvement regarding the issue in 1974, the USA have broken silence in 2012 by identifying the PRC as an 'assertive state', and have strengthened support to countries which oppose the Chinese claims. In 2014, the US have openly criticized China for not offering any explanation or basis under international law for its maritime claims. On October 27<sup>th</sup>, 2015, USS destroyer Lassen was deployed to navigate within 12 nautical miles of Subi Reef as part of its Freedom of Navigation Operation (FONOP), thus directly challenging the island's territorial limit. The Trump administration, following its predecessors, has continued FONOP by deploying ships and B-52 Stratofortress bombers near Spratlys without notice. In 2019 October 24<sup>th</sup>, the USA have accused Beijing of "bullying behavior" when the Chinese vessel 'Haiyang Dizhi 8' entered Vietnam's EEZ.

## The ASEAN

The ASEAN has remained divided over the South China Sea dispute. While being the main body of negotiation with China in drafting the Code of Conduct expected to be completed by 2021, political and cultural diversity within the organization has made it difficult to make a united voice. The ASEAN seeks to maintain its centrality on the issue, yet balancing between the Indo-Pacific strategy of Washington and increased militarization by Beijing has proven difficult for the organization. Although the ASEAN has made declarations like those in 2002, it has lacked any enforcement mechanisms to have effect on solvency.

## GUIDING QUESTIONS

1. Is it possible for the UNSC to come to a solution for territorial claims in the South China Sea that take into account the historical and current interests of all involved nations?
2. What is the legal / political framework that can be utilized to craft a solution?
3. Can the political momentum between the ASEAN and China be furthered to establish a new Code of Conduct for the region?
4. How can natural resources of the region be equitably divided?
5. Can 'freedom of navigation' in and out of the South China be secured? If so- how?
6. How can further militarization and conflict escalation be prevented?
7. What are some confidence-building measures that can be taken to increase understanding among conflicting claimant states over the South China Sea?

## LINKS AND USEFUL SOURCES

- Overview
  - <https://www.bbc.com/news/world-asia-pacific-13748349>
  - [https://www.cfr.org/interactives/chinas-maritime-disputes?cid=otr-marketing\\_use-china\\_sea\\_InfoGuide#!/chinas-maritime-disputes?cid=otr-marketing\\_use-china\\_sea\\_InfoGuide](https://www.cfr.org/interactives/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide#!/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide)
- Nine-dash line
  - [https://en.wikipedia.org/wiki/Nine-dash\\_line](https://en.wikipedia.org/wiki/Nine-dash_line)
- 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea
  - [https://asean.org/?static\\_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2](https://asean.org/?static_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2)
- Legality
  - <https://thediomat.com/2019/10/south-china-sea-the-disputes-and-southeast-asias-culture-of-international-law/>
  - <https://sites.psu.edu/jlia/the-south-china-sea-disputes-a-clash-of-international-law-and-historical-claims/>