

# South China Sea Dispute: Notes for UPSC International Relations

The South China Sea dispute involves both island and maritime claims among several sovereign states within the region, namely Brunei, the People's Republic of China (PRC), the Republic of China (ROC/Taiwan), Indonesia, Malaysia, the Philippines, and Vietnam.

This article will explain in great detail about the origins, recent events and India's role in the dispute. The information provided will be useful for candidates attempting the IAS Exam this year.

## Origins of the South China Sea Dispute

- China laid claim to the South China Sea (SCS) back in 1947. It demarcated its claims with a U-shaped line made up of eleven dashes on a map, covering most of the area. Later, the Communist Party, which took over in 1949, removed the Gulf of Tonkin portion in 1953, by erasing two of the dashes from the original eleven dashes to make it a nine-dash line.
- The 'nine-dash line' stretches hundreds of kilometers south and east of its southerly Hainan Island, covering the strategic **Paracel** and **Spratly island** China asserts its claims over the Paracel and Spratly island groups by citing 2,000 years of history, when these two island chains were regarded as its integral parts.
- This historical claim by China has been rejected by Vietnam- instead, Vietnam justifies its own claims, on the basis of written records, which, in its view, establishes its administration over the area since the 17th century.
- The dispute around the South China sea primarily engages the following countries directly- China, Vietnam, the Philippines, Malaysia, Brunei, and Taiwan. The extra-regional countries who are also affected by the dispute, and who have legitimate interests in the region, include the United States, Japan, India, and Australia.
- The maritime interests of these countries are heavily invested in the Sea Lanes of Communication in the South China Sea. It is thus, this issue holds an important sway in that of a secure and peaceful Asia.

## Latest News about the South China Sea

- The **Permanent Court of Arbitration (PCA)**, based in The Hague, Netherlands, recently ruled that China's claims of historical rights over the South China Sea (SCS) has no legal basis. The case against China was initiated by the Philippines.
- The Permanent Court of Arbitration (PCA) has ruled that China's claims to the waters within the "nine-dash line", was in breach of the UN Convention on the Law of the Sea

(UNCLOS). The court also observed that China has caused “severe harm to the coral reef environment” by building artificial islands.

- The Philippines had lodged the suit against China in 2013 and has welcomed the ruling, but China has reacted furiously, saying that it "does not accept and does not recognise" the decision.
- China had even refused to participate in the case, saying that the tribunal had "no jurisdiction" over the issue.
- It is important to note that this ruling comes at a critical juncture, as China bolsters its global economic status. China has a long-standing ambition to be accorded recognition as a market economy under the World Trade Organization (WTO).
- With reference to the current ruling by the tribunal, the U.S. can't exert much moral pressure as it has not even ratified the United Nations Convention on the Law of the Sea (UNCLOS). Conversely, since both China and the Philippines have ratified the UNCLOS, there is more pressure on China to comply.



### Reasons for the stalemate on a possible solution

- ASEAN member nations, namely, Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam, often show signs of anxiety whenever claimants over the South China Sea, most often China, escalate the conflict.
- In fact, one of the fundamental principles of the Association of Southeast Asian Nations (ASEAN) has been to resolve disputes by peaceful means and to reach agreement by a consensus.

- But on the issue of the South China Sea, ASEAN has been unable to formulate a consensus policy. Reasons for this can be attributed partly to the fact that not all 10 ASEAN members are claimants to the South China Sea. While another reason is that members of ASEAN have overlapping claims among themselves. Moreover, bilateral relations between China and some smaller ASEAN members, such as Laos and Cambodia, are also a factor. Because of its economic and military power, China has been able to win over some ASEAN members.
- In fact, when China insisted on talks among the parties concerned, the claimants in ASEAN wanted to pursue it through multilateralism or the Court of Arbitration. Thus, the existence of two opposing approaches was, and continues to be a major challenge for bringing a mutually acceptable solution to the South China Sea disputes.

## **The Indian Context**

- It is important to note that in July 2014, an Arbitration Tribunal, set up under the Permanent Court of Arbitration, delivered its ruling, in the matter of the Bay of Bengal Maritime Boundary Delimitation between India and Bangladesh. The maritime boundary so delimited covered the territorial sea, the special economic zone (SEZ) and the continental shelf.
- The United Nations tribunal awarded Bangladesh 19,467 sq. km of the 25,602 sq. km sea area of the Bay of Bengal.
- India has been widely credited, with her acceptance of the decision and the manner in which she has abided by it. This is an example which China should be encouraged to emulate. In fact, it is interesting to note that the US has asked China to learn from India's handling of its maritime disputes with its neighbours- referring to the maturity with which India has agreed to the settlement on the maritime boundary with Bangladesh.
- Under the 'Act East' policy, India has been taking a higher position at the global high table- this was reflected in the joint statement issued in September 2014, by the Governments of U.S. and India when Indian PM Narendra Modi, travelled to U.S. The joint statement "urged the concerned parties to pursue resolution of their territorial and maritime disputes through all peaceful means, in accordance with universally recognized principles of international law, including the United Nations Convention on the Law of the Sea." The joint statement also, "affirmed the importance of safeguarding maritime security and ensuring freedom of navigation and overflight throughout the region, especially in the South China Sea."
- In the wake of the recent judgement by the Permanent Court of Arbitration, it is a good time for India to assert that it believes in global commons, and in freedom of navigation. India has rightfully not come out in 'open' support of the verdict from the tribunal, as any overt support to this verdict might run against India's ambitions of securing membership into the NSG- where China's support is needed.
- India has legitimate commercial interest in the South China Sea (SCS) region. But India follows the policy of not involving itself in the disputes between sovereign nations.

- India has been concerned about the security of its trade-flows and energy interests in the South China Sea. Vietnam has offered India seven oil blocks in its territory of the SCS- this move didn't get down well with China. India has signed energy deals with Brunei too.
- India has been a strong advocate of the idea of freedom of navigation. This belief is strongly echoed by most other major powers, including the U.S.

## **Possible Way Forward**

China operates from a position of strength in the South China Sea, wherein it has physical control over critical islands in the region, coupled with this, her policy of gradual militarization of the disputed islands in the South China Sea, would impact freedom of navigation- making China the main arbiter of the accepted range of 'legitimate' operations in the South China Sea.

Also, although the ruling is historic, the tribunal lacks powers to enforce its rulings, it is important that the claimant nations do not escalate the issue, but work on arriving at a consensus through effective diplomacy.

Judicial verdicts on issues of contested sovereignty have had historical precedents of triggering a nationalist backlash. It is thus important to consider possible solutions to this dispute. Some measures are as under:

- To resolve the disputes peacefully, the claimants in the region should be willing to abandon their confrontational attitude, and instead agree to find a middle path- even if this requires sacrificing certain portions of their claims.
- All claimants can perhaps limit their claim to the areas of 200 nautical miles of the Special Economic Zone in accordance with the United Nations Convention on the Law of the Sea (UNCLOS). Thus, by agreeing to such a proposal, the claimants can also reach an agreement to leave international waters for free navigation.
- Another possible solution would be for the parties concerned to establish a common ownership of the disputed areas whereby all the revenues from the South China Sea are equitably shared among the littoral countries.
- Perhaps another possibility would be for the disputing countries to specifically lay out their claims and allow a neutral party to adjudicate on the basis of the UNCLOS or any other relevant international laws.