

## Non-Claimant States' Perspectives on the South China Sea Dispute

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Article Info	Abstract
<p><b>Keywords:</b> UNCLOS, South China Sea Dispute, Non-Claimant States Perspectives.</p> <p><b>DOI:</b> <a href="https://doi.org/10.25041/lajil.v5i1.2717">10.25041/lajil.v5i1.2717</a></p>	<p><i>The problem in the South China Sea is becoming increasingly complex because other parties also have strong regional interests. The other party was later called a non-claimant state in the South China Sea area. Non-claimant states ensure that international law of the sea is enforced in any part of the sea on the planet to guarantee safety and freedom to transport commodities with high economic value. These non-claimant states generally oppose China's actions that do not comply with the agreed UNCLOS. This juridical normative research presents the legal basis for the actions of non-claimant states in the South China Sea region based on relevant literature. This study describes the basis of international law and the interests and policies of non-claimant states such as Indonesia, the USA, the UK, Australia, the EU, Japan, and India over the South China Sea region.</i></p>

### A. Introduction

The South China Sea disputes extend beyond the immediate neighboring claimant countries. Non-claimant states also intervene in the conflicts as they have direct and indirect interests in the Area. The South China Sea is the main sea transportation route in the Asia-Pacific Region<sup>1</sup> and serves as a transit point for one-third of global crude oil and half of global liquefied natural gas. South Korea and Japan depend heavily on this route, with about 66% and 60% of their energy imports passing through it due to its significance as a transportation corridor.<sup>2</sup> Every stakeholder is concerned about trade disruptions due to disputes or direct conflicts in contested waters.

In December 2015, the commander of the US Pacific Fleet issued a stern warning against China building military bases around its artificial islands under disputes. Although the United States is not a claimant in the South China Sea disputes, its position as a guarantor of regional security necessitates its involvement in initiating efforts toward managing and resolving these disputes. However, China has set more aggressive actions and policies that involve more parties in the conflict, including in the diplomatic sector. As a result, non-claimant states are growing stronger influence in the conflict.

The perspectives of non-claimant countries such as Indonesia, the United States, Australia, India, Japan, Singapore, and South Korea, as well as the two multilateral organizations, ASEAN

<sup>1</sup> McDevitt, "The South China Sea: Assessing U.S. Policy and Options for the Future." (2014).

<sup>2</sup> US Energy Information Administration, "South China Sea Energy Brief."

and the EU, are important. In addition to disparities in geography, politics, and economics, non-claimant<sup>3</sup> countries have been involved in the conflict to maintain security in the South China Sea.

Table of the trade value of several countries that pass through the South China Sea

Country	% Share of World GDP	Trade Value through SCS (UDS billions)	SCS Trade as % of All Trade in Goods
US	24.5	208	5.72
China	14.8	1470	39.5
Japan	6.53	240	19.1
Germany	4.58	215	9.00
UK	3.46	124	11.8
France	3.26	83.5	7.77
India	2.99	189	30.6
Italy	2.45	70.5	8.14
Brazil	2.37	77.3	23.4
Canada	2.02	21.8	2.67

Source: CSIS Project, International Monetary Fund

Non-claimant states are advocating for preserving freedom of navigation, rights of passage, and overflight in the South China Sea, along with addressing economic concerns. They insist that disputes be settled peacefully under international law. ASEAN aims to maintain peaceful dialogue to resolve these conflicts, but any mistake could jeopardize peace and lead to further escalation. European international relations expert Mathieu Duchâtel warns that ignoring international legal rulings could threaten collective security. He emphasizes that claimant nations must recognize and respect the wishes of non-claimant states to maintain international norms and protect global maritime rights under international law.

Several non-claimant states have conducted specific marine deployments in the South China Sea to demonstrate their interest, concern, and resolution, despite all non-claimant states formally supporting peaceful conflict resolution.<sup>4</sup> US naval officer Admiral Thomas Fargo claimed the country's South China Sea navigation operations are based on prominent freedoms. Notwithstanding its quieter mission in the waters, Rory Medcalf stressed that Australia would continue to exercise its rights and seek a rules-based strategy. Like China, India has made their operational presence in the South China Sea more intensive. Four frigates completed a two-month deployment in June 2015, and one frigate returned to the Philippines in November.

Some non-claimant governments have also stepped up their military cooperation with Southeast Asian claimant states. India and Malaysia have established military collaboration. To reduce the political and military pressure from China, Japan also conducts regular coast guard drills with some of its Southeast Asian allies, including the Philippines and Vietnam. European nations also show their interest. Vietnam has ordered frigates from the Netherlands and anti-ship cruise missiles from France, while the Philippines has imported armed light helicopters from France and Italy. These moves are not meant to provoke or escalate militarization in

<sup>3</sup> Tiffany Ma and Michael Wills, "Raising the Stakes: The Interests of Non-Claimant States in the South China Sea Disputes," *Asia Policy* 21, no. 1 (2016), pp. 2–5. DOI:10.1353/asp.2016.0019.

<sup>4</sup> Bill Hayton, "How to Solve the South China Sea Disputes" ISEAS – Yusof Ishak Institute. (2022).

conflicts. Instead, they are efforts by non-claimant governments to enhance collaboration, prevent the escalation of tensions, and counter excessive pressure from China.<sup>5</sup>

Countries not directly involved in the South China Sea disputes are increasingly worried about China's growing assertiveness and expanding global influence. This text examines their viewpoints to understand the regional geopolitical dynamics and how these countries' interests are affected in the South China Sea. The author uses legal research methods, focusing on secondary data like the United Nations Convention on the Law of the Sea (UNCLOS) and relevant literature, to analyze the international legal aspects concerning these non-claimant countries' positions in the dispute.<sup>6</sup> The study aims to explain these nations' legal standings and policies regarding the South China Sea conflict.

## B. Discussion

Conflicts in the South China Sea must be carefully described as they involve various aspects and parties. Both claimant and non-claimant countries are advocating for their national and economic interests. Each country views and assesses the South China Sea issue uniquely.

The legal basis for non-claimant states in the South China Sea is UNCLOS 1982, in the section that regulates freedom of navigation. Article 36 addresses the freedom of navigation in straits used for international navigation. Articles 58, 78, and 87 collectively elaborate on the right to freedom of navigation in the exclusive economic zone and high seas. Furthermore, Articles 17 through 26, alongside Article 52, detail the right to innocent passage within territorial seas and through archipelagic waters. Additionally, Article 38 specifies the right to transit passage in straits utilized for international navigation. The three freedoms have the same meaning regarding the freedom of movement of ships, with specific differences in influences and limitations the coastal states imposed on the freedom of movement. In other words, it is up to each country to set regulations that do not violate the ones set by UNCLOS.

This research explores the roles of major countries such as Indonesia, the United States of America, the United Kingdom, Australia, Japan, the European Union, and India. This research specifically describes the perspectives of non-claimant countries and the policies taken in addressing the South China Sea issue, as well as reviews this non-claimant's position in international law of the sea. It will be described as follows.

### 1. Indonesia

Indonesia is Southeast Asia's largest country and archipelagic country globally that connects the Indian and Pacific oceans. Indonesia also possesses a part of the South China Sea area based on a map made by the International Hydrographic Organization (IHO).

Indonesia names the South China Sea the "North Natuna Sea," and Indonesia is often involved in conflicts with other countries, especially China. The constitution of Indonesia mandates that disputes be resolved through diplomatic negotiation. Indonesia's ZEE limit overlaps with the other nine-dash borders of China, even though Indonesia is one of the non-claimant countries over the South China Sea area.

Indonesia's stance is critical for maintaining security in the South China Sea region. As one of the founding members, Indonesia has a strong influence in intervening in forming the ASEAN work agenda, including actions related to the South China Sea conflict. The ASEAN forum has already addressed the South China Sea dispute.<sup>7</sup> In the 2012 ASEAN Foreign Ministers Conference in Phnom Penh, Indonesia took a multilateral approach to conflict

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<sup>5</sup> *Ibid.*

<sup>6</sup> Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object". *Procedia*. (2015).

<sup>7</sup> Ristian Atriandi Supriyanto, Out of Its Comfort Zone: Indonesia and the South China Sea. *Asia Policy*, Number 21. (2016) pp. 21-28.

resolution, as seen by its adoption of the 2002 Declaration on the Behavior of Parties to Disputes in the South China Sea and its attempts to construct the Declaration of Conduct (DOC).

Indonesia's "free and active" foreign policy is one of the strongest supporters to show Indonesia's bargaining power to reconcile the claimants in the South China Sea region.<sup>8</sup> Whereas, the Philippines' unilateral decision to take the South China Sea dispute case to the international arbitration tribunal in The Hague is a setback in maintaining security stability in the region, highlighting the incompatibilities among ASEAN member countries.

Many international relations experts regretted the Philippine decision, which could have negatively impacted the ASEAN members' relations. Meanwhile, the Philippines perceives its action as the best measure to pressure China into making maneuvers in the South China Sea. Consequently, the Philippines' legal victory had a limited impact on altering China's regional policies. Despite the ruling, China has maintained and even intensified its territorial claims by constructing artificial islands in the contested area.

Despite the repeated exchange of protest notes between Indonesia and China at the UN council against claims of the U-shaped line, Indonesia still welcomes economic and security cooperation with China. Indonesia's non-claimant status allows it to avoid the political burden of territorial disputes while fostering closer cooperation with China and the United States. China ranks as one of Indonesia's foremost trading partners, with bilateral trade reaching approximately \$27.2 billion.<sup>9</sup> The Indonesian government welcomed China's statement to finance large-scale infrastructure projects, such as ports, to help accelerate the achievement of President Widodo's maritime agenda.

However, Indonesia's close relationship with China has stirred concerns about the potential impact on its historically free and active political stance. Indonesia continues to work with the US and other Western nations to avoid being accused of going against its independent and active foreign policy. The U.S. remains a key trade and investment partner for Indonesia, which has shown interest in joining the Trans-Pacific Partnership, an initiative led by the U.S. Furthermore, Indonesia is keen on bolstering naval cooperation with the U.S. and its allies.

Tensions that continue to increase in the South China Sea have prompted Indonesia and the US to collaborate in carrying out regular military flights and submarine operations on the Natuna Islands and surrounding waters. In addition, in 2015, the US funded the operation of the Southeast Asia Maritime Security Initiative. Indonesia was one of the beneficiaries. It is important to note that accepting this assistance can be interpreted as a sign of Indonesia's alignment with the United States<sup>10</sup>. Indonesia hopes all major powers, including the United States and China, maintain the peace. Thus, the security of the ASEAN region is maintained because it is not under the management of any of the major powers.

## 2. The USA

America has always been present in every strategic water dispute as a superpower nation, including in the Strait of Hormuz issue, the Mediterranean Sea disputes, the North Sea, the Strait of Malacca, etc. In the South China Sea dispute,<sup>11</sup> as a non-claimant state, America is rather aggressive against China in making claims in the South China Sea.

Despite its geographic distance from the United States, the US considers the South China Sea critically important for political and economic reasons. As highlighted in the previous chapter, this region, including the Strait of Malacca, is a crucial maritime route for tankers transporting oil and other commodities from the Middle East to the United States. It is also a

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<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, Limits in the Seas No. 141, Indonesia Archipelagic And Other Maritime Claims And Boundaries. Office of Ocean and Polar Affairs Bureau of Oceans and International Environmental and Scientific Affairs U.S. Department of State. (2014).

<sup>11</sup> Bronson Percival, "U.S. Perspectives on the South China Sea," *S. Rajaratnam School of International Studies Report* (2014).

key passage for most oil and gas imports to China, South Korea, and Japan, playing a significant role in the energy supply essential for the continued economic growth of East Asian countries. However, regarding the potential energy reserves in the seabed, the US's estimates are significantly lower than China's.

The primary rationale for the United States' involvement in the South China Sea is the freedom of navigation campaign. The US justifies its presence based on UNCLOS articles 78 and 87 concerning freedom of navigation on the high seas. The US perceives the middle part of the South China Sea as an open sea that every country has the right to pass through without asking permission from any party. China objects to this perception and finds America's disposition disrespectful.<sup>12</sup> On the other hand, America's presence is advantageous for ASEAN countries and claimants to the South China Sea region, and its presence also offsets China's economic and military power dominance.

In early 2021, the United States Navy's aircraft carrier fleet entered the South China Sea, led by the aircraft carrier USS Theodore Roosevelt. This movement was considered provocative, and China exhibited its military exercises in the waters for a month. The military and naval cooperation between America and Southeast Asian countries such as Indonesia, Malaysia, the Philippines, Singapore, and Vietnam exacerbated.<sup>13</sup>

America believes maintaining peace and security throughout Asia is increasingly critical to global progress. America expects to secure its vital interests in stability and freedom of navigation. It has paved the way for continuing multi-party multilateral diplomacy with claims in the South China Sea.

During an ASEAN defense ministers' meeting in Bali in late October, US Defense Secretary Leon Panetta declared the Pacific a key area of focus for the US, highlighting the commitment to ensuring freedom of navigation across international waters. The growing tensions in the South China Sea are a major security challenge in the relationship between China and Southeast Asia. The US's support for core security principles encourages Southeast Asian nations to enhance their relationships with Washington, bolstering ASEAN's stance on the South China Sea issues.

The United States has offered several security-related solutions to defend its regional interests. When deploying its armed troops between the Pacific and Indian Oceans, the United States relied on unrestricted access to the South China Sea's airspace and waterways. Despite the weak naval power projection capabilities of the People's Liberation Army (PLA) Navy, China advanced by building a sizable naval station on Hainan Island. The station improves the capability of the Chinese navy to send units into the South China Sea. The US power posture changed afterward.<sup>14</sup>

The consistency of US policy towards the South China Sea has been maintained since 1995. However, US interest in these waters diminished as China and several ASEAN countries set aside conflicting claims in the South China Sea as Beijing's approach to ASEAN countries intensified. Despite these fluctuations in the strategic landscape, the United States has responded pragmatically, aligning with its longstanding policy. US policy in the South China Sea is underpinned by two distinct principles that should not be conflated. First, the United States does not take a legal basis for competing sovereignty claims in the South China Sea. Secondly, the fundamental national interest of the United States is to maintain the principle of freedom of navigation. Therefore, the United States would not restrict military survey operations within the Exclusive Economic Zones.<sup>15</sup>

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<sup>12</sup> *Ibid.*

<sup>13</sup> McLaughlin, "U.S. Strategy in the South China Sea Perspective." American Security Project, (2020) pp. 1-14

<sup>14</sup> Rahman and Tsamenyi, "A Strategic Perspective on Security and Naval Issues in the South China Sea." *Ocean Development and International Law*. (2010). pp. 315-333. DOI: <https://doi.org/10.1080/00908320.2010.499277>.

<sup>15</sup> *Ibid.*

The United States and 11 other nations denounced China's conduct in the South China Sea during the ASEAN Regional Forum (ARF) summit in July 2010, igniting a diplomatic dispute with China. The United States has reaffirmed to international media its commitment to respecting international law in the South China Sea, emphasizing its national interest in ensuring maritime freedom of passage and maintaining open access to Asia. Additionally, the US has offered to mediate the negotiations for a Code of Conduct among all South China Sea claimants.

In response to US involvement, China aimed to reassure Southeast Asian nations by sending high-level officials, including former Premier Wen Jiabao, to the region and adopting a cautious approach in the South China Sea, resulting in eight months without significant incidents. Moreover, China agreed to participate in a meeting with the ASEAN-China Joint Working Group to discuss the implementation of the Declaration on the Conduct of Parties in the South China Sea, demonstrating a commitment to dialogue and cooperation.

### 3. The United Kingdom

The UK's departure from the European Union (Brexit) has catalyzed the formation of a "Global UK" strategy, emphasizing a global reach and influence and a commitment to supporting a rules-based international system. Britain has longstanding historical, diplomatic, military, and trade relations in the South China Sea region. The UK, alongside Australia and New Zealand, is committed to the Five Powers Defense Arrangement, including Commonwealth allies Malaysia, Singapore, and Brunei Darussalam, underscoring a collective defense commitment in the region.

The region is essential to the global trading system and the UK's economic, military, and diplomatic interests. The South China Sea is the leading commerce route for the UK as it connects Europe and East Asia. The South China Sea is traversed annually by 12% of the UK's seaborne trade or £97 billion worth of imports and exports. China, Hong Kong, Japan, Singapore, Australia, and South Korea top the six of the UK's top 25 commercial partners.<sup>16</sup> As of April 2019, China became the third-largest export market and third-largest importer for the UK. Southeast Asia is also named the third-largest market for defense exports from the UK and the third-largest non-EU export target.

Britain maintains a historically close relationship with South and Southeast Asia, a legacy of its colonial past that persists today. Singapore is a strategic location for the British Armed Forces, hosting regional defense staff and naval logistics facilities. Brunei is home to the British Army's jungle combat training facility, including a Gurkha battalion. According to a Chinese scholar, official British documents from 1955 to 1957 show that, at least in part, during the early Cold War, Britain did not view the South China Sea region as being of main strategic importance. Nevertheless, Britain accepts or supports China's assertion of sovereignty<sup>17</sup>. South China Sea dispute has become more intense in the twenty-first century, and Britain has gradually begun to pay greater attention to the maritime conflict. Early in January 2014, the country's foreign secretary, William Hague, claimed that Britain's presence in Asia ensures trade and security.

The UK has repeatedly underscored the importance of freedom of navigation and adherence to a rules-based order in the South China Sea, reflecting its stance on maintaining open and accessible sea lanes. In March 2018, the UK expressed concerns about the South China Sea situation. Further emphasizing this position, in February 2019, then-Defense Secretary Gavin Williamson highlighted the potential for the UK to respond to China's actions

<sup>16</sup> Yoji Koda, "Japan's Perspectives on U.S. Policy toward the South China Sea," *Perspectives on the South China Sea: Diplomatic, Legal, and Security Dimensions of the Dispute*, no. September (2014), pp. 82–95. DOI: 10.1353/asp.2016.0011.

<sup>17</sup> *Ibid.*

that violate international law and its military buildup.<sup>18</sup> He announced that the Pacific would be the primary focus of HMS Queen Elizabeth's first operational deployment.

Some British politicians argue that China's actions in the South China Sea do not adhere to international rules, particularly after China established military bases in the region, raising concerns over the threat to freedom of navigation. There were apprehensions that these developments might also endanger the free passage of Anglo-American military vessels. This concern was highlighted in September 2018 when China accused Britain of violating international maritime law and threatening its national security after Royal Navy ships sailed within 12 nautical miles of the Paracel Islands.<sup>19</sup>

For the UK, which seeks to maintain its status as a global actor, engaging credibly with the Indo-Pacific region is increasingly seen as a strategic imperative, a trend likely to continue. However, the UK faces the strategic challenge of balancing competing pressures: advocating for a rules-based order, maintaining its relationship with Washington, strengthening ties with regional partners, and developing pragmatic relations with Beijing.

#### 4. Australia

Australia's first involvement in the South China Sea conflict occurred during the Cold War when the Australian air force supported ally efforts to detect Soviet ships and submarines. Australia and North Asian nations' longstanding commercial ties have made them heavily dependent on this sea route.<sup>20</sup> As the Cold War ended, Canberra acknowledged concerns about "competing for territorial claims" among "well-armed nations." This conflict must be "handled with care" instead of a significant threat.<sup>21</sup>

Canberra has strengthened Asia's longstanding trust-building, transparency, and conflict-prevention regime. Australia is also engaged in regional security diplomacy, including building cooperation with ASEAN forums to maintain regional stability and security. As one of the economic powers in Asia-Pacific, Australia has a significant interest in the South China Sea.<sup>22</sup>

By the end of 2015, the Australian Air Force demonstrated its commitment to freedom of navigation in the South China Sea, signaling Canberra's resolve to protect its rights amidst tensions. However, Australia's approach remains cautious, likely influenced by its economic relationship with China. The AUSMIN Joint Communiqué, signed with the United States in September 2011,<sup>23</sup> emphasized the importance of trade, freedom of passage, peace, stability, and respect for international law in the South China Sea, without taking sides on territorial disputes but opposing forceful resolutions.

The 2012 Australian military white paper outlines a detailed strategy for engaging with Asia, focusing on economic aspects. Given the strategic significance of the South China Sea, Australian foreign and defense policymakers find it an inescapable challenge, though there is ambiguity about the course of action. Australian involvement in the South China Sea dispute is justified on several grounds, including the principle of adhering to international law, a stance frequently echoed in the speeches and communiqués of ministers and senior officials.

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<sup>18</sup> Ian Storey, "Britain, Brexit, and the South China Sea Disputes," *Maritime Awareness Project Analysis* (2020).

<sup>19</sup> *Ibid.*

<sup>20</sup> Australia's defense white paper 1987.

[https://www.apf.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1516/DefendAust/1987](https://www.apf.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1516/DefendAust/1987). (Accessed June 14, 2022).

<sup>21</sup> Australia's defense white paper 1994.

[https://www.apf.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1516/DefendAust/1994](https://www.apf.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1516/DefendAust/1994). (Accessed June 14, 2022).

<sup>22</sup> Medcalf, "Rules, Balance, and Lifelines: An Australian Perspective on the South China Sea." *Asia Policy*. (2016). pp. 6-13. DOI: <https://doi.org/10.1353/asp.2016.0002>.

<sup>23</sup> *Ibid.*

Australia's trade and energy sectors are highly integrated with global networks, benefiting economically from this connectivity. The South China Sea, a vital maritime route, sees about 54% of Australia's international trade pass through it, highlighting its importance to the nation's economy. Given this, Australia emphasizes maintaining free and lawful use of international waters, particularly the critical Southeast Asian sea routes central to trade in the Asia-Pacific region.<sup>24</sup>

## 5. Japan

Japan views the South China Sea as a territorial dispute among coastal nations, representing a critical flashpoint that could precipitate direct military confrontations, destabilize the current peace, and potentially plunge the region and the world into unparalleled turmoil. Moreover, Japan is deeply concerned about China's land reclamation and military expansion in the area, fearing that such actions might enable China to dominate crucial maritime communication routes fully. Additionally, the rising tensions between China and the United States, Japan's principal ally, pose a significant risk to the region's stability.

Before the end of the Cold War, Japan's security policy had a narrow focus on its defense, in which any offensive or defensive action against an adversary's home country was regarded unconstitutional. The Japan Self-Defense Forces (JSDF) are exclusively limited to fending off foreign military assaults following Japan's pacifist constitution, whose role was gradually extended after the Cold War<sup>25</sup>. However, the JSDF is explicitly barred from using force in any overseas assignment as the JSDF is limitedly allowed to perform armed military operations to secure Japan's airspace, territory, and adjacent waters up to a distance of a thousand nautical miles. JSDF can deploy its personnel from the home defense for several missions, such as port calls, joint training and exercises, logistical support, humanitarian aid, disaster relief, and surveillance.

Theoretically, an armed attack on allied forces would not constitute an act of direct aggression against Japan but would challenge its national sovereignty and jeopardize its fundamental stability. Under Japan's new law, the SDF in the South China Sea grows stronger in power.<sup>26</sup> The Japanese government also adopted another policy to strictly limit the conditions for exercising its right to collective self-defense in the above situations to comply with the current pacifist constitution.

From an economic perspective, nearly 80% of Japan's crude oil imports pass through the South China Sea. Moreover, the decades-long non-military confrontation over the Senkaku Islands in the East China Sea has drawn more attention from the government, media, and ordinary Japanese people than the situation in the South China Sea. The Japanese community prefers sticking to an armchair interpretation of the pacifist constitution rather than facing possible real-world military risks.

Following China's unilateral moves in the South China Sea, non-claiming nations, including Singapore and Indonesia, have become more concerned about potentially major conflicts. However, the military strength of many of these nations is significantly limited and not comparable to China's capabilities. Hence, Japan can enhance these nations' maritime capabilities, prioritizing the development of their navies and coast guards<sup>27</sup> through capacity-building projects for Southeast Asian littoral nations in 2015, especially the Philippines and Vietnam, which have long been subject to political and military pressure from China. The

<sup>24</sup> Madan L. Shrestha and Takio Murakami, "Intraseasonal Fluctuations in Low-level Meridional Winds over the Indian Ocean and Monsoonal Convection over South Asia," *Tellus A* 40 A, no. 2 (1988), pp. 120–132. <https://doi.org/10.3402/tellusa.v40i2.11787>.

<sup>25</sup> Yoji Koda, "Japan's Perceptions of and Interests in the South China Sea," *Asia Policy* 21, no. 1 (2016), pp. 29–35. DOI: 10.1353/asp.2016.0011.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*



projects included training maritime law enforcement personnel and operating non-military patrol boats.

The air maritime capacity among the coastal countries of Southeast Asia is notably weak. Therefore, Japan and the US have intensively cooperated with Southeast Asian countries to enhance their capacity. Japan also encourages military exercises along Southeast Asia's coastline on a bilateral and multilateral basis. After the Cold War, Japan started military exchanges with nations in the South China Sea region, including Australia, Indonesia, Singapore, Malaysia, Thailand, Brunei, the Philippines, and Vietnam. Over the past 20 years, the JMSDF has also been engaged in bilateral and global exercises with Beijing, demonstrating that Japan and the United States are ready to respond to any regional adventure, strengthening naval-to-naval ties, mutual understanding, and interoperability.<sup>28</sup>

## 6. European Union

G-7 foreign ministers from the European Union, France, Germany, Italy, and the United Kingdom issued a declaration on maritime security in Lübeck in April 2015 that reaffirmed their dedication to international maritime law as represented in UNCLOS and to freedom of navigation and overflight. This statement shows that Europe is also concerned with the aggressive actions in the East and South China Seas. However, Europe's ability to involve itself in Asian security is limited by its security problems.<sup>29</sup> International issues that include terrorism, conflicts in Eastern Ukraine and Syria, and the refugee crisis are drawing Europe's attention.

Europe has stayed silent on recent events in the South China Sea. Instead, the EU's reaction to the worsening security situation has taken the shape of reactionary statements that reiterate the fundamentals of the peace agreement, international law, and the value of fostering confidence. The EU Foreign and Security Policy Guide in East Asia outlines Europe's interests in the South China Sea in advancing a rules-based international system, the principles of freedom of navigation, and the possibility of tensions that could harm trade and investment growth for all parties.<sup>30</sup> It also invites the plaintiffs to settle their conflicts amicably following international law while urging all parties to clarify their claims.

In December 2015, Vietnam's Prime Minister Nguyen Tan Dung visited Brussels, highlighting Europe's deep concerns about the extensive land reclamation in the region. The European strategy for peace and stability in the South China Sea emphasizes the pivotal role of the Association of Southeast Asian Nations (ASEAN). Europe's approach to the conflict is to adhere to international legal standards without taking sides or specifying which provisions of the United Nations Convention on the Law of the Sea (UNCLOS) or other international texts apply. Consequently, when the Permanent Court of Arbitration took up the Philippines' case against China's territorial claims, the European Union chose not to support the Philippines publicly. Even after the court announced it had jurisdiction to hear most of the Philippines' claims, the EU remained silent.<sup>31</sup>

Europe is attempting to portray itself as a normative force that upholds the rule-based order of the world. However, the EU must respond to China's disrespect for the Permanent Court of Arbitration ruling. The Court of Arbitration significantly sided with the Philippines on most of its claims, which has spurred European policy discussions regarding the freedom of navigation in the South China Sea since 2014. Europe must uphold the court's decision, aligning

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<sup>28</sup> Renato Cruz De Castro, "China and Japan in Maritime Southeast Asia: Extending Their Geo-Strategic Rivalry by Competing for Friends," *Philippine Political Science Journal*: Taylor & Francis, (2013).

<sup>29</sup> Mathieu Duchâtel, "Europe and Maritime Security in the South China Sea: Beyond Principled Statements?", National Bureau of Asian Research (NBR), (2016), p. 54.

<sup>30</sup> *Ibid.*

<sup>31</sup> Paul Saurette, *The Kantian Imperative, Humiliation, Common Sense, Politics*. University of Toronto Press. (2005).

its actions with international law, to maintain its credibility and foster a rule-based international order.

Two pivotal European policy instruments—arms sales and freedom of navigation operations—can potentially influence the dynamics in the South China Sea. In recent years, significant defense agreements have been struck between Southeast Asian countries and European arms manufacturers, amounting to 2.682 billion euros in 2013. Vietnam has procured French Exocet anti-ship missiles and Dutch Sigma frigates, while the Philippines has invested in light-arm helicopters from France and Italy. The "European arms embargo on China" highlights the stringent restrictions placed on arms exports to China by various European export control regulations. Despite the burgeoning military technology collaboration among France, Britain, and Japan, Europe's impact on the military power balance in Asia seems minimal. Nevertheless, Europe must continue asserting its influence as a counterbalance to China's growing military capabilities, reinforcing its commitment to maintaining stability and upholding international law.

Overall, it is important to note that diplomatic support from Europe for measures grounded on international law. Despite the US Navy's adherence to UNCLOS regulations, the US has not ratified the convention, a diplomatic liability in the South China Sea.<sup>32</sup> Despite its inability to exert sufficient leadership to defend the UNCLOS-based international maritime order, Europe continues to use it as its principal framework when deciding on policy in the South China Sea. The Permanent Court of Arbitration ruling will be pivotal in clarifying whether specific operations in the South China Sea pose a legal challenge to the international maritime order. Additionally, this decision will assess the consistency and coherence of Europe's commitment to supporting a global order founded on norms and rules.

## 7. India

India promotes freedom of navigation campaigns, including freedom of navigation in the South China Sea area. India being a little quiet about the dynamics in the South China Sea seems peculiar. Officials in India stated that China's actions in the East China and South China Seas are arbitrary and unreasonable. Unless a solution to the dispute in the South China Sea is achieved amicably, pressure should be exerted to counter China's aggressiveness.<sup>33</sup> For this reason, India supports and participates in US naval patrols in the region. Indian leaders expect support for the freedom of navigation, the right to passage and overflight, and the peaceful resolution of disputes under the UNCLOS.

Two concurrent events occurred in November 2015: the thirteenth ASEAN-India Summit and a public speech in Singapore. Prime Minister Narendra Modi discussed the South China Sea issue, advocating for measures to improve maritime security, anti-piracy efforts, and disaster relief. However, India has been reported to harass China during the third India-Philippines meeting.<sup>34</sup> In October, the Joint Commission for Bilateral Cooperation in New Delhi yielded a statement called "West Philippine Sea," which Beijing objects to.

From an economic perspective, India is interested in oil exploitation projects in the South China Sea. In October 2011, the Vietnamese government granted an Indian state oil company, ONGC Videsh, the right to drill for oil in the waters of the South China Sea.<sup>35</sup> However, China criticized this decision. Hong Lei, a spokesman for the Chinese Ministry of Foreign Affairs, said, "China opposes all forms of gas and oil exploitation in the disputed South China Sea area. This act disrespects China's sovereignty". On the other hand, about 40 percent of India's trade

<sup>32</sup> McLaughlin, "U.S. Strategy in the South China Sea Perspective." American Security Project. (2020).

<sup>33</sup> Abhijit Singh, "India's Strategic Stakes in the South China Sea," *Asia Policy* 21, no. 1 (2016), pp. 14–20. DOI: <https://doi.org/10.1353/asp.2016.0005>.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

volume passes through the Indian Ocean and the South China Sea. Therefore, any conflict that occurs in that region will impact Indian trade.

India needs to increase its marine deployments in the South China Sea to strengthen its security presence in the western Pacific. The Indian Navy has been engaged in intense operational exchanges with the American Navy. Four Indian naval ships completed a two-month tour of Southeast Asia in June, and in November, the stealth frigate INS Sahyadri was dispatched to the Philippines for operational deployment. Additionally, India has expanded its military partnerships with ASEAN members in Vietnam, Malaysia, Myanmar, and Thailand. Some resources even open the discussion on exporting the BrahMos supersonic cruise missile to Vietnam as a strategic hedge against China.<sup>36</sup> New Delhi is showing greater concern over the deteriorating security relationship in Asia-Pacific. India and the United States urge all Southeast Asian countries to avoid military confrontation and resolve territorial and maritime disputes amicably. Both of these States generally agree that China's goal in the Indian Ocean is to support its maritime interests in the Pacific region. However, Indian analysts argue that China's reclamation efforts in the South China Sea are a precursor to more significant power projections into the Bay of Bengal.<sup>37</sup>

Indian analysts are also concerned about the intensified Chinese maritime activities near the Andaman and Nicobar Islands in response to US marine patrols in the South China Sea, as the PLA Navy looks to increase its operational presence there.<sup>38</sup> The approach of the Indian Navy in managing foreign military presence near the Andaman and Nicobar Islands is influenced by the legal interpretations of coastal patrols in the South China Sea. New Delhi argues that without legal recognition of certain territories as "islands," it cannot restrict foreign ships from accessing these maritime routes.

India's short-term strategic preference is for China to tone down its aggression and quit attempting to change the South China Sea's *status quo*. The halting of reclamation activities and implementing stringent marine patrols are essential. China and other claimants must adhere to the 2002 Declaration on the Conduct of Parties in the South China Sea and refrain from using military terminology to settle territorial disputes peacefully and under international law.<sup>39</sup> All parties must engage sincerely to negotiate a binding agreement to govern maritime conduct in the South China Sea. In the long run, fostering more stable forces across the Indo-Pacific strategic framework will align with India's interest in boosting the maritime operational capabilities of Southeast Asian nations.<sup>40</sup> India finds the significance of cooperating with the US, Japan, and Australia on the larger Asian coast to secure its leverage over China's fast-growing naval presence.

### C. Conclusion

In conclusion, the dispute in the South China Sea involves not only neighboring countries who feel that their maritime borders have been violated but also countries that are not directly involved in the claim. The intervention of non-claimant countries in the South China Sea region further adds to the complexity of the problems in the region. Non-claimant countries uphold the freedom of navigation based on UNCLOS. They are against any restrictions in international waters that can disrupt global trade and transportation stability, eventually disrupting the national security and economy.

Non-claimant countries have been concerned about China gaining full control over the South China Sea, limiting the space for transport ships in trading. In this scenario, every nation

<sup>36</sup> Buszynski and Son, "The South China Sea: From a Regional Maritime Dispute to Geo-Strategic Competition."

<sup>37</sup> Permanent Court et al., "13 July, 2016" ASEAN Regional Experts on the South China Sea Ruling – Stress Long Term Risks, Including Australian Overreaction" (2016), p. 18.

<sup>38</sup> *Ibid.*

<sup>39</sup> Shyam, "Extended Maritime Jurisdiction and Its Impact on South Asia."

<sup>40</sup> Forbes, *The Limits of Maritime Jurisdiction*, vol. 12, (2016), p. 253.

that expects to go through this route must comply with the rules set by China. Any rule violation can result in prohibition to pass the sea and will be sanctioned. Furthermore, the boundary of the South China Sea, as delineated by the nine-dash line doctrine, is not recognized within the United Nations Convention on the Law of the Sea (UNCLOS). Accepting this delineation could lead to new conflicts and disputes.

## REFERENCES

- Atriandi, Ristian Supriyanto, Out of Its Comfort Zone: Indonesia and the South China Sea. Asia Policy, Number 21. (2016) pp. 21-28.
- Aziz, Saidatul Nadia Abd, and Salawati Mat Basir. "South China Sea: ASEAN Mechanism on Maritime Disputes and the Rise of Indo-Pacific Region." The Journal of Territorial and Maritime Studies 9, no. 2 (2022): pp. 65–82.
- Bronson, Percival, "U.S. Perspectives on the South China Sea," S. Rajaratnam School of International Studies Report (2014).
- Buszynski, Leszek and Thanh, Do Hai, "The South China Sea: From a Regional Maritime Dispute to Geo-Strategic Competition." Routledge. (2020).
- Clare, Angela. ASEAN and the South China Sea, Australia Foreign Affairs, Defence and Security. (2021).
- Cruz, Renato De Castro, China and Japan in maritime Southeast Asia: extending their geo-strategic rivalry by competing for friends. Philippine Political Science Journal (2013).
- Dieter-Hans, Evers, "Understanding the South China Sea: An Explorative Cultural Analysis." Journal of Asia-Pacific Studies. (2014).
- Duchâtel, Mathieu, "Europe and Maritime Security in the South China Sea: Beyond Principled Statements?," Asia Policy 21, no. 1 (2016), pp. 54–58.
- Granados, Ulises, "India's Approaches to the South China Sea: Priorities and Balances." Australian National University. (2018).
- Hayton, Bill. How to Solve the South China Sea Disputes ISEAS – Yusof Ishak Institute. Issue No. 25 (2022).
- \_\_\_\_\_, The Invention of China, Yale University Press New Haven and London. (2020)
- Koda, Yoji, "Japan's Perceptions of and Interests in the South China Sea," Asia Policy 21, no. 1 (2016), pp. 29–35.
- \_\_\_\_\_, "Japan's Perspectives on U.S. Policy toward the South China Sea," Perspectives on the South China Sea: Diplomatic, Legal, and Security Dimensions of the Dispute, no. September (2014), pp. 82–95.
- Ma, Tiffany and Wills, Michael, "Raising the Stakes: The Interests of Non-Claimant States in the South China Sea Disputes," Asia Policy 21, no. 1 (2016), pp. 2–5.
- McDevitt, "The South China Sea: Assessing U.S. Policy and Options for the Future." A CNA Occasional Paper. 2014. pp. 1-92.
- Mclaughlin, "U.S. Strategy in the South China Sea Perspective." American Security Project. (2020).
- Medcalf, Rory "Rules, Balance, and Lifelines: An Australian Perspective on the South China Sea," Asia Policy 21, no. 1 (2016), pp. 6–13.

- Raymond, Mark, and David A. Welch. "What's Really Going On in the South China Sea?" *SAGE: Journal of Current Southeast Asian Affairs*, Vol. 41(2) (2022): pp. 214–239.
- Renato Cruz De Castro, "China and Japan in Maritime Southeast Asia: Extending Their Geo-Strategic Rivalry by Competing for Friends," *Philippine Political Science Journal*: Taylor & Francis, (2013).
- Singh, Abhijit, "India's Strategic Stakes in the South China Sea," *Asia Policy* 21, no. 1 (2016), pp. 14–20.
- Storey, Ian "Britain , Brexit , and the South China Sea Disputes," *Maritime Awareness Project Analysis* (2020).
- U.S.-China Strategic Competition in South and East China Seas: Background and Issues for Congress", *Congressional Research Service*, October 6, 2021. <https://sgp.fas.org/crs/row/R42784.pdf>.
- United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, *Limits in the Seas No. 141, Indonesia Archipelagic And Other Maritime Claims And Boundaries*. Office of Ocean and Polar Affairs Bureau of Oceans and International Environmental and Scientific Affairs U.S. Department of State. (2014).

