

PAMUN XVII RESEARCH REPORT— THE QUESTION OF THE SOUTH CHINA SEA

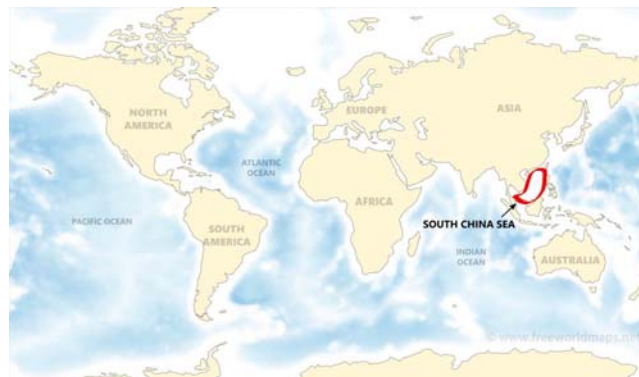
Introduction of Topic

For decades, the South China Sea, a strategically crucial maritime territory, has caused great contention between China and several Southeast Asian nations. The dispute involves competing island and maritime claims among China, Brunei, Malaysia, the Philippines, Taiwan, and Vietnam. In 1946, China issued a map delineating its territory and marked the 'nine dash line', claiming approximately 70 percent of the South China Sea. However, Beijing's neighbors disagree with this boundary, defending their own rights to the nautical territories. In addition to the argument of natural resources, international law, and risk of escalated conflict, the controversy has also shone a light on a larger question: China's rise into a dominant world power.

Definition of Key Terms

South China Sea

Located in the Pacific Ocean in Southeast Asia, the South China Sea is surrounded by China, Taiwan, the Philippines, Malaysia, Brunei, Indonesia, Singapore, and Vietnam. It consists of 1.4 million square miles and is home to over 30,000 small islands and reefs including the contentious Spratly Islands, Paracel Islands and Scarborough Shoal. The United States Energy Information Agency estimates that there are 11 billion barrels of oil and 190 trillion cubic feet of natural hydrocarbon gas in deposits under its waters. The sea contains lucrative fisheries, that according to estimates, account for 10 percent of the global total. Most importantly, it serves as a trade route. According to the American Department of Defense, \$5.3 trillion worth of goods moves through its waters every year - about 30 percent of



global maritime trade.

South China Sea location

The United Nations Convention on the Law of the Sea (UNCLOS)

The United Nations Convention on the Law of the Sea of 1982 states that countries control the territorial waters within 200 nautical miles (370 km) off their shores. These are called the Exclusive Economic Zones (EEZ). Where the zones overlap, states need to agree on the borders. Areas that do not fall under EEZ's are considered high seas, which are international waters that are free for navigation. China, Brunei, Vietnam, the Philippines and Malaysia have all ratified the treaty.

Exclusive Economic Zone (EEZ)

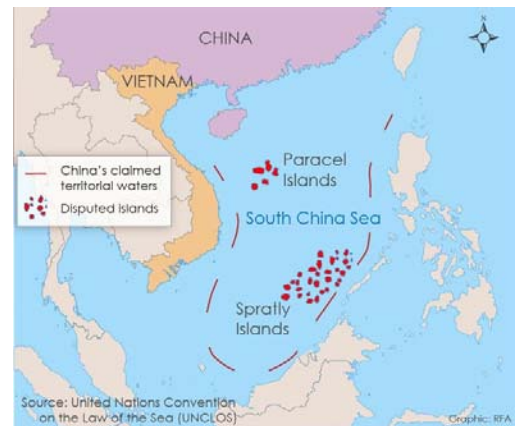
The concept of an EEZ was adopted at the Third United Nations Conference on the Law of the Sea and dictates that a coastal state has jurisdiction over the exploration and exploitation of territory and resources 200 miles from its shore. Many claimant nations attest that areas of the South China Sea are rightfully theirs as their EEZ includes them.

High Seas

The high seas are open to all States and are not within any country's jurisdiction. These are considered international waters and are free of navigation. However, China and Taiwan consider areas of territory on the high seas of the South China Sea theirs due to historical claims and the 'nine-dash line'.

'Nine-dash line'

The 'nine dash line' was drawn by China in 1946 and encompasses a vast stretch of ocean beginning from China's Southern coast throughout most of the South China Sea. Although it has no clearly defined coordinates, China considers itself entitled to those maritime waters, of which include the Scarborough Shoal, and the Spratly and Paracel Islands. The line disputably covers sectors claimed by Brunei, Malaysia, the Philippines, Taiwan, and Vietnam. In addition, it extends miles beyond China's EEZ as defined by the UNCLOS treaty. For Beijing, the line represents its rightful historical claims. For the other nations, it embodies a power grab by China. In response to conflicting opinions, the United Nations (UN) Arbitral Tribunal ruled in the 2016 Philippines v. China case that the 'nine-dash line' and all corresponding claims were invalid.



The 'nine-dash line'

Scarborough Shoal

Abundant in resources and fish life, the Scarborough Shoal is a small rings of reefs a little over 100 miles from the Philippines and 500 miles from China. Although it is inside the Philippines' EEZ, both China and Taiwan also claim it.

Spratly Islands

Key for economic and political reasons, the Spratly islands are disputed by China, Taiwan, and Vietnam, who historically claim the territory, and by the Philippines, Malaysia, and Brunei, as their UNCLOS EEZ encompasses them.

Paracel Islands

The Paracel Islands include about 130 strategically vital coral islands and reefs. They are occupied by China but also claimed by Vietnam, as their EEZ includes the islands, and Taiwan, who claims historical sovereignty.

Background Information

Origins of the conflict

Economic

When China first marked its right to almost the entirety of the South China Sea in 1947 with the 'nine-dash line', other claimants did not respond. But, in the 1960's, large oil reserves and natural gas were discovered under the sea. In addition, it became apparent that a thriving fishing industry lay in its waters. Nations knew the only way to extract resources and obtain fishing rights in the lucrative areas was having sovereignty over the islands. Thus, countries began to counter China's claims and the dispute arose.

Legal

All claimants base their initial claims to the land on the United Nations Convention of the Law of the Sea (UNCLOS), stating that they have ownership of their 200 nautical mile EEZ's. However, several EEZ's in the South China sea overlap, causing conflict among the countries. Also, many nations claim territories in each other's exclusive economic zones not only on a legal basis but also on historical discoveries and acquisitions.

Overlapping Claims

The parties involved in the South China Sea discord assert sovereignty of islands due to jurisdiction under interpretations of the provisions of UNCLOS as well as historical evidence. The highly controversial mainlands are the Scarborough Shoal and the Spratly and Paracel Islands.

Scarborough Shoal

Rich in marine life, the Scarborough Shoal lies about 230 kilometres from the Philippines and 650 kilometres from the nearest Chinese land mass. Although it is in the Philippines' EEZ, China and Taiwan also claim it falls within their sovereign territory. After a standoff with the Philippine Navy in April 2012, China took control of the shoal and began blocking Filipino fishermen from entering it.



The Scarborough Shoal location

Spratly Islands

The Spratly Islands are part of a crucial trade route in which merchants transport goods and products to other Southeast Asian regions. Moreover, the islands are considered indispensable due to vast potential sources of natural gas and oil under their seabed. China, Taiwan, and Vietnam have made claims to them based on historical sovereignty. In 1988, China occupied the Johnson South reef after a naval battle fought against Vietnam in what is known as the “Johnson South Reef Skirmish”. The Philippines also claims the Spratly as according to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the Spratly Islands lie within the Philippines 200-mile EEZ. Malaysia and Brunei also state the islands are part of their exclusive economic zones.



The Spratly Islands location

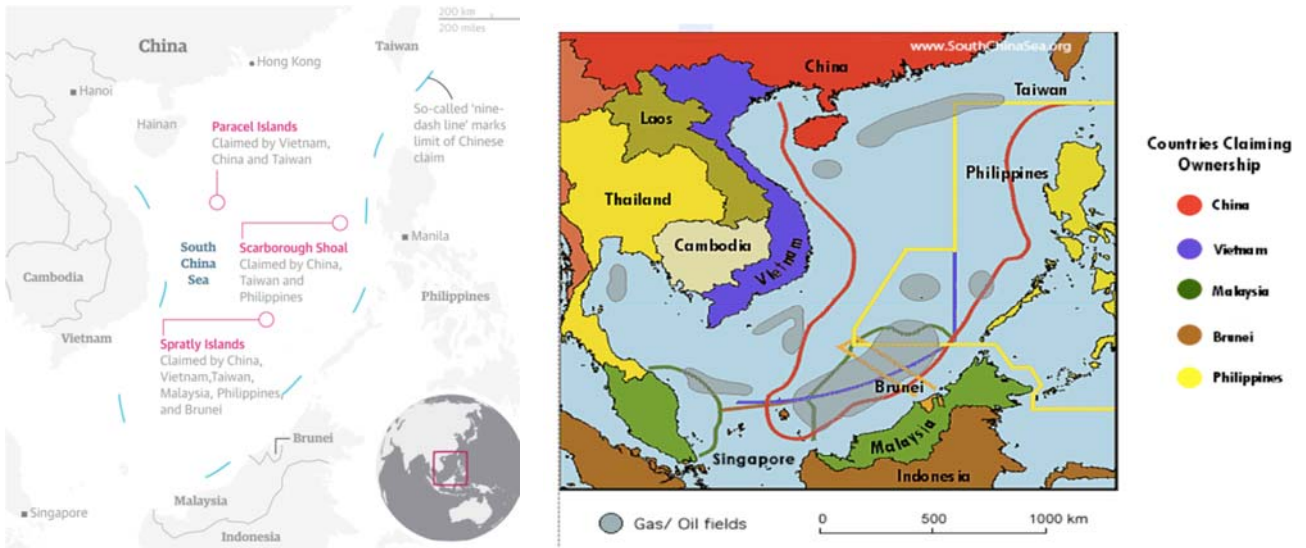
Paracel Islands

The Paracel Islands lie within China and Vietnam's EEZ. The Paracel are currently controlled by China but also claimed by Taiwan and Vietnam. Beijing argues that after the Sino-French War, France recognized the Paracel Islands as Chinese territory in return for Chinese recognition of Vietnam as a French colony. China formally conquered the island in 1974 during the Battle of the Parcel Islands. The Vietnamese recently confronted the Chinese in the “2014 Haiyang Shiyou 981 standoff” when the China National Offshore Oil Corporation moved its oil drilling platform near Paracel island waters that Vietnam considered were theirs, thus proving how the sovereignty question still remains unresolved.



The Paracel Islands location

Contending claims to the South China Sea amongst Southeast Asian nations.



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Dominating the South China Sea

Claimant States wish to acquire rights to abundant fishing areas and exploration of oil and gas in the sea beds of the South China Sea. Moreover, they seek strategic control of important shipping lanes. To bolster their positions against each other and solidify their claims, China and its rivals are building artificial landmasses in the contested areas and transforming them into defense outposts.

Artificial Islands

By packing sediment onto existing coral reefs and land masses, all claimants besides Brunei have built islands large enough to support military installations (including air units, radar stations, missiles, and guns). China has outpaced its competitors and has expanded seven since 2014. The U.S. claims China has added almost 3,200 acres, or 14.5 square miles, to the Spratlys.

Militarisation

Satellite images reveal that the Chinese have installed missile and high frequency radar systems on the Paracel and Spratly islands as well as built airstrips ready to receive military equipment. China, Vietnam, the Philippines, Taiwan and Malaysia have also built airstrips, enabling them to fly in arms and control air and sea traffic.

Major Countries and Organizations Involved

People's Republic of China (PRC)

China bases its claim of the 'nine dash line' primarily on historical background. According to Chinese history, the Spratley and Paracel islands were first discovered by the Han Dynasty in 110 AD and the Ming Dynasty from 1403-1433 AD. Moreover, the Paracel islands are in China's EEZ. China has been affirming its control in the South China Sea through expansion, despite rulings stating that it should cede such actions. Its neighbors consider these efforts as dangerous and as ambitions for China to dominate the region while disregarding international norms. Beijing, on the other hand, sees opposition as a plot to constrain the country's rise.

Vietnam

Vietnam claims both of the Spratlys and Paracel islands since the 1970's. Their argument is that in the 1930's, France claimed the Spratly and Paracel Islands on behalf of its then-colony Vietnam; also, the Paracel fall under Vietnam's EEZ (which also overlaps with part of China's). Vietnam has occupied a number of the Spratly. Meanwhile, the Paracel effectively went under Chinese control in 1974 when they were seized in the Battle of the Parcel Islands.

Philippines

The Philippines claims clearly defined coordinates of the South China Sea, most notably the Scarborough shoal and Spratly islands as they are both in their EEZ. The fact that the Scarborough shoal is 400 nautical miles closer to the Philippines than to China and well within the Philippine EEZ bolsters its claim.

Taiwan (ROC)

Like China, Taiwan claims the legitimacy of the 'nine dash line', which includes over 70 percent of the South China Sea. Taiwan, which is not a member of the United Nations, is likewise not a party to the UN Convention on the Law of the Sea (UNCLOS). However, they inherited their claims from the Republic of China after the Chinese civil war.

Malaysia

Malaysia claims dozens of Spratly islands that are in their EEZ. They do not acknowledge China's 'nine-dash line', stating that it is not in accordance with international law. Thus, they have occupied three Spratly islands, justifying their actions with the UNCLOS treaty.

Brunei

In 1982, Brunei signed the United Nations Convention on the Law of the Sea (UNCLOS) and gained an EEZ of 200 nautical miles. Today, they claim part of the Spratly islands as their exclusive economic zone comprises it.

United States

Approximately \$1.2 trillion of US-traded goods pass through the South China Sea each year. As the world's strongest economy and greatest naval power, its key goal is maintaining open sea lanes. America has sent their military on "freedom of navigation operations" to ensure freedom of the seas and is bound by the Mutual Defense Treaty with the Philippines. U.S. officials insist that they do not oppose China's rise. They are, however, concerned by China's willingness to overturn the postwar system of international laws and institutions set in place.

Association of Southeast Asian Nations (ASEAN)

The ASEAN is an intergovernmental organization that was formed by Indonesia, Malaysia, the Philippines, Singapore, and Thailand on August 8th, 1967. Membership has expanded to include Brunei, Cambodia, Laos, Myanmar, and Vietnam. Escalated tensions in the South China Sea have brought the conflict to the top of the agenda of ASEAN. However, on top of being disunited, the ASEAN do not serve as a counter balance to China due to their inferior economic and military position.

Timeline of Events

Date	Description of event
1946	China published their map claiming all of the South China sea maritime territory within the 'nine-dash line'.
August 8th, 1967	The ASEAN was created.
1974	Battle of the Parcel Islands: China seized the Parcel Islands from Vietnam, killing over 70 Vietnamese troops.
1982	The United Nations Convention on the Law of the Sea (UNCLOS) was concluded.
1988	Johnson South Reef Skirmish: Vietnam and China fought a naval battle on Johnson Reef in the Spratlys. It resulted in the death of 64 Vietnamese soldiers and the Chinese occupying the reef.
1991	China passed the "Law on the Territorial Sea and the Contiguous Zone of the Republic of China." They stated principles that formalised their claims to the Paracels and Spratlys islands.
2000	Filipino troops killed and arrested Chinese fishermen.
2002	The Declaration on the Conduct of Parties in the South China Sea was signed by China and the ASEAN members. Its provisions are not respected.

2011	The “2011 agreement” was reached by China, Brunei, Malaysia, the Philippines and Vietnam but its clauses have not been not adhered to.
2011	A resolution in the US senate condemned China's use of force in the South China sea and called for the international community to counter their efforts. China rejected the resolution.
April 2012	Scarborough Shoal standoff: China took effective control of the Scarborough after confronting the Philippine Navy. They blocked Filipino fishermen from entering the shoal afterwards.
2012	Anti-China protests arose in Vietnam after hearing rumors that the Chinese navy sabotaged two Vietnamese vessels.
2014	Haiyang Shiyou 981 standoff: China moved a drilling oil rig into what Vietnam considered were its territorial waters near the Parcel islands. 80 Chinese vessels clashed with Vietnamese vessels in the area. This triggered large scale anti-Chinese riots in Vietnam in which 21 Chinese died.
2015	Satellite images revealed that China is building an airstrip for aircraft to land on their artificial islands in the Spratly. China insists that the airstrip is for civilian purposes and not militarisation.
2015	Taiwan launched a “South China Sea Peace Initiative” proposing that all claimant nations should focus on negotiating the territory and resources. No agreements were reached.
July 12th, 2016	In Phillippines v. China, The Permanent Court of Arbitration in the Hague ruled that the Chinese ‘nine dash line’ has no legal basis. China rejected the legal decision.
May 18th, 2017	China and its Southeast Asian neighbours agreed to draft a code of conduct in the South China Sea. The code has not yet been concluded and is unfortunately predicted to fail with no authority to enforce it.

Relevant UN Treaties and Events

- United Nations Convention on the Law of the Sea (UNCLOS), 10 December 1982
- Declaration on the Conduct of Parties in the South China Sea, 4 November 2002
- Oceans and the Law of the Sea, 24 December 2011 (A/RES/66/231)

Main Issues

Sovereignty

Sovereignty of areas in the South China Sea is the major question that remains undefined. All nations defend their jurisdictional claims legally by the UNCLOS treaty and their 200 miles EEZs, or by historical evidence of occupation and discovery. However, these assertions overlap one another. While negotiations are absent, relentless militarization and acquisition of the sea due to sovereignty claims persists.

Fair distribution of natural resources

All nations wish to take advantage of the South China Sea as it clearly holds strategic and political importance. Not only is it home to thousands of fish species crucial for fishing industries, it also contains energy reserves and is an indispensable trade route.

Asia's strong economic growth boosts demand for energy in the region. The U.S. Energy Information Administration (EIA) projects that consumption of liquid fuels in Asia will rise at a rate of 2.6 percent each year. With the production of oil estimated to remain flat while demand increases, nations wish to claim sovereignty of areas that would yield new sources of energy. Yet, no agreement has been reached on how the resources should be shared, leaving all countries battling for the territories.

Freedom of the seas

Freedom of navigation has become a problem in the South China Sea. China insists that foreign vessels must seek advance permission to sail in within its 'nine-dash line' and has confronted ships that it claims are in its waters. In 2016, a U.S. navy ship sailed near islands claimed by China in the South China Sea and received a warning from Chinese warships to leave the area. This incident foreshadows how China and other ASEAN nations may further deny access to South China Sea lanes, a very significant issue seeing that \$5 trillion of trade travel through its waters every year.

Destruction of the environment

The South China Sea is one of the world's five leading fishing zones. The fishery employs over 3 million people and highly contributes to the global fish trade. An alarming problem is that the South China Sea dispute is decimating fish stocks and endangering marine life. Since claims to territory overlap, all States fish in the same lucrative areas they deem are theirs. Violence towards fishermen has erupted as competing claimants wish to prevent the others from fishing in their waters.

Moreover, fishers use destructive practices of dynamite and cyanide fishing. Dynamite fishing uses explosives to kill schools of fish for easy collection and is extremely destructive to the surrounding ecosystems. Cyanide fishing entails spraying sodium cyanide into the fish's habitat to stun and obtain them, which also hurts the marine organisms and reefs. The fish in the South China Sea provide a source of vital

survival to millions of people living in the surrounding nations. However, with no regulations set in place, the overfishing and destructive practices on all sides persist.

Dangers of Militarization causing confrontation

Claimant nations are gradually militarizing the South China Sea, increasing the risk of a spiraling conflict. Satellite images reveal that China has installed weapon systems on seven artificial islands in the Spratly. The Center for Strategic and International Studies said images show large anti-aircraft guns, anti-missile systems and radar facilities. All other claimants are following this example and building airstrips on their man-made islands to transform them into powerful sea bases. As military equipment is being landed and tensions are boiling, the risks of armed aggression increases.

Interpretation and applicability of international law

With the exception of China and Taiwan, all the claimants of the South China Sea have attempted to legally justify their claims based on their coastlines and the provisions of UNCLOS. China, however, relies on a mix of historic rights and legal claims, while remaining ambiguous about the historical claim of the 'nine-dashed line'. For order to be achieved, nations must work within international laws. However, that has not been the case. Countries have extended their claims beyond their legal EEZ's and rejected arbitrations. Codes of conduct are not being followed or enforced, leaving chaos in the region.

The balance of power

The growth of China's military power and undefined political intentions have increased fear amongst its neighbors. In less than four decades, it has transformed itself from a closed-off nation in poverty to an emerging superpower that has surpassed the ASEAN nations and rivals the United States. By modernizing its maritime forces and naval capabilities, it is willing to enforce its sovereignty claims by force if necessary. China obtaining complete control of the 'nine dash line' has caused anxiousness amongst the ASEAN countries as it would perturbingly disrupt the balance of power in the South China Sea.

Previous Attempts to solve the Issue

Declaration on the Conduct of Parties in the South China Sea

In 2002, China and the ASEAN nations signed the Declaration on the Conduct of Parties in the South China Sea. The treaty reiterates respect for freedom of navigation and urges the parties to resolve the conflict by peaceful means. For example, to resolve territorial and jurisdictional disputes without resorting to the threat or use of force and instead initiate cooperative trust-building activities. The sovereignty problem was not mentioned and the clauses of the treaty have been disobeyed.

2011 agreement

On July 20th 2011, China, Brunei, Malaysia, the Philippines and Vietnam agreed to a set of guidelines known as the “2011 agreement.” The terms of the consensus covered marine protection and freedom of the seas - but the crucial issue of oil and natural gas drilling was not touched upon.

Philippines v. China

In January 2014, the Philippines appealed against China’s claim to territories within the ‘nine-dash line’, stating that it was unlawful under UNCLOS. In 2016, the **United Nations (UN) Arbitral Tribunal** backed the Philippines, ruling that there was no evidence that China had historical exclusive control over the waters. China rejected the ruling, insisting that any resolution of the matter should be made through bilateral negotiations with the other countries. The legal ruling is not enforced; thus, hostilities continue.

South China Sea Peace Initiative

In 2015, Taiwan launched a ‘South China Sea Peace Initiative’ in which it proposed that all parties should put their sovereignty claims to the side and instead focus on negotiating resource-sharing agreements. No settlements of this kind have been reached.

Code of Conduct

As of 2017, ASEAN and China have mutually been drafting a code of conduct to be respected in the South China Sea. Outlines have stipulated that the dispute should be dealt with in accordance to international law and that military force should be restrained. The final code has not yet been established. However, there are concerns on its applicability and ASEAN’s capacity to solve the problem. Since ASEAN members consist of diverse cultures with an unconnected history, melting down national interests for a common stance proves to be difficult. Moreover, ASEAN nations are economically and technologically behind China, giving them little leverage when it comes to bargaining and enforcing the conduct.

Possible Solutions

Bolstering the ASEAN

Today, China is not inclined to comply with terms as it surpasses all other claimant States economically and militarily. Therefore, the international community must first and foremost reinforce the ASEAN nations to raise them on the same foothold as China. Once this is achieved, ASEAN nations will pose a counter balance to Beijing and have the ability to negotiate fair sovereignty lines.

ASEAN members such as Vietnam and Indonesia must be supported to enable the increase of their growth domestic products (GDP’s) to create a more favorable economic balance of power in the

South China Sea. This may be done through technological development and through bolstering trade with Western nations. Protective defense alliances between the ASEAN countries, European members, and the United States would also be a worthy initiative to create a sounder military balance.

Resource Use Agreements

Once ASEAN nations have firm negotiating power, agreements on natural resources should materialize. Whether or not sovereignty has been resolved, all parties may agree to concentrate on the distribution of the resources in the South China Sea, including the reserves of oil, gas, and abundance of fish. Agreements could be reached in which claimants split specific sectors for resource exploitation and management. Or, nations could reach an understanding with a country ceding sovereignty claims in return for economic preference.

Another possibility would be to co-explore. Joint development of petroleum, for example, could reduce tensions between the nations in regards to energy security. Moreover, parties could also cooperate on increasing the use of alternative energy sources in order to reduce reliance on hydrocarbons.

Environmental

According to estimates, fishing should be reduced by 30 percent. The ideal solution would be to define the nation's sovereignty to the lands, thus delineating their fishing rights. If each owner has a vested interest in an area of reef, they are more likely to look after it and make sure that nobody is destructively fishing within it. Otherwise, another solution would be implementing specific fishing quotas and enforcing legal consequences if they are not implemented.

Sea Operations

"Freedom of the seas" missions should continue to ensure that sea lanes are navigable and that commercial trade is not blocked by vessels claiming that they have exclusive ownership of the waters. In addition, naval peacekeeping forces could be sent to areas of possible contingency with the task of mediating potential escalated conflict.

To conclude, all aspects are of utmost importance, yet their applicability is highly dependent on the negotiation power of the ASEAN countries. It is in all nation's best interest to secure a balance of forces that ensures the economic, political, and environmental stability of the South China Sea.

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Appendices

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