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Rising Tensions in Troubled Waters: China's and the Philippines'
Competing Claims in the South China Sea

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LIST OF ABBREVIATIONS

ACFTA	ASEAN-China Free Trade Area
ADIZ	Air Defense Identification Zone
AFP	Armed Forces Pacific
ASEAN	Association of Southeast Asian Nations
CSIS	Center for Strategic and International Studies
DOC	Declaration on the Conduct of Parties
ECS	East China Sea
EDCA	Enhanced Defense Cooperation Agreement
EEZ	Exclusive Economic Zone
EIA	Energy Information Administration
GDP	Gross Domestic Product
KIG	Kalayaan Island Group
OECD	Organization for Economic Co-operation and Development
PLAN	People's Liberation Army Navy
PPP	Purchasing Power Parity
SCS	South China Sea
SLOC	Sea Lines of Communication
U.S.	United States
UNCLOS	United Nations Convention on the Law of the Sea
USGS	United States Geological Survey
USSR	Union of Soviet Socialist Republics

ABSTRACT

The South China Sea territorial dispute has attracted the attention of the world due to the many countries involved in the fight over territory and sovereignty claims of the islands and reefs in the South China Sea. The geographical location of the South China Sea is important economically and strategically significant, making it a vital asset for any of the surrounding states. China and the Philippines are the most active and vocal claimants in the dispute. This dissertation concludes that these two countries' actions in the South China Sea can spark an arms race. And the role of non-claimant states such as the United States, Japan and Russia contributes in the prediction of the dispute's future outcome and possible resolutions for peace in the region.

INTRODUCTION

Recently, the center of world power has been shifting from Europe to Asia. In the twentieth century, global power was led by Germany, Japan, United States and the Union of Soviet Socialist Republics (USSR). These countries were world leaders in military and economic strength. Recently, the center of economic and financial power has largely shifted to the world's largest continent, Asia, the throne of global power.

It is undeniable that the West has pivoted its interest to Asia or more specifically to China and the Southeast Asian countries. The United States' interest in Asia was influenced by former President Barack Obama after passing the Obama doctrine of 2012. Soon after, the European Union and Russia shifted their focus to Asia as well.

Over the past few decades, Asia has become a continent of development. With a population of more than 4 billion people, around 60% of the world's population, it has the fastest growing economies and the largest economy measured by gross domestic product (GDP), purchasing power parity (PPP) in the world. It is also the home to the "second Persian Gulf", the South China Sea (SCS).

1. Significance of the theme

"The 21st century's defining battleground is going to be on water."

[Robert D. Kaplan, Foreign Policy, August 15, 2011]

The South China Sea dispute is a dispute between China and its neighboring countries over claims on territory and sovereignty over the SCS archipelagos. The SCS is bordered by China, Taiwan, Philippines, Malaysia, Brunei, Indonesia,

Singapore and Vietnam. All claimant states have made territorial and sovereignty claims based on historical and geographical factors that go all the way back to a hundred years. However, the most active claimants are China and the Philippines. China and the Philippines both claim the resource-rich areas of the SCS which contains fishing grounds, oil and gas deposits.

This dissertation is very significant because of how important the South China Sea is to the world. The South China Sea has been found to contain very rich fishing grounds, mineral resources; and oil and gas deposits that have made it a must-have territory for the countries surrounding the region. Within the last few years, the global community continues to witness the feud between Asian countries wanting to get a piece of the area. The South China Sea dispute has become an internationally observed issue. Many states, not only Asian nations but also Western nations, have involved themselves in determining possible factors to ultimately reach a fair, peaceful and justified solution that will satisfy all parties involved and end the conflict. With countries showing official documents of ownership, sending patrol boats into the area, creating artificial islands and placing national flags on the reefs, the South China Sea has become a tension filled region.

2. Relevance of the Topic

The dispute between China and the Philippines over the South China Sea is a relevant topic today because it is a recent and an ongoing issue that requires further research and analysis. The topic covers all aspects of international studies including international trade, political economy and security. It is also a good example to help understand and observe how different countries use both hard and soft power to put forth their national interests. It is also relevant because two very different nations are involved. On one side is the world's second largest economy, China, which is

the biggest player in the territorial dispute. China's political and economic influence have made it the big shark in this aqua-battleground. On the other hand, the Philippines, a small country compared to China in terms of size, economy and military capabilities, has been a very vocal challenger of its giant neighbor in the region.

3. Research Purpose

The two main purposes of this dissertation are **a)** to identify the key characteristics of the rising tensions in the South China Sea focusing on the competing claims between the two most proactive claimant states, China and the Philippines; **b)** to suggest possible solutions to resolve the dispute.

In order to achieve the aims of this dissertation, I will address the following objectives:

1. To understand the evolution of the the dispute.
2. To reveal China's strategy as a dominant player in the dispute.
3. To lay out factors that will determine whether the Philippines has the capability to counterbalance China.
4. To uncover the role of other claimants and non-claimant states in managing the dispute.
5. To distinguish the most likely outcome of the dispute.

It is important to note that the subject of this dissertation is the bilateral relations between the two major claimants, China and the Philippines, while the object is the scope and aspect of the South China Sea dispute.

4. Methodology and Theoretical Framework

The analysis of the principles or procedures of inquiry in a particular field, mostly referred to as research methodology is determined by one's overall orientation to research and how or why you have chosen to use the collected data. A qualitative methodology is best to be used in this research because observation plays a key role in the analysis of the data needed.

In this dissertation, the methods of analysis for research are comparative and historical approaches. A historical approach will be used to examine the basis of the different claims of the two major claimants involved. And a comparative analysis will be used to weigh the different claims between China and the Philippines by contrasting their policies, strategies and intentions in the South China Sea.

This dissertation uses both realism and liberalism as a theoretical framework. A realist assessment is used because of how the countries involved are struggling for the expansion of power by militarization as a result of competition over natural resources and territory. On the other hand, a liberalism assessment is also used because of the possibility of cooperation among all nations involved leading to peaceful resolutions.

5. Review of Literature and Primary Sources

In this dissertation, literature such as books and articles written by scholars and experts were used to conduct descriptive research and predict results. Primary sources including official government documents were also used as a basis for construction of the analysis of the topic. There have been works written by both Asian and Western experts regarding the topic of this dissertation. However, there are not many works published specifically about the territorial dispute focusing only

on the competing claims between China and the Philippines. This review includes books and articles about previous studies related to the topic, as well as primary sources such as government documents that are important to understanding the positions of the states involved.

In the book *“Asia’s Cauldron: The South China Sea and the End of a Stable Pacific”* written by Robert D. Kaplan,¹ the South China Sea territorial dispute is described as a conflict with serious implications to global peace and stability. Kaplan states that to understand the current and future situation of the conflict, one must understand the goals and motivations of the countries involved. The author explains how China’s naval aggression is contributing greatly to the rising tensions in the region. He adds that neighboring nations like the Philippines need the United States to maintain a good defense system against China and how the United States plays a key role in maintaining the balance in the South China Sea region. Kaplan also states that due to China’s rapid militarization in the region it might result in an inevitable arms race.²

The book written by Clive Schofield and Ian Storey,³ entitled *“The South China Sea Disputes: Increasing Stakes and Rising Tensions,”* states that the Freedom of Navigation is crucial in the South China Sea since the region holds an undeniable importance to regional and global trade and energy security. The authors explain that China’s aggressive assertiveness in the region is due to the economic and strategic characteristics of the region, nationalism and the challenging actions by the

¹ Robert D. Kaplan is a best selling author of books on foreign affairs and travel.. He was twice named as one of the world’s “Top 100 Global Thinkers” by the magazine Foreign Policy.

² Robert D. Kaplan, *“Asia’s Cauldron: The South China Sea and the End of a Stable Pacific,”* New York. Random House, 2014

³ Clive Schofield is an author and the Director of Research at the Australian Centre for Ocean Resource and Security, University of Wollongong. Ian Storey is an author and is a Senior Fellow at the Institute of Southeast Asian Studies in Singapore.

country's neighboring states. The Philippines submission of UNCLOS based claims to the United Nations results to an increase of the friction between the two major claimants but has not changed much of the situation in the region. The authors also add that China's advanced and modernized naval and military power is a disadvantage to other claimant nations especially to the Philippines which has a weak military power. ⁴

In the article, "*Managing Security Tensions in the South China Sea: The Role of ASEAN*," by Carlyle A. Thayer, ⁵ states the tensions in the South China Sea are a product of China, Philippines and Vietnam's competing claims. Tensions increased over the past few years because of China's assertiveness and United States accusations of China militarizing and building infrastructures in the South China Sea. The author states that China is taking two approaches to the dispute, one is bilateral negotiations with other claimant states and another is joint security management in the South China Sea with ASEAN. On the other hand, ASEAN sticks to its position of a peaceful resolution based on the UNCLOS and international law. The author also states that the priority of the states involved should be focused on destabilizing China's militarization of the region. ⁶

Another article also written by Ian Storey entitled "*Creeping Assertiveness: China, the Philippines and the South China Sea Dispute*," states that the events of the conflict between China and the Philippines affect the overall evolution of the South China Sea dispute and regional security of Southeast Asia. The Philippines weak

⁴ Clive Schofield and Ian Storey, "The South China Sea Dispute: Increasing Stakes and Rising Tensions," The Jamestown Foundation, Washington, DC. November 2009

⁵ Carlyle A. Thayer is an author and Emeritus Professor of the School of Humanities and Social Sciences at the University of New South Wales.

⁶ Carlyle A. Thayer, "Managing Security Tensions in the South China Sea: The Role of ASEAN," Conference Presentation, The National Security College and Embassy of Japan, The Australian National University, Canberra, March 2016

military serves as an advantage for China's expansion of claims. The author also states that although the United States supports and is willing to provide aid to the Philippines, the United States is not prepared to put its relations with China at risk unless the Freedom of Navigation is violated. The author also points out that cooperation over the South China Sea dispute between the Philippines and China as well as other ASEAN member nations is impossible to achieve. ⁷

In this dissertation, various types of primary materials such as official documents and statistical reports were used. The primary sources include documents from the Philippine government, Chinese government, ASEAN and the United Nations. The *United Nations Convention on the Law of the Sea (UNCLOS)* is among the primary sources used in this dissertation. The UNCLOS is an important treaty that forms the basis of some of the claims and is the source of increasing tensions in the South China Sea. The UNCLOS states that all parties must adopt the laws and regulations to control marine environment, manage natural resources and marine life and establish guidelines for oil extraction and exploration in the sea. The treaty states a specific jurisdictional limit that a country's territorial sea shall not extend beyond the 200 nautical mile Exclusive Economic Zone and shall not go beyond 12 nautical miles from its baselines. ⁸

6. Structure

This dissertation is divided into six parts with five main sections. This dissertation begins with an introduction followed by three main chapters then a conclusion and a separate part for the list of references.

⁷ Ian Storey, "Creeping Assertiveness: China, the Philippines and the South China Sea Dispute," *Contemporary Southeast Asia*, Vol. 21, No. 1 (April 1999), pp. 95-118

⁸ United Nations, "United Nations Convention on the Law of the Sea," Signed: December 1982

As a starting point, the introduction opens with a brief explanation of 1) how the topic is significant, 2) what is the relevance of this study and why it is important now, 3) the purpose and objectives of the research, 4) the methodology and theoretical framework used, 5) review of literature and primary sources, and 6) the structure of the dissertation.

There are three main chapters constructing the body of this dissertation. The first chapter describes the economic and strategic characteristics of the South China Sea and how these factors contribute to the progression of the dispute between China and the Philippines. The second chapter is about the individual claims of the two major claimants. This chapter also describes how the non-claimant and other claimant states are tied to the dispute between China and the Philippines and whether or not they remain neutral or lend a helping hand to either of the major claimant states of the dispute. The third chapter includes likely scenarios of how the dispute will play out in the future and a list of several suggested solutions to resolve the dispute without the use of force between the states involved.

The dissertation ends with a conclusion consisting of the summary of every chapter's analysis. The conclusion includes the main points of every chapter and the entire dissertation as a whole.

Lastly, this dissertation includes a list of references used for this research. The list is categorized depending on the type of source used and is listed in an alphabetical order.

Chapter 1 - UNDERSTANDING THE DISPUTE

1.1 SOUTH CHINA SEA (SCS)

The South China Sea is part of the Pacific Ocean -- south of mainland China and Taiwan, east of Vietnam and Cambodia, west of the Philippines and north of Borneo -- covering an area of almost 4 million square kilometers. The South China Sea islands consist of more than 200 small islands, rocks and coral reefs but only around three dozen are above water. The land masses are grouped into different islands called Spratly Islands, Paracel Islands, Pratas Islands, Macclesfield Bank and Scarborough Shoal.

The main reasons behind the conflict are location and natural resources. The South China Sea is a commercial gateway for a large amount of the world's merchant shipping.⁹ A total of around \$5.3 trillion in trade passes through the South China Sea every year. Currently, one-third of the world's liquefied natural gas passes through the Straits of Malacca then into the South China Sea, triple the amount that passes through the Suez Canal and 15 times the amount that passes through the Panama Canal.¹⁰ It is also predicted that 90 percent of Middle Eastern fossil fuel exports is projected to go to Asia by 2035. Although mostly uninhabited, the South China Sea is very rich in natural resources. The region is predicted to ultimately yield almost 130 billion barrels of oil, more than any of the area of the globe can produce except Saudi Arabia. An estimated 11 billion barrels of oil and 190 trillion cubic feet of natural gas have been discovered in the region. The South China Sea

⁹ Lowy Institute for International Policy, "South China Sea,"
<https://www.lowyinstitute.org/issues/south-china-sea>

¹⁰ Robert D. Kaplan, Business Insider Australia, "Why the South China Sea Is So Crucial," Feb. 2015
<http://www.businessinsider.com.au/why-the-south-china-sea-is-so-crucial-2015-2>

is also a major fishing ground and source of livelihood for the citizens of many of the neighboring countries. In 2012, an estimated 12 percent of the world's total fishing catch worth \$21.8 billion came from this region. ¹¹

The South China Sea has significant importance that will benefit a country strategically, militarily and economically while achieving both long-term and short-term goals.

1.1.1 Economic

The South China Sea (SCS) contains an affluent abundance of resources and marine life; hence, holds a significant economic importance. Asia is home to some of the world's fastest growing economies -- China, India, Japan, South Korea and ASEAN -- and is a major contributor to global growth. From the 1990s to 2014, Asia's world share of gross domestic product (GDP) in US dollars purchasing power parity (PPP) grew by 38.8 percent. ¹² Asia's rapidly growing economy is expected to continue to grow and increase the demand for energy in the region. According to data provided by the US Energy Information Administration (EIA), the Asia-Oceania region is the world's leading consumer of petroleum and other liquid fuels. ¹³

This growing energy demand of Asian countries, especially China and the Southeast Asian countries, is one of the factors for rising tensions in the SCS. China

¹¹ The Conversation, "Fishing, not oil, is at the heart of the South China Sea Dispute," Aug. 2016
<http://theconversation.com/fishing-not-oil-is-at-the-heart-of-the-south-china-sea-dispute-63580>

¹² Akrur Barua, Deloitte University Press, "Asia Pacific Economic Outlook, Q1 2016," Dec. 2015
<https://dupress.deloitte.com/dup-us-en/economy/asia-pacific-economic-outlook/2016/q1-asia-economic-growth-continues.html>

¹³ Akrur Barua, Deloitte University Press, "Asia Pacific Economic Outlook, Q1 2016," Dec. 2015
<https://dupress.deloitte.com/dup-us-en/economy/asia-pacific-economic-outlook/2016/q1-asia-economic-growth-continues.html>

contributes a big part in global oil markets and according to the EIA, China is expected to account for 43 percent of non-Organization of Economic Cooperation and Development (OECD) Asia natural gas consumption which is said to continuously grow by 3.9 percent annually and reach up to 19 percent by 2035.¹⁴ Southeast Asia's energy demand has also increased recently by more than 50 percent between 2000 and 2013. Based on the International Energy Agency's Southeast Asia Energy Outlook Report 2015, Southeast Asia's energy demand grows by 80 percent from today to just under 100 million tons of oil equivalent (M toe) in 2040, following a regional economy that more than triples in size and a population that rises by almost a quarter to 760 million. The efficiency of energy use improves across Southeast Asia and the region continues to remain an important fossil-fuel producer; however, domestic oil, gas and coal supplies are slowly depleting. The region's gas exports and domestic oil production are expected to continue to decline, resulting in Southeast Asia dropping its traditional role as a major gas supplier to international markets. The region's domestic demand of oil supply will remain high, continuing to grow and by 2040, Southeast Asia will become a net importer with its net oil and gas import bill tripling to \$320 billion.¹⁵

As the countries surrounding the South China Sea face a high demand of energy supply, they will look to new sources of energy to fill in this void and lack of supply. The South China Sea offers the potential of a new source for these countries' domestic production. Although it is difficult to know for certain exactly how much oil and natural gas reserves the SCS contains, experts estimate there to be approximately 11 billion barrels of oil reserves and 190 trillion cubic feet of natural gas (*Refer to Figure 1 Below*). This estimate does not include the undiscovered oil and gas fields in the under explored areas of the SCS. A study conducted by the

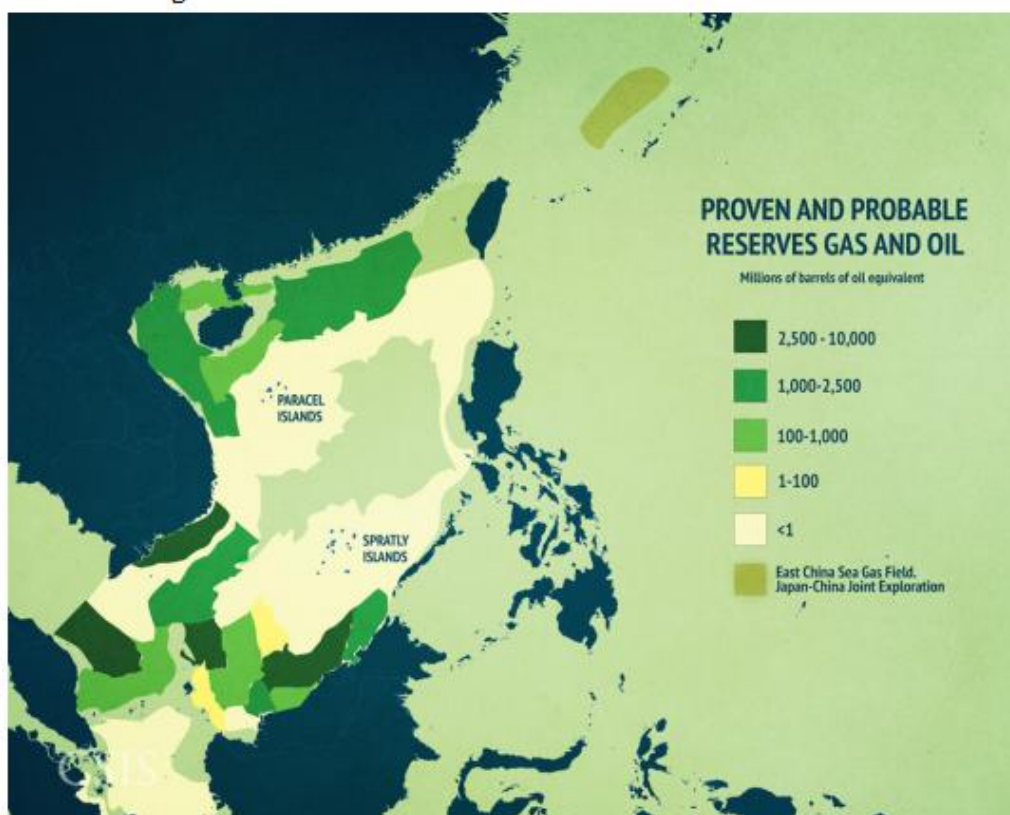
¹⁴ U.S. Energy Information Administration, "South China Sea," Feb. 2013

¹⁵ International Energy Agency Southeast Asia Energy Outlook Report, 2015

https://www.iea.org/publications/freepublications/publication/WEO2015_SouthEastAsia.pdf

U.S. Geological Survey (USGS), found that the under explored areas may contain between 5 and 22 billion barrels of oil and between 70 and 290 trillion cubic feet of gas. ¹⁶ These numbers amount to a more than enough supply for the surrounding countries. However, due to the territorial dispute, some of the countries are not able to further explore some of the oil and gas rich areas.

Figure 1. Natural Resources in the South China Sea



Most of the SCS hydrocarbons are located in the undisputed territory of the region. It is hard to say how much natural gas and other resources the SCS region contains because of under exploration of the area. Due to the territorial disputes, the majority of the region has not been adequately explored. The EIA estimates that the region is more filled with natural gas than it is with oil, requiring more expensive sub sea pipelines and exploration methods to carry the gas to processing facilities. The

¹⁶ U.S. Energy Information Administration, "South China Sea," Feb. 2013

region is also more prone to typhoons and tropical storms, as well as geological problems like strong sea currents, making cheap drilling operations and material an exception. Many of the claimant states have paired up with foreign partners to help provide deep sea exploration and drilling operations of the uncontested areas in the SCS.

Some experts say that the SCS dispute is not over natural resources supply or military benefits but is over fishing grounds. The region has an astounding abundance of fish and other marine life, employing more than 3.7 million people and generating billions of dollars every year.¹⁷ The SCS region is home to around 3 500 species of marine fishes and in 2012, an estimated 12% of the world's total fishing catch, worth \$US 21.8 billion came from this region.¹⁸ Fishing is one of the main sources of livelihood for most of the claimant states, especially for the Philippines, Vietnam and Indonesia. The fishing industry for the Philippines accounts for up to 3 percent of the country's GDP, in which three-fourths of the fishing production comes from the SCS.¹⁹ On the other hand, fish is a very important part of the Chinese diet. China consumes around 34 percent of the global fish supply, way more than that of Europe and North America. More importantly, China employs between 7 and 9 million fishermen who operate over 450 000 fishing vessels making up the largest fleet in the world.²⁰ However, after decades of "free-for-all fishing," the abundant stocks of marine life and fish in the region are declining due to

¹⁷ Rachael Bale, National Geographic, "One of the World's Biggest Fisheries Is on the Verge of Collapse," August 2016

<http://news.nationalgeographic.com/2016/08/wildlife-south-china-sea-overfishing-threatens-collapse/>

¹⁸ The Conversation, "Fishing, not oil, is at the heart of the South China Sea dispute,"

<http://theconversation.com/fishing-not-oil-is-at-the-heart-of-the-south-china-sea-dispute-63580>

¹⁹ Adam Greer, The Diplomat, "The South China Sea Is Really a Fishery Dispute," July 2016

<http://thediplomat.com/2016/07/the-south-china-sea-is-really-a-fishery-dispute/>

²⁰ Adam Greer, The Diplomat, "The South China Sea Is Really a Fishery Dispute," July 2016

<http://thediplomat.com/2016/07/the-south-china-sea-is-really-a-fishery-dispute/>

over fishing.²¹ The region's claimant states' large demand for fish comes with a consequence, threatening the food security and economic growth of the rapidly developing nations that rely on them. In an article published by National Geographic, Rachel Bale states that, "As it now stands, the South China Sea's most important resource -- fish -- is disappearing and countries are either 'passively standing or actively encouraging their fishermen to take more.'" [*Rachael Bale, National Geographic, "One of the World's Biggest Fisheries Is on the Verge of Collapse," August 2016*]

1.1.2 Strategic

The SCS is of critical economic, strategic, military and environmental significance. The SCS is known for its mineral resources and abundance of marine life but its strategic significance derives mainly from its geography. The SCS geographic location makes it a vital spot for military implications and maritime trade, making it one of the world's major trade routes.

Even in the past, the SCS was already valued for its importance in trading. Historically, from the Qin dynasty all throughout the Song dynasty,²² both the SCS and the East China Sea (ECS) were known as the "Silk Road of the Sea."²³ Both seas have been historically known for their strategic and practical routes. Two Chinese professors said that the SCS and ECS "may as well be the most enduring

²¹ Rachael Bale, National Geographic, "One of the World's Biggest Fisheries Is on the Verge of Collapse," August 2016

<http://news.nationalgeographic.com/2016/08/wildlife-south-china-sea-overfishing-threatens-collapse/>

²² Dynasties or empires of Imperial China from year 229 - 1279.

²³ Zhiguo Gao and Bingbing Jia, "The Nine-Dash Line in the South China Sea: History, Status, and Implications," January 2013, Vol 107, No 1, p 101

maritime trade route in history, where Chinese ships loaded with silk, porcelain, tea and other commodities set sail from southeast China and navigated along the coasts of the Philippines, Vietnam, Malaysia and Thailand and through the Malacca Strait to India and the Mediterranean.” [*Zhiguo Gao and Bingbing Jia, “The Nine-Dash Line in the South China Sea: History, Status, and Implications,” January 2013, Vol 107, No 1, p 101*]

Currently, the majority of global trade, approximately 90 percent by volume, is conducted by sea. The multiple Sea Lines of Communication (SLOCs) in the SCS bisecting the Indian and Pacific oceans are crucial for global maritime trade. Up to the present, the SCS trade route continues to offer the accessibility of the Strait of Malacca which is an 890 kilometer stretch of water between the Malay Peninsula and the Indonesian Island of Sumatra. The strait serves as the shortest route between the Indian Ocean and the South China Sea and is used by more than 70 000 vessels every year, carrying an estimated one-third of world trade. ²⁴

The South China Sea serves as a military ground and site for naval stations and infrastructures. Due to its geographic location, it holds a strategic or long-term importance, as well as tactical or short-term importance to the claimant states. So far, China has been the most active claimant state that has been exploring the region’s strategic significance to achieve its goal of occupying the SCS.

China’s overall goal and plans to occupy or build structures on all habitable land masses in the SCS represents the region’s strategic importance. For China, the Spratly islands can help it claim jurisdiction over adjacent waters filled with abundant resources. China claims that it is developing military infrastructures and

²⁴ The Jamestown Foundation, “The South China Sea Dispute: Rising Tensions, Increasing Stakes,” 2009, p. 7

stations around the SCS region to be able to defend its southern territory in case of a military conflict with Taiwan. One of the country's goal is to increase the public's awareness of China's maritime claims in the country. By doing this, the Chinese government can show the citizens that it is a strong nation and no dispute can rattle the country. In order to increase awareness, Chinese organizations like State Oceanic Administration, China National Offshore Oil Company and Hainan Provincial Government have all expanded the activities and budgets of their organizations by helping strengthen and defend China's territorial claims. Rise in internet use and social media have made citizens more aware of foreign relations and disputes. President Xi Jin Ping's "China Dream," have given the Chinese nation more nationalist expectations of being strong both on land and at sea. Many citizens believe that because of China's strong position in the international community, it needs an unchallenged presence in the SCS that reflects its perceived status of being an economic and military powerhouse. ²⁵

China has shown that it will do just anything to achieve its goals and national interests by engaging in direct disputes with its weaker neighboring states. China's militarization of the SCS provides a clue of how it will act if it gains full control over the SCS. China's past actions of harassing U.S. Navy ships operating in the SCS, destroying fishermen boats from the Philippines and Vietnam, suggest that China is ready to challenge and undermine even international laws including freedom of navigation. ²⁶

²⁵ M. Taylor Fravel, "Why does China Care So Much About The South China Sea? Here are 5 reasons.," The Washington Post, July 2016
<https://www.washingtonpost.com/news/monkey-cage/wp/2016/07/13/why-does-china-care-so-much-about-the-south-china-sea-here-are-5-reasons/>

²⁶ Amy Searight and Geoffrey Hartman, "The South China Sea - Some Fundamental Strategic Principles," Center For Strategic & International Studies, January 2017
<https://www.csis.org/analysis/south-china-sea-some-fundamental-strategic-principles>

1.2 LEGAL AND POLITICAL BASIS OF CLAIMS

“Every state has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this convention.”²⁷ [*United Nations Convention on the Law of the Sea,* Part II, Section 2, Article 3]

For a disputed territory continuously commanding worldwide attention, the SCS is not as controlled and secured as it is supposed to be. So far, there has been no active nor effective resolution that can keep the disputed territory from becoming a flash point for a regional war. Throughout the years of the territorial dispute, there have been three main documents consequential to the dispute -- UNCLOS, DOC and nine-dash line map.

1) **United Nations Convention on the Law of the Sea (UNCLOS).** The only international law used as a source for regulation in the region is the United Nations Convention on the Law of the Sea (UNCLOS). The UNCLOS is an international agreement that defines the right and responsibilities of nations in regards to the use of world's oceans and management of marine natural resources. The UNCLOS includes the Exclusive Economic Zone (EEZ), which is officially described in the UNCLOS as “an area beyond and adjacent to the territorial sea, and shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.” [*United Nations Convention on the Law of the Sea, Part V Exclusive Economic Zone,*

²⁷ UN Convention on the Law of the Sea Official PDF, (Part II, Section 2, Article 3), United Nations

Articles 55-57]

2) **China's Nine-dash Line.** The "nine-dash line" is China's demarcation line marking its geopolitical border around the SCS. The map below (*Refer Below to Figure 2*) shows the infamous "nine-dash line" which when translated directly from its Chinese name means "nine segment line of the South China Sea." In the early twentieth century, two private cartographers, with the support of the Chinese government, placed the South China Sea group of islands on the Chinese national atlas. Later on, the Chinese government continued to pursue the SCS group of islands -- comprised of the Paracel, Spratly, Pratas and Macclesfield Banks -- drawing an "eleven dash line" to indicate the geographical scope of its authority over the South China Sea. It is assumed that China's reason for publicizing the eleven dash line was to reassert and reinforce China's sovereignty over the SCS at the beginning of a new, post-war era.²⁸ When the Chinese Communist Party took over after the Nationalist Chinese Government lost power and fled to Taiwan, the eleven-dash line was changed to the nine-dash line as endorsed by Zhou Enlai, who was the Premier of the People's Republic of China at that time. The new line was officially placed in atlases in 1953. Later on, the Chinese Communist Party allowed their communist ally, Vietnam, to build radar stations on some islands in the area in the spirit of comradeship and brotherhood.²⁹ In 2013, China published a newer version of the nine-dash line map which consisted of ten dashes, the 10th dash placed in very close proximity to Taiwan.³⁰

²⁸ Zhiguo Gao and Bingbing Jia, "The Nine-Dash Line in the South China Sea: History, Status, and Implications," January 2013, Vol 107, No 1, p 101

²⁹ Wei Pu, Radio Free Asia, "How the Eleven-dash line became the Nine-dash line, And Other Stories," July 2015 <http://www.rfa.org/english/commentaries/line-07162015121333.html>

³⁰ Michaela Del Callar, "China's new '10-dash line map' eats into Philippines territory," GMA News Online, July 2013
<http://www.gmanetwork.com/news/news/nation/319303/china-s-new-10-dash-line-map-eats-int>

Figure 2. China's Nine-Dash Line



Since China has not published geographic coordinates or specific descriptions of the locations of the dashes, the U.S. Department of State conducted a study relating to the geographic description of the nine-dash line. Therefore, the geographic description of the nine-dash line in this paragraph is depicted from the approximate calculations of the State Department's study. The geographic description of the nine-dash line is difficult to describe due to instability and the lack of consistency between the published maps from 1947 and 2009 (*Refer to Figure 3 Below*). The nine-dash line covers approximately 2 million square kilometers of maritime space, a territory as big as around 22 percent of China's land area. This 2 million square kilometer territory includes the Paracel Islands, Spratly Islands, Scarborough Shoal and some submerged reefs and shoals such as Macclesfield Bank and James Shoal. The nine dashed lines are very close to the coasts and islands of China's neighboring

[o-philippine-territory/story/](#)

states -- Philippines, Vietnam, Malaysia, Brunei and Taiwan.³¹

Figure 3. Comparison of Dashed Line in 2009 and 1947 Maps

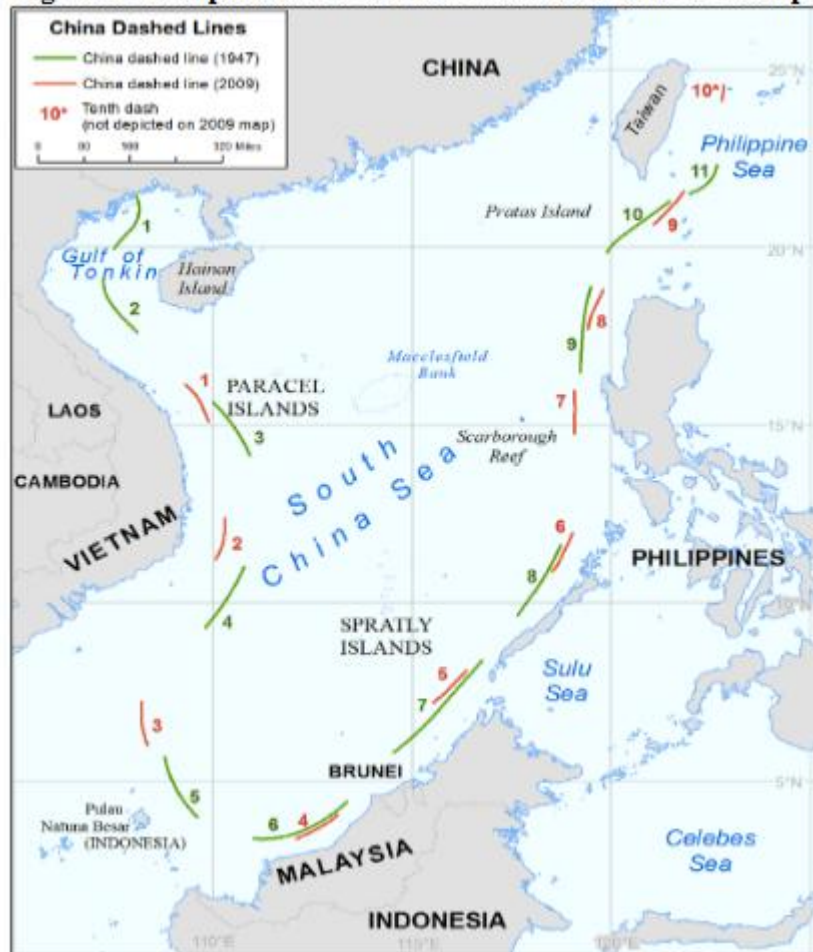


Image Source: United States Department of State, Bureau of Oceans and International Environmental and Scientific Affairs

3) Declaration on the Code of Conduct of Parties (DOC). Due to the rising tensions in the SCS, China, the Philippines and other ASEAN member nations decided to come together and sign a legal agreement called the Declaration on the Code of Conduct of Parties (DOC) in 2002. The DOC embodies the ASEAN member states and China’s “collective commitment to promoting peace, stability and

³¹ Kevin Baumert and Brian Melchior, “Limits in the Seas, No. 143, China: Maritime Claims In The South China Sea,” Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, December 2014 <http://www.state.gov/e/oes/ocns/opa/c16065.htm>.

mutual trust and to ensuring the peaceful resolution of disputes in the South China Sea.”³² Many analysts believe that the DOC has been a failure. None of the claimant states have abided by the DOC due to its non-binding nature and lack of legal jurisdiction to force any of the claimant states to not violate and abide by the regulations under the DOC.³³ However, after 15 years, China and the ASEAN have recently agreed on a draft framework of the code. For China, the DOC helps it to keep the U.S. and other non-claimant states from interfering in the territorial dispute. On the other hand, for the ASEAN member states, the DOC gives them a chance to stop China from further militarizing the region.

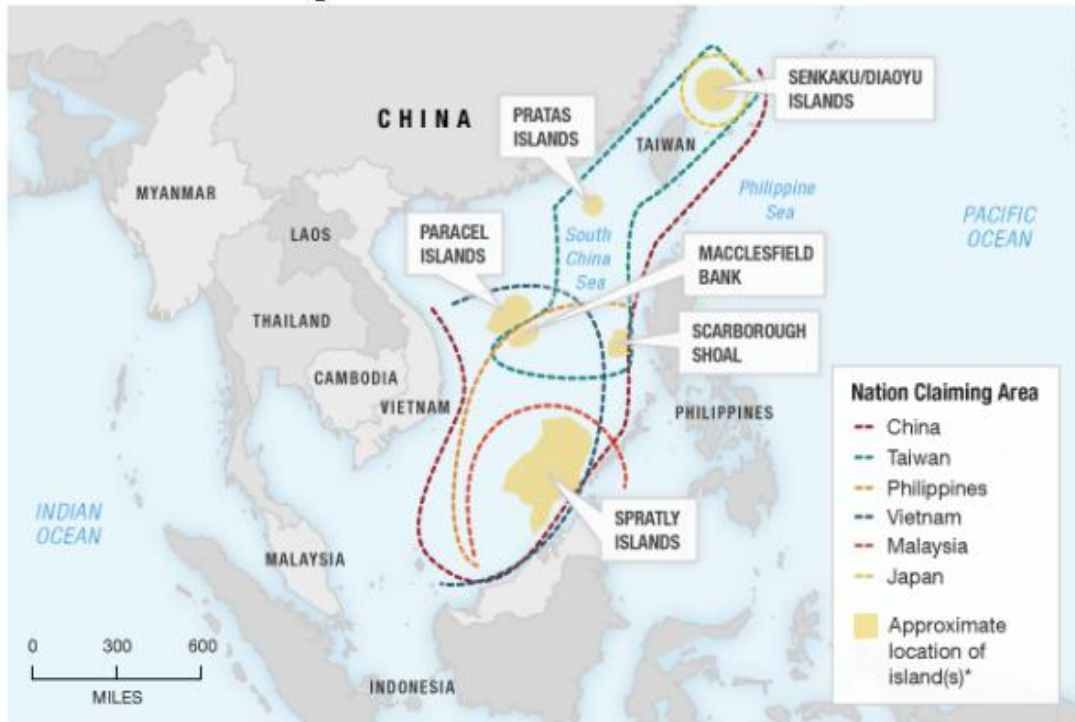
1.3 EVOLUTION OF THE DISPUTE

Since the 1940s, countries surrounding the SCS region have been showing interest and putting claims in the area. There are six countries -- China, Philippines, Vietnam, Malaysia, Taiwan and Brunei -- with competing claims over the region (*Refer to Figure 4 Below*). These countries' rival claims are either historically based or based on international laws. China, Taiwan and Vietnam all claim almost the entire SCS, around 80 percent of the region. The Philippines and Malaysia claim some of the islands while Brunei claims islands not part of the disputed territory.

³² ASEAN, “Guidelines for the Implementation of the DOC,” Indonesia 2011 <http://www.asean.org>

³³ MingJiang Li, “Managing Security in the South China Sea: From DOC to COC,” *Kyoto Review of Southeast Asia*, Issue 15 (March 2014) <https://kyotoreview.org/issue-15/managing-security-in-the-south-china-sea-from-doc-to-coc/>

Figure 4. Illustration of Claims



The two most vocal claimants in the dispute are the Philippines and China. The dispute between these two major claimants circles around their overlapping claims over the fifty islands and reefs in the Spratly Islands and the Scarborough Shoal.³⁴ The extent of China and the Philippines claims over the SCS has been rather extreme, they even renamed the disputed islands in their language. In the past, the territorial dispute did not receive as much attention from the global community and relations between the claimants over the SCS region were calmer and more stagnant. The situation in the SCS evolved into a much bigger and more serious conflict after an incident between Chinese patrol boats and a Filipino survey ship occurred in Philippines sovereign territory near the Spratly islands. This incident led the Philippines to challenge China's historically based claims legally.

China's claims over the SCS marked by the nine-dash line are based historically

³⁴ Ian James Storey, "Creeping Assertiveness: China, the Philippines and the South China Sea Dispute," *Contemporary Southeast Asia*, Vol. 21, No. 1 (April 1999), pp. 95-118

while the Philippines claims are based under the UNCLOS. The territorial dispute was more sparked after the Philippines decided to bring China's historically based claims and self-proclaimed sovereignty over the SCS to an International Arbitration Tribunal Court. The case was filed in the Permanent Court of Arbitration in the Hague, Netherlands. The arbitration court is an international institution assisting temporary tribunals to resolve disputes among states. China publicly announced that no matter the result, it will not recognize the court's decision.

The Philippines, has brought up the fact that the "nine-dash line" area of China does not meet the laws and regulations under the UNCLOS. Based on the UNCLOS, China's "nine-dash line" goes beyond the Exclusive Economic Zone and has no legal bearing whatsoever. China's historically based claims and China's self-proclaimed sovereignty over the SCS region including the area which is legally part of the Philippines are steadily accumulating into serious tensions.

Due to the South China Sea's strategic and economic importance, surrounding countries want a stake in the region. Most of the claimant states, except China, use the UNCLOS as a basis for their territorial claims and also as a basis for their efforts to appeal their rights to international law. Tensions in the South China Sea region continue to run high as China continues to stake its claim on the region based on its nine-dash line map. Unfortunately, the claimant states are no closer to resolving the territorial dispute.

Chapter 2 - INDIVIDUAL CLAIMS AND NATIONAL INTERESTS

2.1 MAJOR CLAIMANT STATES

The two countries mainly involved in the South China Sea territorial dispute are

China and the Philippines. China insists on their “historical rights” on the islands while the Philippines’ claim is based on its geographical proximity to the islands.

2.1.1 China

The People’s Republic of China is one of the biggest player in the SCS dispute. The country claims almost the entire South China Sea region, more than every other claimant state. It is the most active, aggressive and influential state among all the claimant states in the disputed region. China’s claims on the disputed islands are marked by the famous nine-dash line and are solely based on history.

China claims that the South China Sea has been part of the country’s historical territory since ancient times. In 2012, China’s former foreign minister, Yang Jiechi, said that there is “plenty of historical and jurisprudence to show that China has sovereignty over the islands in the South China Sea and the adjacent waters.”³⁵ The country’s historically based claim goes back to the year 1947 when the Chinese government published a map entitled “Map of South China Sea Islands” showing 11 dashes marking the territory of the country in the SCS region. Two years later, the Chinese communist government changed the 11 dash line to the 9 dash line allowing Vietnam to have the Gulf of Tonkin.³⁶ China also stresses that the area it claims in the SCS region have always been part of the Chinese Empire from centuries ago, dating back to the Qin and Song dynasties. The country believes that its right to currently occupy and claim around 90 percent of the SCS region is justified by ancient history.

³⁵ Mohan Malik, China’s South China Sea Claims, *World Affairs*, Vol. 176, No. 1 (May/June 2013), p. 83

³⁶ Steve Mollman, Quartz, “The line on a 70-year-old map that threatens to set off a war in East Asia,” July 2016 <https://qz.com/705223/where-exactly-did-chinas-nine-dash-line-in-the-south-china-sea-come-from/>

China was part of the countries that ratified the UNCLOS, the treaty which largely rejects China's "historically based" claims. Many international legal experts have concluded that China's claim to historic title over the South China Sea and "justified" dominance over other claimant states in the region is invalid.

"China's claim to the Spratlys on the basis of history runs aground on the fact that the region's past empires did not exercise sovereignty. In pre-modern Asia, empires were characterized by undefined, unprotected, and often changing frontiers."

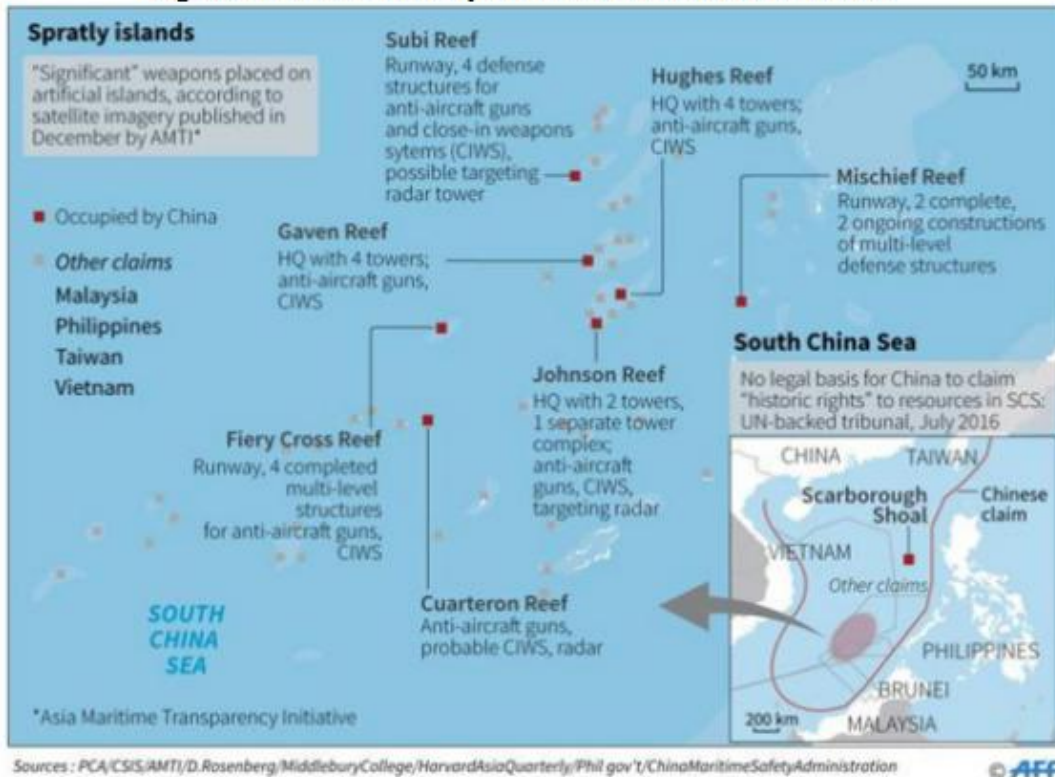
[Mohan Malik, China's South China Sea Claims, World Affairs, Vol. 176, No. 1 (May/June 2013), p. 84]

According to Malik, China's stance on land and maritime boundaries are indefensible. The country's claims on land territories were never defined by history; however, China's maritime boundaries were always clearly defined and marked as their territory. The author also states that China often uses the "history card" to achieve foreign policy objectives and acquire territorial and diplomatic acknowledgments from other countries. China insists that the SCS territorial dispute to be bilateral in order to place its opponents or the other claimants in an unsteady position between its invalid revisionist history and aggressive military power; although, the dispute is by definition a multilateral conflict requiring international arbitration involving six claimant states.

Currently, China is the most dominant player in the SCS territorial dispute. Its growing military power continue to increase tensions in the region. The country claims all the major islands and reefs in the area and have started to build infrastructures on said territory. In the course of ten years, China has converted seven reefs -- Subi Reef, Mischief Reef, Johnson South Reef, Fiery Cross Reef, Gaven Reef, Hughes Reef, Cuarteron Reef -- into military facilities in the South

China Sea (Refer to Figure 5 Below).

Figure 5. China's Military Facilities in the South China Sea



In April 2016, a Chinese military aircraft publicly landed on the Fieri Cross Reef, which covers about 3 million square meters of land including the construction of lighthouses, helipads, an airstrip, radar towers and military tankers (Refer to Figure 6 Below).³⁷ According to a report conducted by the Center for Strategic and International Studies (CSIS), as of March 2017 China has constructed enough concrete hangers for 24 fighter jets and four or five larger planes such as bombers or early warning aircrafts and is using an existing airfield on Woody island where it has maintained mobile HQ-9 surface-to-air missiles³⁸ and deployed anti-ship cruise missiles on at least one occasion.³⁹ China claims that its island construction is

³⁷ Reuters, "Chinese military aircraft makes first public landing on disputed island," April 2016 <http://www.reuters.com/article/us-southchinasea-china-idUSKCN0XF0AZ>

³⁸ Hong qi or "red flag" is China's new generation medium to long range active radar homing surface to air missile.

³⁹ Christopher Bodeen, "Artificial islands in South China Sea nearly complete, allowing China to

mainly for civilian purposes, mainly to increase safety for ships that carry trillions of dollars worth of goods through the waterway each year; however, many critics believe that this is China's way of further militarizing the region and increasing its presence in the region to intimidate and coerce other claimant states' militaries, coastguards and fishing fleets. ⁴⁰ China's island construction in the SCS region is only one of the country's strategic moves in pursuing the disputed island territory.

Figure 6. China's Military Infrastructure in the Fiery Cross Reef



For China, sovereignty claims within the South China Sea are seen as being of ‘core

dominate region: report,” National Post, March 2017

<http://news.nationalpost.com/news/world/artificial-islands-in-south-china-sea-nearly-complete-allowing-china-to-dominate-region-report>

⁴⁰ Kirrily Schwarz and AP, “South China Sea controversy heats up as man-made islands are almost complete,” News.com.au, April 2017

<http://www.news.com.au/world/asia/south-china-sea-controversy-heats-up-as-manmade-islands-are-almost-complete/news-story/84aa8664ef1f147d704b8f1e78e62516>

national interest.’⁴¹ China’s main approach towards exercising jurisdiction over the disputed islands and to deter other claimant states from further strengthening their own maritime claims in the SCS region is to play a delaying game. Diplomacy has played an eminent role as part of China’s delaying strategy. First, China maintains that it is open to negotiations. China calls for bilateral talks with each claimant and not multilateral ones. Second, China acknowledges and reacts to the sovereignty and maritime claims of other states. China recognizes that “international law demands that states actively maintain their claims, especially when challenged by other states.” Third is the indirect role of China’s military. The country has used naval capabilities in patrolling and training exercises to increase its presence in the region and deter other claimant states.⁴² China’s military expansion and modernization mainly focuses on strengthening the People’s Liberation Army Navy (PLAN) to face any potential threat to its core interest. Lastly, China has driven the SCS region to become more economically integrated, with China as a central power of expanding economic and trade networks. Although, China’s military activity in the SCS region is difficult to track due to very low coverage by the Chinese media; Its rapid military development is gradually fueling an arms race.

China wants to be a leading global power and one of the ways to achieve that is by expanding their Navy. The country wants a “blue water navy” meaning projecting power far beyond their shores. The PLAN’s rapidly growing operational capabilities and title of second largest navy in the world has a potential to extend China’s powers to the Western Pacific and Indian Ocean. However, in order to become a blue water navy, China has to overcome some problems and obstacles.

⁴¹ Strategic Analysis, “A strategic analysis of the South China Sea territorial issues,” <http://www.mod.go.jp/msdf/navcol/SSG/topics-column/images/t-049/049-02.pdf>

⁴² M. Taylor Fravel, “China’s Strategy in the South China Sea,” *Contemporary Southeast Asia*, Vol. 33, No. 3, Special Focus: The South China Sea Dispute (December 2011), pp. 299-300, Accessed May 2017

Retired Vice Admiral in the Japan Maritime Self-Defense Force (JMSDF), Yoji Koda, states that in order for China to become a blue water force it must first solve many problems including 1) establishing two new operational units, one being dedicated to operate in the Indian Ocean and Western Pacific, and another to be used for out-of-area power projection. 2) The geographic reality of the PLAN's bases being semi-enclosed by a series of island chains. All PLAN's bases are located East China Sea (ECS), Yellow Sea or SCS. For China's units to be able to operate beyond its shores, their navy and air force have to pass through outer open waters and airspace unlike Japan and the United States, whose major bases are fully open and can freely operate in outer open waters and airspace. 3) China's political isolation and poor network of alliances may prevent PLAN from becoming a blue water navy. In order for PLAN to operate its forces far from China, they must be able to construct bases in areas provided by allies.⁴³ Therefore, even China's navy growing rapidly, it will not be very easy for the country to expand its power far from its territory and become a blue water navy force.

“China sees the South China and East China seas as blue water extensions of its continental land mass, just as a younger America saw the Greater Caribbean that way. Domination of the Greater Caribbean gave the United States strategic control of the Western Hemisphere, allowing it to affect the balance of power in the Eastern Hemisphere throughout the 20th century. China believes it is its right to be the preponderant power in its adjacent seas, thus unlocking the door to the wider Pacific and Indian Ocean for the Chinese navy.”

[Robert Kaplan, March 2014 Interview with The WorldPost editor Nathan Gardels]

China's belief in its right to preponderant power in the SCS region is reflected in its

⁴³ VADM Yoji Koda, “China's Blue Water Navy Strategy and Its Implications,” China's Blue Water Navy Series, March 2017

increased naval assertiveness and more aggressive behavior towards other claimant states. In the book *Asia's Cauldron: The South China Sea and the End of a Stable Pacific*, Robert Kaplan views "China's recent naval assertiveness as nationalistic posturing and sees little chance of large-scale conflicts breaking out over uninhabited islands and open ocean." Instead, the author believes in the possibility of neighboring countries being "Finlandized", in which China's economic and military power might prompt its neighbors to align Chinese policy preferences without military conflict.⁴⁴ In recent years, China's behavior in the SCS region has become more aggressive and forceful towards many of the other claimants. Many incidents of sea altercations between Chinese patrol boats and neighboring inhabitants, mostly Filipino and Vietnamese fishermen, have been widely reported in the media. China has been accused by other claimant states of threatening and shooving away their fishing vessels for being in "self-claimed" Chinese territory. To further support China's expansion, they are expected to establish an Air Defense Identification Zone (ADIZ) in the SCS, similar to the one in the ECS. An ADIZ is simply a line established around a country warning others they are getting close to that country's territory. Aircraft entering the ADIZ are supposed to radio and get permission to cross the line.⁴⁵

China's actions in the SCS region might not be entirely in line with international law and UNCLOS but it does somehow reflect the country's foreign policy. The main goals of China's foreign policy is *1) to safeguard the sovereignty, security and development of the country's interests 2) to create a more favorable external environment for building a well-off society 3) to speed up the socialist modernization*

⁴⁴ Carolyn Posner, Review of Robert Kaplan's *Asia's Cauldron: The South China Sea and the End of a Stable Pacific*," *International Affairs Review*, Volume 13, No. 3 (Summer 2013), p. 137

⁴⁵ Harry J. Kazianis, "Why China Could Declare a South China Sea ADIZ Right About Now," *The Buzz*, February 2017
<http://nationalinterest.org/blog/the-buzz/why-china-could-declare-south-china-sea-adiz-right-about-now-19273?page=show>

4) *to actively promote peace and development in the world.* ⁴⁶ China's efforts on developing friendly relations with other states is centered around the "Five Principles of Peaceful Coexistence." ⁴⁷ As previously stated above, China enforces a delaying tactic through diplomacy. Cooperation through bilateral talks is one of their ways to show diplomatic relations with other claimants but cooperation is also the country's way to disguise its rapid aggression towards other claimant states from criticism by the international community. However, the country has not done a very good job in keeping itself from global criticism. Countries like the United States have been very vocal about its disapproval towards China's actions in the SCS region. The United States vowed that it "would make sure to protect its interests," ⁴⁸ help other claimant states to defend their territories in case of an arms race provoked by China and stressed the need for Freedom of Navigation in the SCS region.

China defends its indisputable sovereignty over the disputed islands and deployment of military facilities to surrounding territorial waters, claiming defense and self-defense purposes in case any of the other states challenges China in a military stand off. China also claims that its militarization in the disputed region is mainly for civilian purposes. ⁴⁹ A professor at Beijing University's School of International Studies, Jia Qingguo, justifies China's expansion of maritime territory by claiming islands and reefs far from its shore by arguing that China is only following the

⁴⁶ Ministry of Foreign Affairs of the People's Republic of China, "Chinese Foreign Policy," [中国外交政策], <http://www.mfa.gov.cn/chn//gxh/zlb/zcwj/t24782.htm>

⁴⁷ A series of principles which formed the foundation of the relationship between India and China.

⁴⁸ Tom Phillips, "China hits back at US over South China Sea 'takeover' claims," The Guardian, January 2017
<https://www.theguardian.com/world/2017/jan/24/trump-white-house-beijing-takeover-south-china-sea>

⁴⁹ Morgan Chalfant, "China Defends Military Presence on South China Sea Islands as Defensive, Legitimate," The Washington Free Beacon, December 2016
<http://freebeacon.com/national-security/china-defends-military-presence-south-china-sea-islands-defensive-legitimate/>

example set by the West. Jia cites an example, stating that the United States and the French which are very far from Asia have Guam and islands in the South Pacific.⁵⁰ China's forceful stance towards the disputed territory can also be justified by the importance of the SCS region, where more than ninety percent of the world's trade is conducted by water. As naval officer and strategist, Alfred Thayer Mahan, wrote in his 1890 book, 'The Influence of Sea Power upon History: 1660-1783,' under the right circumstances "sea power is key to national greatness."⁵¹

2.1.2 Philippines

The Philippines claim on the SCS disputed islands -- Scarborough Shoal and Spratly Islands, more specifically the Kalayaan Island Group (KIG) -- are more recent compared to China and is mainly based on the country's right to maritime sovereignty under the UNCLOS Exclusive Economic Zone. It is unknown if the country has historical claims to the region or if there are any official historical documents to show ties.

The Philippines can not backup their claims on the disputed islands historically but can legally. The Republic of the Philippines has always been an archipelago even during the time it was colonized by Spain and the United States. In the past, during Philippines colonization, resource-filled maritime territories in a form of a large "box" were considered part of the Philippines; however, this boxed territory did not include any of the claimed disputed territory in the SCS region (*Refer to Figure 7*

⁵⁰ Mohan Malik, China's South China Sea Claims, World Affairs, Vol. 176, No. 1 (May/June 2013), p. 83
Accessed: May 24 2017

⁵¹ Seth Cropsey and Arthur Milikh, "Mahan's Naval Strategy: China Learned It. Will America Forget It?," World Affairs, March/April 2012
<http://www.worldaffairsjournal.org/article/mahan%E2%80%99s-naval-strategy-china-learned-it-will-america-forget-it>

Below). Over the years, the Philippines abandoned the “box” and modified its claims to conform to the 1982 UN Law of the Sea Convention. After a ratification process in 2009, 80 straight baselines⁵² comprised the modern-day Philippine archipelago.⁵³ The Philippines current claims in the region might not be historically-based but they are legally-based. Although the Scarborough Shoal and Spratly Islands were not part of the country’s “boxed” territory, under the UNCLOS Article 76, stating “the continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea to a distance of 200 nautical miles from the baselines,”⁵⁴ these islands are now under Philippine sovereignty. The Spratly Islands is around 150 miles off of Palawan island of the Philippines and is around 600 miles from China’s Hainan island. Known presence in the disputed territory by the Philippines are the patrol boats in the area, the Pag-asa Island and the Sierra Madre. The Pag-asa Island is located 200 nautical miles from Palawan, the westernmost island in the Philippines. It has a civilian presence along with thirty Philippine Marines. There is an airstrip on the island but it has never been used. The citizens say that their presence on the island is the only thing keeping China from taking it over. The Sierra Madre marks the Philippines’ claim on the Second Thomas Shoal, only 120 nautical miles from the Philippines’ coast. There are currently 11 Philippine Marines on board the rusting ship which carried supplies to the island decades ago when it somehow got stuck on the reef and was never recovered.

⁵² A baseline is the line along the coast from which the seaward limits of a state’s territorial sea and certain other maritime zones of jurisdiction are measured.

⁵³ Mark E. Rosen, “Philippine Claims in the South China Sea: A Legal Analysis,” CNA Analysis and Solutions, August 2014 https://www.cna.org/cna_files/pdf/iop-2014-u-008435.pdf

⁵⁴ UN Convention on the Law of the Sea Official PDF, (Part VI, Article 76), United Nations

incidents of Chinese harassment of Filipino fishermen and patrol. Most incidents involve Chinese patrol guards attacking Filipino fishermen for being in self-proclaimed Chinese territory. One of the most recent incidents happened in April this year when stones were hurled against Filipino fishermen near the Scarborough Shoal. Another recent incident happened in May this year when Chinese vessels were spotted in the Benham Rise. In response to these incidents, the Philippines has now increased patrols to safeguard its claims in the area.

The Philippines' approach to protect its claims in SCS region from Chinese authority has differed during the former president Aquino's administration and current president Duterte's administration. During the Aquino administration in 2011, after Chinese patrols harassed a survey ship, authorized by the Philippines Department of Energy, conducting oil explorations near the Spratly islands -- an area of Philippine sovereignty under the UNCLOS EEZ -- the Philippines filed a protest with the Chinese embassy in Manila for clear violation of the Philippines right to its maritime sovereignty. Brushing aside the Philippines complaint, China responded by demanding the Philippines to first seek permission from the Chinese government before it could conduct any exploration activities in the SCS region even within the Philippines EEZ and to stop harming China's sovereignty and maritime rights which can lead to complicating and expanding the SCS territorial dispute.⁵⁶ This started the balancing policy of president Aquino to defend the Philippines against Chinese expansion in the SCS region. The former president's South China Sea policy developed the following aspects:

1) Armed Forces of the Philippines (AFP) territorial defense capabilities which goal is to maintain a strong guard against foreign intrusion or external aggression and

⁵⁶ Renato Cruz De Castro, "The Duterte Administration's Foreign Policy: Unravelling the Aquino Administration's Balancing Agenda on an Emergent China, In: Journal of Current Southeast Asian Affairs, Vol. 35, No. 3, p. 142

other illegal activities while allowing free navigation to prosper. If the deterrence fails, the last resort is to rely on hit and run tactics against the Chinese navy and air force.⁵⁷

2) Framework Agreement on Enhanced Rotational Presence and Agreement which “increases the presence of United States (U.S.) forces on a rotational basis in Philippine territory towards the development of a minimum credible defense posture to enhance maritime domain awareness and develop a deterrence capability.”⁵⁸

3) Enhanced Defense Cooperation Agreement (EDCA) which is another agreement with the United States to promote maritime security, maritime domain awareness and to advance the implementation of the Philippine-U.S. Mutual Defense Treaty.⁵⁹

4) Strengthening and promoting strategic partnership with Japan which also has an ongoing territorial dispute with China over the East China Sea. The Philippines and Japan have agreed on joint partnerships to cooperate on maritime awareness and transfer of Japanese defense equipment and technology to the Philippines.

5) An international arbitration case filed in the Arbitration Tribunal of the United Nations Convention on the Law of the Sea against China. The purpose of filing the statement of claim against China over its claims in the SCS region is not to seek arbitration over which has sovereignty over the disputed islands but to request the tribunal to issue an opinion on whether China’s claims in the SCS region based on

⁵⁷ Renato Cruz De Castro, “The Duterte Administration’s Foreign Policy: Unravelling the Aquino Administration’s Balancing Agenda on an Emergent China, In: Journal of Current Southeast Asian Affairs, Vol. 35, No. 3, p. 143

⁵⁸ Republic of the Philippines Department of Foreign Affairs, Proposed Increased Rotational Presence Framework Agreement, August 2013

⁵⁹ Republic of the Philippines Department of Foreign Affairs, Enhanced Defense Cooperation Agreement, April 2014

the nine-dash line are valid or non-compliant to the UNCLOS. ⁶⁰

During the Aquino administration, the Philippines was very vocal about its disapproval over China's expansion in the SCS and arrogant attitude against the Philippines and other claimant states. The biggest step the Philippines has taken to protect its right to maritime claims in the SCS region is petitioning the Arbitration Tribunal "to declare the Philippines is entitled to a 12-mile Territorial Sea, a 200-mile EEZ and a Continental Shelf under the UNCLOS and that China has unlawfully prevented the Philippines from exercising its rights to exploit resources and to navigate within its EEZ and archipelagic baselines."

[Renato Cruz De Castro, "The Duterte Administration's Foreign Policy: Unravelling the Aquino Administration's Balancing Agenda on an Emergent China, In: Journal of Current Southeast Asian Affairs, (2016) Vol. 35, No. 3, p. 145-146]

A final decision on the case was reached in July 2016. The Arbitration Tribunal decided that the Philippines has exclusive sovereign rights over parts of the SCS and that China's nine-dash line claim is invalid. ⁶¹ Even though, China states it will not recognize the court's authority, the case has had a large impact on swaying public opinion in the international community.

Aquino's balancing strategic approach on China while promoting partnership with the U.S. and Japan have resulted in a) strengthened alliance between the Philippines

⁶⁰ Renato Cruz De Castro, "The Duterte Administration's Foreign Policy: Unravelling the Aquino Administration's Balancing Agenda on an Emergent China, In: Journal of Current Southeast Asian Affairs, Vol. 35, No. 3, p. 146

⁶¹ Matikas Santos, "Philippines wins arbitration case vs. China over South China Sea," Inquirer.net, July 2016
<http://globalnation.inquirer.net/140358/philippines-arbitration-decision-maritime-dispute-south-china-sea-arbitral-tribunal-unclos-itlos>

and two other great powers and **b)** more constrained, but uneasy relations with the Philippines neighbor, China.

In 2016, the Philippines elected a new president -- Rodrigo Duterte. In the beginning of the Duterte administration, the newly-elected president followed Aquino's South China Sea balancing policy agenda of challenging China's expansive and aggressive claim but made it clear that there will be some changes, specifically the modernization of the program. However, after Duterte faced criticism by the international community, mainly by U.S. critics, over its war on drugs -- a policy against illegal drugs that had claimed over 9 000 lives since the president first took office -- the Philippines started to distance itself from the United States and gear towards promoting closer relations with China. The Duterte administration's SCS policy is composed of a two-step approach **1)** steer away from long-time ally, United States and **2)** seek new partnerships with other nations, particularly China and Russia. In September 2016, president Duterte ordered U.S. special forces in Mindanao ⁶² to leave the country and announced that joint patrols together with the U.S. navy will stop in Philippine territory in the SCS. In a speech by Duterte, the president states that "their (U.S. special forces and navy) presence in the country could complicate offensives against Islamist militants and might be seen by China as a provocative act." ⁶³ On the other hand, Duterte has never criticized or mentioned any changes to the Philippines strategic and security partnership with Japan. Under the Duterte administration, the Philippines is pursuing closer relations with both China and Russia, two great power rivals of the U.S., as an act to distance itself from the United States. The Duterte administration announced that it is open to bilateral talks with China in order to resolve the territorial dispute peacefully and improve relations with

⁶² The second largest and southernmost major island in the Philippines.

⁶³ Renato de Castro, "From balancing to appeasing China: The tales of two," Stratbase ADR Institute, March 2017

<https://adrinstitute.org/2017/03/30/from-balancing-to-appeasing-china-the-tales-of-two/>

China.

Many critics say that the Duterte administration's decision to alienate the U.S. and form a newer alliance with China is domestically unpopular in the Philippines since ordinary Filipinos perceive China as a threat in the ongoing SCS territorial dispute. Duterte's policy creates a set back to years of alliance between the U.S. and the Philippines. The Philippines sudden and dramatic shift towards China gives long economic and maritime allies -- U.S., Japan and ASEAN -- a troubling sense of uncertainty due to how the Philippines arbitration case against China, as well as its strong relations with the U.S. military, are perceived as "pillars of stability in the management of their own relations with China."⁶⁴

2.2 OTHER CLAIMANT STATES

Aside from China and the Philippines, some other ASEAN member nations such as Vietnam, Malaysia and Brunei also claim some parts of the South China Sea.

2.2.1 ASEAN

The Philippines, Vietnam, Malaysia and Brunei are all members of the Association of Southeast Asian Nations (ASEAN). ASEAN was formed in 1967 in an effort to fight the potential threat of communist-led insurgencies during the peak of the U.S. war in Vietnam. ASEAN is chaired by an annually rotating presidency in which decisions are reached through consultation and consensus by the fundamental principles of mutual respect, non-interference in the internal affairs of one another

⁶⁴ Renato Cruz De Castro, "The Duterte Administration's Foreign Policy: Unravelling the Aquino Administration's Balancing Agenda on an Emergent China, In: Journal of Current Southeast Asian Affairs, Vol. 35, No. 3, p. 153

and settlement of differences or disputes by peaceful manner.⁶⁵ Since the SCS is located in Southeast Asia, the SCS territorial dispute is part of the ASEAN's jurisdiction. However, the ASEAN has had difficulty in reaching consensus and agreeing on a unified SCS policy since not all ASEAN-member states are involved in the territorial conflict. Another obstacle for the group is its uncertain approach and difficulty dealing with China's self-proclaimed sovereignty over the disputed islands.

China is the largest country in Asia by population and is also the third largest trading partner of the ASEAN after the European Union and Japan. The ASEAN-China Free Trade Area (ACFTA) is the largest free trade area in terms of population -- more than 580 million -- and third largest in terms of nominal GDP, around \$6 trillion (*Refer to Figure 8 Below*). Although China and some of the ASEAN members have disagreements about the territorial dispute, officials have managed to keep tensions aside and continue to promote their growing economic relationship, as well as to upgrade a 13-year-old agreement to free up trade.⁶⁶

⁶⁵ Eleanor Albert, "ASEAN: The Association of Southeast Asian Nations," Council on Foreign Relations, September 2016

<https://www.cfr.org/background/asean-association-southeast-asian-nations>

⁶⁶ Zakir Hussain, "Asean, China to upgrade trade pact," The Straits Times, Nov. 2015

<http://www.straitstimes.com/asia/asean-china-to-upgrade-trade-pact>

Figure 8. China and ASEAN Trade Relationship



It is evident that the Southeast Asian nations have been growing anxious and worried about China's actions in the South China Sea. Like the Philippines, Vietnam has also been quite vocal about its disapproval of China's threatening actions and violations of national sovereignty. In previous years, Vietnam was not afraid to defend its rights against China as it has one of the top ten strongest and biggest military in the world. In the Battle of the Paracel Islands in 1974, the Republic of Vietnam Navy fought against the People's Liberation Army to remove Chinese presence in some areas of the Paracel Islands. However, the battle resulted to deaths from both countries and Vietnam losing. Vietnam, later on, protested to the United Nations but China, having veto power, blocked efforts to bring it up. ⁶⁷

Amid the territorial disputes, Vietnam increased its military spending in response to

⁶⁷ Toshi Yoshihara, "The 1974 Paracels Sea Battle," *Naval War College Review*, Spring 2016, Vol. 69, No. 2, pp. 41-65

China's aggression over the South China Sea. According to the Stockholm International Peace Research Institute, Vietnam increased its defense budget by 170 percent between 2004 and 2015, with a substantial growth in military expenditure over heightened tensions with China over the SCS.⁶⁸ In 2016, the country was expected to have a \$5 billion military budget to use to modernize its maritime capabilities. Vietnam and the Philippines are also in negotiations to conduct joint exercises and navy patrols in the disputed islands.

Vietnam's growing relations with the United States has China on edge. China described the Vietnamese-American relation as harmful to diplomatic relations and regional security. "What worries Beijing is the prospect of an increasingly close strategic partnership between the US and Vietnam. The lifting of the arms embargo against Vietnam is a poignant symbol of this – and a sign of just how far US-Vietnam ties have come in recent years," said Ashley Townshend, a research fellow at the United States Studies Center at the University of Sydney.⁶⁹

Unlike Vietnam, the Philippines has one of the weakest militaries in the world. Most of its defense equipment, military aircraft and naval ships are old, surplus equipment donated by the United States. The Philippines could hold its own against China in an armed conflict, provided they are backed up by the United States and Japan. Even after the Duterte administration's actions causing a setback with American relations, the Philippines continue to receive military equipment from both the U.S. And Japan, in an effort to upgrade its military capabilities.

⁶⁸ Sam Perlo-Freeman, Aude Fleurant, Pieter Wezeman and Siemon Wezeman, "Trends in World Military Expenditure, 2015," SIPRI Fact Sheet, April 2016

⁶⁹ Teddy Ng, "China 'May Need a Rethink' as Vietnam moves closer to US," South China Morning Post, May 2016
<http://www.scmp.com/news/china/diplomacy-defence/article/1958839/china-may-need-rethink-vietnam-moves-closer-us>

American and Philippine forces conduct joint patrols in the South China Sea region and are planning to start joint air operations over the area soon. China expressed its unhappiness towards the increased involvement and military presence of the United States in the disputed region. China sees the U.S.-Philippines alliance and cooperation as a big threat and think that it is leading to the militarization of the region.

The Philippines initiated proceedings against China as a legal base for its territorial claims. The case was filed in the Permanent Court of Arbitration in the Hague, Netherlands. The arbitration court is an international institution assisting temporary tribunals to resolve disputes among states. The Philippines won the arbitration case against China over the legality of China's nine-dash line claim over the South China Sea under the UNCLOS.

China disapproves of multilateral negotiations with its neighboring countries and insists on bilateral agreements between interested countries. As a step to peacefully resolve the conflict with China, the ASEAN has been making efforts to make the DOC into a more binding code of conduct. Over the past fifteen years, the DOC has only been a non-binding statement between ASEAN and China reaffirming that its adoption would "promote peace and stability in the region and agree to work, on the basis of consensus, towards the eventual attainment of this objective."⁷⁰ This year, China and the ASEAN-member nations finally agreed on an initial framework on how the DOC will be formally implemented.⁷¹

⁷⁰ Association of Southeast Asian Nations, "Declaration on Conduct of Parties in the South China Sea," Point 10, November 2002

⁷¹ Reuters, "China, ASEAN agree on framework for South China Sea code of conduct," May 2017 <http://www.reuters.com/article/us-southchinasea-china-philippines-idUSKCN18E1FS>

However, China's recent desire to work on agreements with the ASEAN has been perceived as suspicious by many scholars and critics. Richard Heydarian, an expert on politics and international affairs at Manila's De La Salle University, said "China's strategy was to project an image of being a responsible stakeholder rather than an aggressor. China wants to avoid being bound to rules that could weaken its geopolitical position should the United States assert itself in the South China Sea. China's desire to agree on a symbolic framework is only a ploy to show the U.S. and the international community that China is dealing with ASEAN on a very diplomatic level but nothing significant enough to operationally restrict their ability to respond if the Trump administration takes a tougher position."⁷²

As stated in an article from 2013 written by Carlyle A. Thayer, "Current territorial and maritime jurisdiction disputes in the South China Sea are the major irritant in relations between China and the claimant states of Southeast Asia -- Brunei, Malaysia, the Philippines, and Vietnam. But unlike 2012, China now faces a more unified and determined ASEAN. Although bilateral frictions will persist between China and individual claimant states, China increasingly will find that its national interests are better served by a unified ASEAN that upholds Southeast Asian autonomy in its relations with external powers, and maintains its centrality in the region's political and security architecture." [*Carlyle A. Thayer, "ASEAN, China and the Code of Conduct in the South China Sea, SAIS Review of International Affairs, Volume 33, No. 2, Summer-Fall 2013, pp. 75-84*]

2.3 NON-CLAIMANT STATES

⁷² Manuel Mogato and Martin Petty, "Push for South China Sea code stirs ASEAN suspicious about Beijing's endgame," Reuters, April 2017
<http://www.reuters.com/article/us-southchinasea-asean-analysis-idUSKBN17T0A5>

In the South China Sea, China's aggressive assertiveness continues to raise regional tensions with its neighbors. The territorial dispute has raised awareness in the international community. Other non-claimant countries have voiced out their opinions, concerns and support towards the Philippines and China.

2.3.1 United States

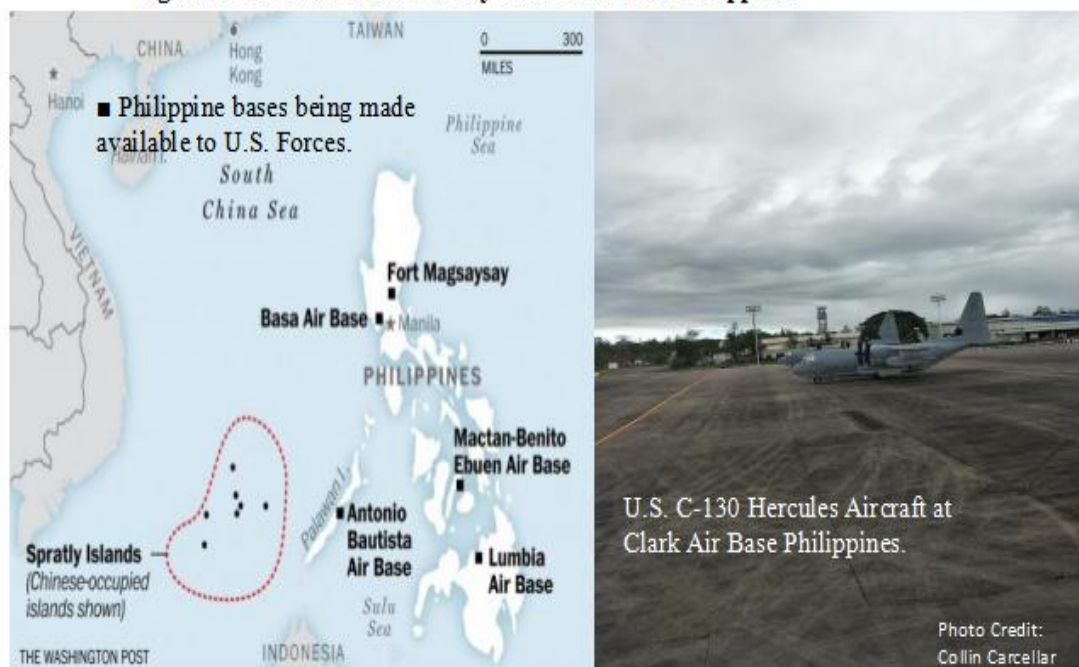
The United States has no claims to the South China Sea. However, the country is a long standing ally of the Philippines. The two countries alliance goes back 60 years and has been described by former US Defense Secretary, Ash Carter, as an "ironclad" relationship.⁷³ The United States is bound to the Philippines by the Mutual Defense Treaty which states that the US will do its best and everything it can to help provide defense assistance to the Philippines. The two countries have conducted joint patrols in the region and have signed the Enhanced Defense Cooperation Agreement which allows the US military to use parts of Philippine military facilities. There currently are no US military bases in the Philippines but there is visible presence of their military in the country (*Refer to Figure 9 Below*). Another joint program between the two countries is the Balikatan -- meaning shoulder to shoulder -- exercise. The 2 weeks long exercise improves the ability of both nations to work together during planning, contingencies and humanitarian assistance and disaster-relief operations which were described by Ash Carter in a speech during his visit to the Philippines.⁷⁴ Together, the two nations' militaries

⁷³ Carla Babb, "Carter: US-Philippines Military Relationship 'Ironclad'," VOA News, September 2016 <http://www.voanews.com/a/carter-us-philippines-military-relationship-ironclad/3531327.html>

⁷⁴ Terri Moon Cronk, "Carter: Balikatan Exercise Demonstrates Close U.S., Philippines Relationship," DoD News, Defense Media Activity, April 2016 <https://www.defense.gov/News/Article/Article/722432/carter-balikatan-exercise-demonstrates-close-us-philippines-relationship/>

provided medical care to local communities, improved joint command and control, and rehearsed maritime interdiction operations to expedite responses to threats on the seas.

Figure 9. United States Military Presence in the Philippines



The United States relationship with the Philippines is not its only reason for activity in the region. The country also has both economic and political interests in the region. The U.S. is the Philippines third largest partner after China and Japan. In 2016, U.S. exports to the Philippines increased 9 percent up to \$8.3 billion. A few years ago, former U.S. President Obama announced America's pivot to Asia. America's re-balance to the Asia-Pacific aims to strengthen and modernize alliances. Every year, around \$1.2 trillion of U.S. trade goods travel through the South China Sea. The United States is also a long standing supporter of the freedom of navigation and flights over the sea. During former Defense Secretary Ash Carter's two-week trip to India, the Philippines, United Arab Emirates and Saudi Arabia, he spoke about how the Defense Department is making new investments in the region,

deepening bilateral relationships, strengthening long-time alliances and deepening ties with newer partners. He also added that the U.S. re-balance to Asia-Pacific is more than just Freedom of Navigation operations, it is a whole program of enhanced activities intended to maintain peace and security in the region.⁷⁵ The United States supports Freedom of Navigation all over the world and believes that the South China Sea territorial dispute must be settled through peaceful resolution and not by militarization.

A continuity of the pivot to Asia is, however, uncertain under the new U.S. President, Donald Trump, administration. President Trump has not focused much of his attention towards the ongoing dispute in the SCS region nor in the Asia-Pacific region as a whole. An indication of his priorities was his week-long visit to the middle east and Europe. But he also challenged China with sending ships and reconnaissance planes through the SCS. In May 2017, a U.S. Navy warship -- the USS Dewey -- sailed very close to the Mischief Reef where China has built up an artificial island in the Spratly islands.⁷⁶

The United States has also started to improve relations with Vietnam. In 2016, former U.S. President Obama visited Vietnam to promote economic and strategic ties, as well as to lift the ban on the sale of military equipment to Vietnam. Carl Thayer, a Southeast Asia regional specialist, said U.S. and Vietnam have a “growing convergence of strategic interests” to challenge China’s dominance.⁷⁷

⁷⁵ Cheryl Pellerin, “Carter: DoD Takes Next Step in Sustaining Asia-Pacific Rebalance,” DoD News, Defense Media Activity, April 2015

⁷⁶ Channel News Asia, “In first under Trump, US warship challenges Beijing’s claims in South China Sea,” May 2017
<http://www.channelnewsasia.com/news/asiapacific/in-first-under-trump-us-warship-challenges-beijing-s-claims-in-8880810>

⁷⁷ Rishi Iyengar, “What To Know About President Obama’s Visits to Vietnam and Japan,” Time Magazine, May 2016 <http://time.com/4344515/obama-asia-trip-vietnam-japan-embargo-hiroshima/>

In the past year, there has been a Chinese versus American showdown in the South China Sea. Both countries have been upping the risk of an “accident” in the disputed region. The United States routinely conducts aerial reconnaissance and sends ships through the SCS. Particularly worrisome to the Chinese are the US Navy P-8 Poseidon flights (*Refer to Figure 10 Below*). The P-8 conducts anti-submarine warfare, anti-surface warfare, and shipping interdiction, along with an early warning self-protection ability, otherwise known as electronic support measures.⁷⁸ This involves carrying torpedoes, depth charges, Harpoon anti-ship missiles, and other weapons. It is able to drop and monitor sonobuoys.

Figure 10. U.S. Navy P-8 Poseidon Reconnaissance Aircraft over South China Sea



Source: Boeing. <http://www.boeing.com/defense/maritime-surveillance/p-8-poseidon/index.page#/gallery>

In May 2016, a U.S. guided missile destroyer ship, called William P. Lawrence, traveled within twelve nautical miles of the Fiery Cross Reef. China launched

⁷⁸ Wikipedia, “Boeing P-8 Poseidon,”

https://en.wikipedia.org/wiki/Boeing_P-8_Poseidon#cite_note-northropgrumman.com-8

aircraft and warships to “expel” the U.S. ship from Chinese territorial waters. Another incident, which the Pentagon described as an “unsafe” intercept, was of two Chinese J-11 aircraft flying within 50 feet of a United States EP-3 reconnaissance plane that was conducting routine missions over the South China Sea.⁷⁹ U.S. ships and air crafts are challenged and intercepted by the Chinese; however, the U.S. has chosen to ignore their warnings of intrusion into their airspace and waters, leading to some close calls. Some analysts say that the United States and China are engaged in what theorists call a “game of the chicken,” with each side sending a message to the other side what their fighting capabilities are.⁸⁰

A good explanation for U.S. involvement in the SCS territorial dispute can be explained by analysis conducted by Joshua P. Rowan. Rowan explains that there are two major reasons: “First, the PRC treats the nine-dashed line as a de jure claim to the entire sea region. If this claim were accepted, freedom of navigation there would virtually vanish, crippling seafaring transportation in Southeast Asia. Second, concomitantly, after ratifying the 1992 ASEAN Declaration on the South China Sea, Beijing drew territorial lines around the Paracel Islands and then suggested that it might take similar action on the Spratlys. If this notion were accepted, the PRC could demand that vessels entering and leaving the South China Sea obtain China’s permission to do so, further restricting international sea lanes. As Harvey Feldman, a former U.S. ambassador in Asia noted, this action would turn the South China Sea into a “Chinese lake.””

[Joshua P. Rowan, “The U.S.-Japan Security Alliance, ASEAN, and the South

⁷⁹ Jamie Crawford, “Pentagon: ‘Unsafe’ Intercept Over South China Sea,” CNN Politics, May 2016

<http://edition.cnn.com/2016/05/18/politics/pentagon-south-china-sea-intercept/>

⁸⁰ Panos Mourdoukoutas, “South China Sea Dispute: Who Will Chicken Out, China Or The US?,” Forbes, May 2016

<http://www.forbes.com/sites/panosmourdoukoutas/2016/05/31/south-china-sea-dispute-who-will-chicken-out-china-or-the-us/#b62b02928b0b>

2.3.2 Japan

Japan's involvement in the SCS began during World War II, when the country occupied the Spratlys and the Paracel Islands as part of its territory in the Asia-Pacific. From 1977 to 1992, as an effort to become an economic leader in Southeast Asia, Japan increased its development aid to Southeast Asian countries from \$1.42 billion to \$50 billion. However, in the 1990s, Japan's influence and involvement Southeast Asian affairs declined due to economic restrictions and political challenges from regional rivals particularly China. ⁸¹

Japan's interest in the SCS is linked to securing access to trade routes which is crucial for shipment of Japanese goods to global markets. Japan also has an ongoing territorial dispute with China and Taiwan in the East China Sea. Japan has shown support to ASEAN particularly the Philippines in its claim to the South China Sea. In early 2016, Japan has signed a deal with the Philippines to provide defense equipment and technology to help build closer security ties. The country has sent submarines and naval-defense equipment to the Philippines. Japan also expressed interest in participating and taking part in the Balikatan exercise regularly. Japan has also sold maritime vessels to Vietnam in the past and has recently promised to supply Vietnam new patrol boats. ⁸² Japan is scheduled to send its Izumo helicopter-carrying warship to the SCS for three months before heading to the Indian

⁸¹ Roslan Rahman, "Japan Taking a New Role in the South China Sea?," Stratfor, September 2011
<https://worldview.stratfor.com/article/japan-taking-new-role-south-china-sea>

⁸² Mai Nguyen and My Pham, "South China Sea: Japan to supply new patrol boats to Vietnam," The Sydney Morning Herald, January 2017
<http://www.smh.com.au/world/south-china-sea-japan-to-supply-new-patrol-boats-to-vietnam-20170117-gtsu10.html>

Ocean for joint drills with the U.S..⁸³

China perceives Japan's continued support to the ASEAN-member nations in the SCS territorial dispute as inappropriate and intimidating. Xinhua News, the official press agency of China, reported that a Chinese foreign ministry spokesperson stated that Japan "had inflamed the (South China Sea) issue recently, much to the dissatisfaction of the Chinese people. Unless Japan shifts direction, China will definitely respond to any action that harms China's sovereignty and security."⁸⁴

2.3.3 Russia

Like the United States, Russia has also focused on developing its economic and diplomatic ties in the Asia-Pacific region. One-fourth of Russia's massive military modernization program through 2020, is designated for the Pacific Fleet, headquartered in Vladivostok.⁸⁵ Russia and the Association of Southeast Asian Nations (ASEAN) have finalized an agreement to deepen political, security, counter-terrorism and economic cooperation based on principles of equality, mutual benefit and shared responsibility to promote peace, development and social progress in the Asia-Pacific region with a view to working towards a strategic partnership.⁸⁶

⁸³ Franz-Stefan Gady, "Japan Maritime Self Defense Force to Send Largest Carrier to the South China Sea," *The Diplomat*, March 2017

<http://thediplomat.com/2017/03/japan-maritime-self-defense-force-to-send-largest-carrier-to-the-south-china-sea/>

⁸⁴ Ralph Jennings, "Japan Is Becoming Player in South China Sea Sovereignty Dispute," *VOA News*, March 2017

<http://www.voanews.com/a/japan-player-south-china-sea-sovereignty-dispute/3773376.html>

⁸⁵ ISN Security Watch, "Putin's Plan In The South China Sea," *Oil Price*, April 2017

<http://oilprice.com/Geopolitics/International/Putins-Plan-In-The-South-China-Sea.html>

⁸⁶ Sok Khemara, "Russia Wades Into South China Sea Dispute With ASEAN Accord," *Voice of America*, May 2016 <http://www.voanews.com/content/russia-asean-south-china-sea/3336191.html>

Russia has been a long time strategic partner of China. The two countries have increased their economic, diplomatic and security relationship amid the South China Sea territorial dispute. Russia has voiced support for China's stance on the South China Sea issue, saying that the dispute should be resolved peacefully through talks, negotiations and agreements between the countries involved and without the interference of other nation states. Russia and China's most recent partnered actions in the SCS was the "Joint Sea 2016." Both Russian and Chinese naval forces conducted joint exercises in a course of eight days in the SCS after the arbitration ruling against China's claims in the SCS region.⁸⁷ Some experts believe that the China-Russia partnership's main aim is to destabilize and decrease American influence in the Asia-Pacific region.⁸⁸

Under the Duterte administration, Russia has also been developing closer relations with the Philippines. President Duterte has always been vocal about how he admires President Putin, the leader of Russia. Under the Duterte administration, the Philippines foreign policy has been steering away from its long time ally, the U.S. and drifting towards Russia and China. The relations between Russia and the Philippines had always been low key ever since the two nations established diplomatic ties 41 years ago partly due to the Philippines' alliance with the U.S. But this changed when Duterte took office. Presently, Russia and the Philippines have been talking about doing joint military exercises. The two countries growing alliance started when the Russian military vessels led by Rear Admiral Eduard Mikhailov visited the Philippines early this year. During the admiral's visit in the

⁸⁷ Brad Lendon and Katie Hunt, "China, Russia begin joint exercises in South China Sea," CNN News, September 2016 <http://edition.cnn.com/2016/09/12/asia/china-russia-south-china-sea-exercises/>

⁸⁸ Michael Clark & Anthony Ricketts, "Should America Fear The China-Russia Relationship," The National Interest, February 2016 <http://nationalinterest.org/feature/should-america-fear-the-china-russia-relationship-15075>

Philippines he made it clear that the Philippines can either “choose to cooperate with the United States of America or to cooperate with Russia.”⁸⁹ Russian--Philippines relations are expected to continue growing closer as President Duterte visits Russia at the end of May 2017. The Philippines president’s visit to Russia marks its commitment to seek new partnerships and strengthen defense and trade ties with Russia.⁹⁰

Although Russia is continuing to pursue stronger relations with China and the Philippines, -- both rival claimants in the SCS territorial dispute -- Russia claims to be an extra-regional player with no stakes in the dispute. Russia states that the country “had never been a participant of the SCS disputes and considers it a matter of principle not to side with any party.”⁹¹ However, many international relations experts and critics believe that Russia has strategic interests and goals involving the SCS. Russia’s pivot to Asia involves it to likely exchange diplomatic and security capabilities for economic cooperation. Russia’s Asia policy will focus less on its relations with China and push toward other Asian countries.⁹² Russia’s ongoing ties with the claimant states in the SCS region is not only a chance for it to advance its place in the Asian balance of power but is also a sign of its more influential role to possibly encourage the rival claimants to multilateral negotiations.⁹³

⁸⁹ Gavin Fernando, “Russia offers to conduct joint military exercises with the Philippines in the South China Sea,” News.com.au, January 2017

<http://www.news.com.au/world/asia/russia-offers-to-conduct-joint-military-exercises-with-the-philippines-in-the-south-china-sea/news-story/a13dedc86d701082b57814cc49c2a39c>

⁹⁰ Dharel Placido, “Duterte to fly to Russia for ‘landmark visit’,” ABS-CBN News, May 2017

<http://news.abs-cbn.com/news/05/19/17/duterte-to-fly-to-russia-for-landmark-visit>

⁹¹ ISN Security Watch, “Putin’s Plan In The South China Sea,” Oil Price, April 2017

<http://oilprice.com/Geopolitics/International/Putins-Plan-In-The-South-China-Sea.html>

⁹² Anton Tsvetov “Russia’s Tactics and Strategy In The South China Sea,” Asia Maritime Transparency Initiative, November 2016 <https://amti.csis.org/russias-tactics-strategy-south-china-sea/>

⁹³ Polina Tikhonova, “South China Sea: Russia Gets Involved For Its Own Strategic Purposes,”

ValueWalk, April 2017

<http://www.valuwalk.com/2017/04/south-china-sea-russia-gets-involved-for-its-own-strategic->

Based on the information in this chapter, China's military build up in the SCS and disregard of the Philippines sovereignty over some parts of the SCS region under the UNCLOS is a serious concern not only for the Philippines but also for the ASEAN and the international community. It is to conclude that many nation states are involved in the SCS territorial dispute. Although China and the Philippines are the most vocal claimants in the territorial disputes, other ASEAN nations and the non-claimant states such as Japan, United States and Russia play key roles in the course of how the territorial dispute will continue in the coming future. The territorial dispute can not be addressed without the contributions or complications of other ASEAN member nations, United States, Japan and Russia because they have a vested interest in the SCS region. It is important for the non-claimant states to maintain their stance and support for Freedom of Navigation in the sea as well as encourage the rival claimants to be open to multilateral negotiations to peacefully resolve the territorial dispute and avoid a possible arms race in the SCS region.

Chapter 3 - CHINA VS PHILIPPINES

3.1 POSSIBLE OUTCOMES OF THE DISPUTE BETWEEN CHINA AND PHILIPPINES

Tensions are continuing to rise in the SCS as neither of the two major claimants, China and the Philippines, are willing to give up on their competing claims in the region. The SCS region is becoming a potential flash point and slowly exploding militarily. The Philippines exerting their rights could set off conflict with China. At the same time, it is inevitable there will be a confrontation between U.S. reconnaissance aircraft and ships and the Chinese military. It is difficult to tell who

goals/

will claim what in the South China Sea in the future. If China will ultimately take over all the islands within the nine-dash line or if the Philippines will have full sovereignty over their claimed territory free from Chinese interference. Based on China and the Philippines national positions and the role of the ASEAN, Japan, United States and Russia in managing the conflict between the two major claimant states there are a few scenarios on how the SCS territorial dispute might play out.

The following possible future outcomes of the dispute are based on the information gathered in this dissertation and the writer's own understanding and opinion of the dispute. The possible outcomes of the territorial dispute are results of the past and current relations of the People's Republic of China and the Republic of the Philippines. There are four possible outcomes of how the dispute between the two major claimant states will result to:

Scenario 1: *China takes all.* In this scenario, China will take over the entire South China Sea while the Philippines and other claimant states maintain a passive stance. As Philippine president Duterte shifts his country's foreign policy towards a stronger alliance with China, the Philippines becomes more vulnerable to unpredictable actions of China. A famous quote from the Art of War, "All warfare is based on deception. Hence, when we are able to attack we must seem unable; when using forces, we must appear inactive; when we are near, we must make the enemy believe we are far away; when far away, we must make him believe we are near."⁹⁴ Sun Tzu's idea fits perfectly in this situation because firstly, the Philippines has a weak military. In 2015, a U.S. based military enthusiasts' group ranked the Philippines armed forces sixth among the worst military organizations in the world.⁹⁵ Under

⁹⁴ Sun Tzu, "The Art of War," 15th Century B

⁹⁵ GMA News Online, "Says US Military Enthusiast Site PHL Armed Forces 6th Worst Military Organization in the World," GMA Network, October 2015

the Duterte administration, the Philippines have been modernizing its military ships and aircraft to boost its fight against Islamist militants in the Southern region of the country and enhance maritime security. In mid-2016, the country's defense spending was increased by 14 percent which equated to \$2.8 billion being added to the armed forces defense budget.⁹⁶ However, even with its modernization, the Philippine military "still does not have the assets necessary to defeat China in a war," president Duterte explains in many of his speeches.⁹⁷ Duterte's weak military stance against China is evident when the president pulled back from placing the country's flag on one of the islands in the Spratlys as a mark of Philippine sovereignty over the Sprat islands. Second, China is one of the Philippines major trade partners. The total trade between China and the Philippines in 2016 amounted to almost \$10 billion (*Refer to Figure 11 Below*).⁹⁸ The Philippines Board of Investors (BOI) have recently announced that Chinese investors intend to explore business operations in the country, lining up new projects worth at least \$10 billion.⁹⁹ China's expected big economic investments in the Philippines which will give China more over telling the Philippines what to do. The Philippines will unlikely challenge China due to the investments and fear of China stopping or cutting down trade with the Philippines. These factors are all seen by China as an opportunity to allow it to play against the Philippines weaknesses in order to take over the South China Sea. The Philippines simply does not have a strong enough defense system

<http://www.gmanetwork.com/news/news/content/541585/phl-armed-forces-6th-worst-military-organization-in-the-world/story/>

⁹⁶ Manuel Mogato, "Philippines eyes 14 percent defense budget rise to secure seas, fight rebels," Reuters, September 2016 <http://www.reuters.com/article/us-philippines-defence-idUSKCN11B19E>

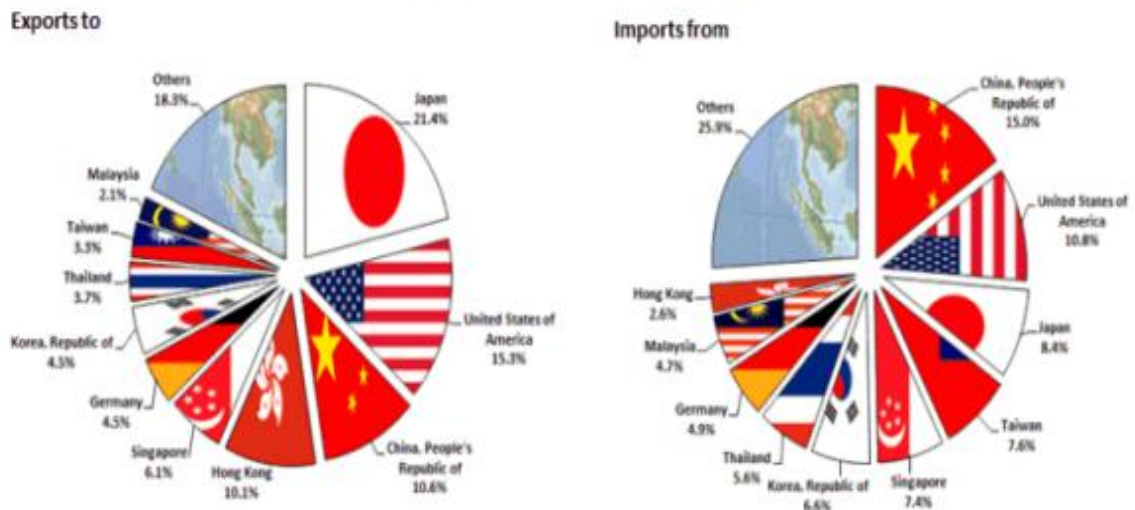
⁹⁷ Frances Martel, "Duterte Promises China 'Not Even One Gun' In South China Sea After Call For Occupation, Breitbart, April 2017
<http://www.breitbart.com/national-security/2017/04/10/duterte-promises-china-not-even-one-gun-in-south-china-sea-after-call-for-occupation/>

⁹⁸ Embassy of the Philippines, Beijing, China, "PHL-China Relations, 菲中关系," GOVPH, November 2016 <http://beijingpe.dfa.gov.ph/phl-china-relations>

⁹⁹ Richmond Mercurio, "\$10 B Chinese investments eyed," Philippine Star, March 2017
<http://www.philstar.com/business/2017/03/04/1677638/10-b-chinese-investments-eyed>

and has too much to lose economically if it challenges China over the South China Sea so it will likely allow China to take over the entire South China Sea in order to avoid confrontation and a war the Philippines can not win. So the Philippines will continue on its course of appeasement and simply hope for the best.

Figure 11. Major Trading Partners of the Philippines in 2016



Scenario 2: *The big brother outcome.* The Philippines gains limited sovereignty over its claimed territory under Chinese supervision. In this scenario, bilateral talks between China and the Philippines will be somewhat successful. As a result the Philippines will have limited sovereignty over the Scarborough Shoal and Spratly islands as long as the country seeks China’s permission before doing any resource or oil explorations in the SCS region while China takes over the rest of the remaining disputed territory. This scenario seems plausible because **a)** the Philippines is continuing its efforts to promote relations and economic partnership with China and China is also open to bilateral talks with any of the claimant nations. **b)** The arbitration case implications -- To avoid more attention from the international community and confrontation with other great nations, such as the United States in support of the Philippines, China might recognize the Philippines victory in the Arbitration Tribunal. This will allow the Philippines to have limited sovereignty

over its claims under the UNCLOS EEZ. This can be like a big brother solution where the Philippines has to ask China before they do anything in the SCS. c) Joint energy development -- China can allow the Philippines to have Scarborough Shoal and the Spratly islands under the condition that the two countries agree to jointly explore the resource-rich areas of the SCS. The two countries are planning talk for a joint development of hydrocarbon reserves in the disputed parts of the South China Sea. ¹⁰⁰ d) Philippines economic lifeline -- The Philippines will most likely agree to this arrangement with China because of the sea. The Philippines depends upon the sea for almost everything, from food to livelihood. In Robert D. Kaplan's book, 'Asia's Cauldron: The South China Sea and the End of a Stable Pacific,' Kaplan assesses one of the Philippines' vulnerabilities stating that "the sea is the country's economic lifeline for everything from fishing to energy exploration. The potential loss of access to new hydrocarbon reserves in areas of the South China Sea, as well as the loss of access to existing fisheries constitutes a national security nightmare for Manila." ¹⁰¹ Overall, this scenario is somewhat peaceful with long-term gains and a little loss for both the countries.

Scenario 3: *The Philippines and China go to war.* China's continued aggression in the SCS and Duterte's balancing act between the United States and China can potentially cause an arms race in the SCS region. Recent events in the SCS suggest that a war between the two major claimant nations is possible. In early May this year, China's president, Xi Jin Ping, warned the Philippines that it would go to war if the Philippines insisted on enforcing the Arbitration Tribunal's ruling in The Hague.

¹⁰⁰ Stratfor, "Philippines: Envoy Pushing Joint Energy Development In South China Sea," May 2017 <https://worldview.stratfor.com/situation-report/philippines-envoy-pushing-joint-energy-development-south-china-sea>

¹⁰¹ Book Review Editor - Ali Wyne, 'Asia's Cauldron: The South China Sea and the End of a Stable Pacific,' by Robert D. Kaplan," Law Fare, May 2014 <https://lawfareblog.com/asias-cauldron-south-china-sea-and-end-stable-pacific-robert-d-kaplan>

Even though, president Duterte is open to talks with China to avoid confrontation, he will not allow China to deny the Philippines rightful and legal claims in the SCS. Filipinos are very nationalistic and the president does not want to be perceived weak by its constituents. President Duterte's strategy of pivoting towards China and steering away from the U.S. but at the same time not completely cutting ties is his way of playing all angles in case of a military confrontation with China. A war between China and the Philippines may happen because of Chinese and American military encounters in the SCS. It is possible that the two great powers, China and United States, have a military "showdown" in the SCS to finally crown the strongest nation in the Asia-Pacific. A war in the SCS is a big consequence to global trade. Since the SCS serves as the most direct sea route between Asia and the West, a war in the region can be costly for the shipping industry in many countries. Avoiding the disputed territories leads to more expensive shipping costs and an increase in fuel costs globally.¹⁰² This scenario is the least hoped for by all the countries involved; however, with China and the Philippines exerting their rights and the United States intervention, this scenario may be the most likely future outcome of the territorial dispute.

Scenario 4: *Philippines takes all.* It is possible that with the attention the territorial dispute is getting from the international community, the claimants will be willing to resolve the dispute peacefully and abide by the Arbitration Tribunal's decision. Bilateral talks between China and the Philippines can result to a peaceful resolution between the two major claimant countries without the use of military force. If the Philippines, backed up by the ASEAN, makes a deal with China in regards to

¹⁰² Justina Crabtree, "Why disruption in the South China Sea could have 'gigantic' consequences for global trade," CNBC, July 2016
<http://www.cnbc.com/2016/07/18/why-disruption-in-the-south-china-sea-could-have-gigantic-consequences-for-global-trade.html>

the DOC, there could be rules for all the claimants to follow on who and how to manage the islands and reefs in the SCS region. Sun Tzu states in his book ‘The Art of War’, “The supreme art of war is to subdue the enemy without fighting.”

3.2 SUGGESTED RESOLUTIONS FOR THE DISPUTE

Considering all the different aspects and prevalid conditions of the dispute between China and the Philippines, the suggested resolutions can be drawn:

1) A legal solution. Adopting a legal solution can be helpful for China and the Philippines as well as all the other claimants because it provides a long term fix for the dispute. China and the Philippines can mutually agree on appealing to an international tribunal court to act as a judge enforcing international laws over the territorial dispute.¹⁰³ The Philippines has already brought China in front of a tribunal court but China refused to cooperate. In this suggested solution, China must be willing to cooperate. Perhaps with more pressure from other countries and the UN, China will abide by a new ruling. The two countries can also agree on a binding mutual contract to have a set of regulations to follow as a basis for their SCS policies and strategies. As a step to achieve a legal solution, China and the Philippines with the cooperation of the rest of the ASEAN member nations must enforce the DOC. The DOC can ensure a long term agreement among all the claimant states to resolve the dispute peacefully, fairly and quietly without militarizing the SCS region.

¹⁰³ LawTeacher. November 2013. South China Sea Disputes And Resolution International Law Essay
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<https://www.lawteacher.net/free-law-essays/international-law/south-china-sea-disputes-and-resolution-international-law-essay-law-international-essay.php?cref=1>

2) A balance of power. With many countries involved in the dispute including great powers such as China and the United States, it is important for countries to not use full force and have a balance of power. It is important for the United States, a country that could face China head to head, to step aside and allow China to claim its long-pursued dominant position in the Western Pacific without letting China force its neighboring countries to abide with China's foreign policy rules. As Robert Kaplan states in an interview with The WorldPost editor Nathan Gardels, "The United States must not let China "finlandize" its neighbors in the the Asia Pacific. But neither can the United States allow Japanese, Filipino or Vietnamese nationalism to force the United States into a military conflict with China. The United States can preserve the peace by seeking not domination, but a favorable balance of power with China. It must at some level allow China its rightful place in the Western Pacific."¹⁰⁴ To maintain a balance of power in the SCS region, the Philippines and other claimant states must preserve cooperation with China while non-claimant states maintain a neutral stance and encourage peace through ensuring the enforcement of the Freedom of Navigation.

3) Cooperative Management. For the Philippines and China, the sea is an important economic resource. Both countries want to explore the South China Sea's oil and gas resources as well as fish and other marine life. Like many of the claimant states, the Philippines does not have resources or a budget to be able to afford long-running developments and explorations in the SCS region like China does. However, China does not have the legal claim to conduct exploration activities in the region like the Philippines does. With both countries having something to gain from each other, it is necessary to set aside differences and

¹⁰⁴ Nathan Gardels, "Robert Kaplan: The End Of A Stable Pacific," TheWorldPost, December 2014 http://www.huffingtonpost.com/2014/03/27/robert-kaplan-pacific_n_5037726.html

cooperate on joint development activities to get the resources they want. China and the Philippines can cooperate on joint activities to explore oil and gas resources and to develop fisheries management, marine safety and marine scientific research that could benefit both countries economically.¹⁰⁵

As a summary to this chapter, it is important to note that even though there are several possible outcomes resulting from the territorial dispute between China and the Philippines, the most likely scenario may not be a peaceful one. It is inevitable there will be a confrontation among the two major claimant states. Even with a possible dangerous outcome, a chance for a peaceful resolution between the countries is not impossible. In order to achieve a peaceful resolution, China and the Philippines must be willing to set aside their policy differences. They must also invest their efforts into producing cooperative bilateral agreements to mutually benefit from what the South China Sea can offer.

CONCLUSION

The South China Sea territorial dispute between the Philippines and China proves to be a matter of international significance. Due to the strategic and economic importance of the SCS, the claimants are reluctant to resolve the issue. If either of the two major claimants retract their claims or make any concessions, it will be costly for them domestically and be interpreted as a sign of weakness regionally.

Permanent peace between China and the Philippines is unlikely. Even though both countries have agreed to bilateral talks, neither of the countries are willing to back

¹⁰⁵ Sam Bateman, "The Only Way to Solve the South China Sea Showdown," *The National Interest*, August 2016
<http://nationalinterest.org/blog/the-buzz/the-only-way-solve-the-south-china-sea-showdown-17424>

down from the dispute. China's aggression and response to the Philippines that it will go to war if ever the Philippines marks its claims and drills for oil in the SCS, is resulting in a much more dangerous situation with increased tensions in the troubled waters. The territorial dispute is working against one of China's major foreign policy principles, which is based on the "Five Principles of Peaceful Coexistence," maintaining friendly relations with its neighbors. China's aggressive assertiveness and problematic relations with the Philippines is a setback to its emerging global policy.

On the other hand, the Philippines balancing act is also proving to be a dangerous strategy in the dispute with China. Although, Philippine president Duterte is trying to improve relations with China and gain support from Russia, he has not yet completely cut ties with the United States. Duterte has always been vocal about how he thinks the Philippines does not need the U.S. and is canceling joint patrols with the country entirely but his spokespeople always make it clear to the public that the president does not really mean what he says. Duterte's unpredictable thinking is evident to the Philippines strategy of playing all sides and angles. Duterte has not carried out much of divorcing the Philippines from the United States, it is only talk for show in order for him to act upon what is called "engagement with insurance." He is taking a balancing approach expecting that the Philippines can get concessions from China, Russia and the U.S. in terms of military hardware, capital investment and general support.

As mentioned in the previous chapter, the most likely scenario of the dispute is a regional war provoked by China and the Philippines. A war between the two claimants, even a limited one, will affect both neighboring and other nations around the world. A war in the SCS has serious economic implications. Since the SCS

serves as one of the major trade routes between Asia and the rest of the world, the flow of commerce between many countries will be greatly affected.

It is hard to say who will claim the SCS but one thing is certain, the Philippines has a better chance of standing up against China if it has the support of external powers such as the ASEAN, United States and Japan. In order for the Philippines to not be eaten by China, it must not be afraid of tension. The Philippines must learn how to manage China's provocative actions and rising power and influence in the Asia-Pacific. The Philippines must boost its relations with allies and partners like the U.S. to be able to resist China's threats and oppression. The Philippines must be able to stand strong against China without damaging its diplomatic and economic relationship with China.

Overall, the South China Sea is called a flash point because of how critical and tension-filled the region is. The claimant states are no closer to resolving the dispute and the non-claimant states play a big role in keeping the peace between all the states involved. There are many uncertainties in regards to what will happen in the SCS in the future. But one thing is certain, the South China Sea is a potential flash point where a simple mistake in policy or navigation can lead to militarization or even another world war.

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