

South China Sea : Platform for prosperity or arena for altercation?

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ABSTRACT

The South China Sea provides a critical passage to a significant volume of global seaborne trade and a lifeline for East Asian economies which depend on energy imports from the Middle East. The Sea also features stunning mega biodiversity and rich fishing ground and is believed to contain prolific deposits of hydrocarbon energy resources. Several nations in the region are involved in overlapping territorial claims in the Sea. Some claimants have defended their interests in a vigorous manner which have led to conflicts and in the Sea. It is feared that if not managed and settled amicably, these claims may turn the Sea into a flashpoint that will threaten regional prosperity and stability. This paper highlights the economic and strategic importance of this strategic body of water as a prelude to discussing the overlapping claims by several nations on parts of the sea. It warns against overzealous acts by nations to stake their claims that may pose a threat to security, stability and prosperity in the region and may invite the presence of outside powers keen to capitalize on such situation. It strongly advocates using trade and economic development as a common denominators to foster cooperation among the nations as a way to ease tension arising from their claims in the sea. The paper recommends several policy options – including introducing a binding Code of Conduct, exploring joint exploration and increasing cooperation in areas such as navigation safety and resource management – towards making the Sea a platform of prosperity for its littoral nations.

Key words : South China Sea, maritime trade, overlapping territorial claims

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Air yang tenang jangan disangka tiada buaya
Do not think still waters contain no crocodiles
(Malay proverb)

1. Strategic Sea, essential area

The importance of South China Sea (SCS) as a Sea line of communication (SLOC)¹ is well documented. This great Sea stretches from the west coast of Singapore in South East Asia to Taiwan PRC in the Far East (Figure 1). It contains over 200 islands, many of which are submerged islets, rocks and reefs which are unsuitable for human habitation.²



Source : <http://upload.wikimedia.org/wikipedia/commons/5/53/SouthChinaSea.png>

Figure 1. Map of South China Sea

1 The concept of Sea lane of communication describes a sealane which facilitates significant volume of trade and is heavily used by merchant vessels. Such a sealane also has high strategic values from a military point of view, and contains chokepoints that can lead to its closure in the event of incidents such as collision, pollution and attack on ships.

2 Anon (Mar. 2008) *South China Sea : Background*. <http://74.125.153.132/search?q=cache:dzk497f64sMJ:www.eia.doe.gov/emeu/cabs/schina.html+south+china+sea+area&cd=3&hl=en&ct=clnk&gl=my> (Last accessed on 23 Oct. 2009)

The Sea has a stunning amount of biodiversity and marine resources, including huge sources of hydrocarbon energy, fisheries and approximately 30% of the world's coral reefs.³ Providing the shortest route between the Pacific and Indian Oceans, SCS is a virtual maritime superhighway that acts as a conduit to facilitate trade between China and India, and between East Asia / South East Asia (SEA) and the Middle East since ancient times to this day.

Straddling over one of the busiest maritime areas in the oceans, SCS acts as a conduit to East-West trade. It facilitates the transportation of much the oil from the Middle East to resource-hungry countries in the Far East - namely China, Japan, Taiwan PRC and South Korea - from mainly the Middle East and increasingly from South America and Africa. They also import raw materials and commodities such as gas, coal and primary commodities from South Asia, South East Asia and Australia. All kinds of goods produced by these Asian economic powerhouses are also exported to their trading partners via this pivotal body of water. The Sea also facilitates intra-regional trade of SEA. Further underlining its importance, it is estimated that SCS facilitates the movement of over half of the world's oil tanker traffic and over half of its merchant vessels (by tonnage) annually.⁴

Along the coasts of SCS are among some of the world's biggest and busiest container ports such as Singapore, Hong Kong and Kaohsiung ports. SCS borders countries such as China, Taiwan PRC, Thailand, Malaysia, Singapore, Indonesia, Brunei and Philippines ; which contribute significantly to the rise of global maritime trade.

The massive importance and calm appearance of SCS belies the simmering tension arising from overlapping territorial claims and counterclaims in the region. The long history of strife in the region has left a legacy of disputes and tension that can potentially threaten peace in the region. It unwittingly provides a stage for powerful nations to flex their muscles and display power projection. Analysts have expressed worries that the Sea will become a battleground among military powers intend to exert their supremacy and protect their stakes. On the basis of a recent announcement by a certain regional naval power to increase patrols in disputed areas to fortify its claims, there is validity in those concerns.⁵

The situation - coupled with unflinching positions taken by nations to protect their interests, the outright dismissal of the claims of others, and the distorted interpretation of international laws - gives rise to anxiety among less powerful claimant nations.⁶ If the tension be left to simmer, it could come to boiling point and pose a serious threat to stability in the Sea and its surrounding areas. It could also lead to intervention of outside powers which are always sniffing out for any opportunity to play a role in this region.

3 Anon (2009) *The South China Sea*. <http://community.middlebury.edu/~scs/intro.html> (Last accessed on 23 Oct. 2009)

4 *Ibid.*

5 Anon (17 Apr. 2009) *China to increase naval power*. <http://news.bbc.co.uk/2/hi/8003515.stm> (Last accessed on 26 Oct. 2009)

6 *Ibid.* China was reported to describe the claims by other nations on oil-rich parts of the South China Sea where it also has interest as “unfounded territorial claims”.

2. South China Sea as a trade sealane

The SCS approximately occupies an area of 648,000 square miles⁷ and features some of the world's most strategic energy shipping routes that serve much of the maritime trade between East Asia and South Asia, Persian Gulf, Africa, Europe and the Americas. A glance at the map of the SCS region reveals why the region's islands and peninsula are wedged between the Pacific Ocean to the east and the Indian Ocean to the west, while its north-south maritime path links Australia and New Zealand to the vibrant East Asian economic region. Due to the littoral nature of most nations in the SCS vicinity, much of intra-regional trade depends on the shipping lanes in SCS, as does much of the trade between nations in the region and the rest of the world. Put it simply, maritime trade among the SCS region and many other economic regions would not thrive without the safe passage of SCS.

Merchant shipping (by tonnage) in SCS mainly features the transportation of raw materials to East Asian countries, but the share of containerized cargo shipment is fast increasing. The region contains some of the world's leading trading nations, including China (including Taiwan PRC and Hong Kong SAR), Japan and South Korea which export all kinds of manufactured goods to the rest of the world and also import a variety of raw materials to feed their huge population and booming economy.⁸ The outsourcing phenomenon has generated intense manufacturing and assembly activities of a stunning range of products in the SCS region which offer lower costs of production compared to more economically advanced regions. This, coupled with the rapid industrialization of countries in the SCS region, has catalyzed the growth in container trade in the region to dizzying levels.

It is therefore not surprising that SCS figures prominently in the world maritime trade equation by way of the region's contribution to the world's merchant fleet (Table 1). The impressive growth of the economies of the region has boosted the merchant fleet capacity of regional nations in their pursuit of expanding their trade volumes and to increase their national merchant shipping tonnage to support their growing trade.

The SCS region's commanding share of global merchant shipping underlines its importance as a major seaborne trade and shipping center. Where the center of gravity in maritime trade and merchant shipping was once in the west, it has now shifted to the east, partly as a result of the rapid industrialization and stunning economic growth of countries in the SCS region. Booming global trade prior to the current global recession,

7 Burgess, P. (2003) The politics of the South China Sea : Territoriality and international law. Security Dialogue, 34(1). <http://www.southchinesea.org/docs/Burgess,%20Politics%20of%20the%20South%20China%20Sea-Territoriality%20and%20.pdf> (Last accessed on 12 Nov. 2009)

8 According to United Nations Conference on Trade and Development (UNCTAD), those 'Big Four' nations in terms of the size of economy contributed 19.4% to global trade (by value) in 2008. See UNCTAD (2008) *Review of Maritime Transport 2008*, p.68. UNCTAD, Geneva.

pro-business policies, rapid expansion of trade and maritime infrastructures, globalization and liberalization contributed to the explosive growth of seaborne trade in the SCS region and the littoral economies in the SCS region in the last decade.

Table 1. Merchant fleet capacity of selected South China Sea nations as of 1 January 2009

Country	Total fleet capacity (mil. DWT)	Total as a percentage of world total
China	92.799	8.40
Hong Kong SAR	33.723	3.05
Singapore	28.229	2.70
Taiwan PRC	29.803	2.55
Malaysia	11.559	1.05
Indonesia	7.021	0.64
Vietnam	5.568	0.50
Thailand	4.127	0.37
World Total	1,104.959	19.26

Source : UNCTAD (2009)

The various phases of economic growth in the region - namely the growth of Japan and South Korea after World War II, the emergence of Singapore and Hong Kong as major trading shipping hubs, and the rise of the ‘Asian tigers’ such as Malaysia and Thailand – all coincided with the rapid growth of their shipping sectors and merchant tonnage to support their growing trades. The rise of China as an economic superpower has significantly spurred seaborne trade and the growth of the maritime sector in the SCS and its vicinity. Many nations in the SCS region have become increasingly aware of the need to attain self-sufficiency in shipping as a means to enhance their trade competitiveness. The developing nations among them are also mindful of the need to attract foreign direct investment (FDI) to boost economic growth, and to reduce their reliance on ships made at foreign shipyards and maritime services provided by foreign companies.

The SCS region forms a lion’s share of the world demand for bulk items, and played a major part in pushing freight rates for bulk carriers to record highs in 2008.⁹ Shipment of dry bulk items namely coals and iron ore from Australia and Brazil, and grains heading to energy hungry, rapidly developing and populous East Asian nations, fueled the growth of bulk shipping prior to the global recession. Growing demand from the region’s nations for dry bulk goods such as grains to feed their growing population, and break bulk items such as iron ore and coal to support their rapid industrialization and construction

⁹ The Baltic Dry Index, the benchmark index that tracks the performance of the shipping bulk trade, touched an all-time high level of 11,793 points on 20 May 2008.

works, has resulted in the corresponding growth of tonnage in the bulk segment. Trade liberalization, growth of maritime and trade infrastructures, rising consumer demand and the trend of multinational companies (MNCs) to outsource their activities to many countries in this region have combined to catalyze the growth in container trade, throughput and shipping in the area. As for general cargo, huge demand from the SCS region for items such as refrigerated cargos and specialized cargos, and the increasing popularity of cruise in the SCS waters have contributed to the increase in tonnage of general cargo ships.

The ports and shipping sector in SCS has undergone rapid expansion as the volumes of bilateral trade of regional countries, intra-regional trade and the region's trade with its other economic regions continues to expand at an impressive rate. Several SCS region's countries have emerged among the world's leading maritime nations, thanks to their growing merchant fleet and port throughput, and their increasing trade volumes with their major trading partners. The number of ship calls in regional ports, many of which carry intra-regional trade, has increased substantially over the years.

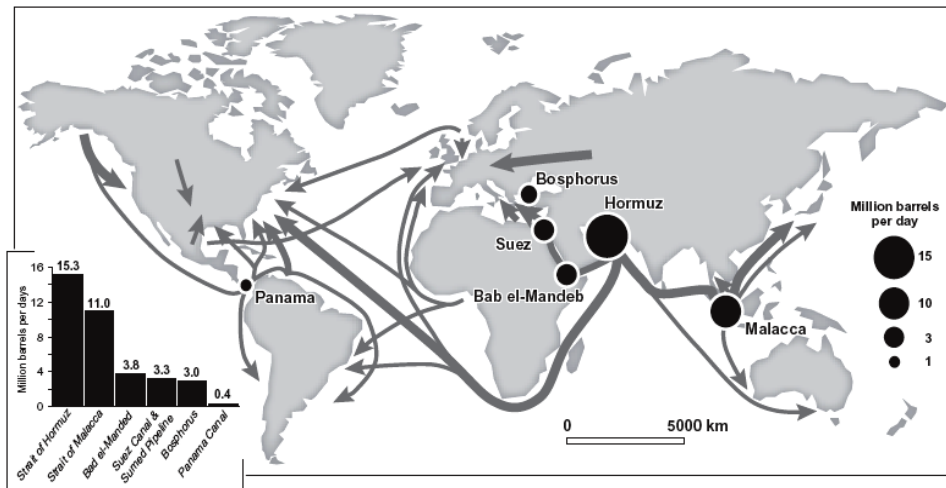
Growing intra-regional trade and the promotion of trade and transport initiatives within the SCS region such as the Asia Pacific Economic Council (APEC), ASEAN Free Trade Area (AFTA) and Brunei-Indonesia-Malaysia-Philippines East Asia Growth Area (BIMP-EAGA) platform have had a significant impact on the growth of maritime trade and the development of maritime infrastructures in the region. Significant investments have been put into the maritime sector in the SCS region to facilitate the trade of its littoral nations; not surprising given the geographical features, trade composition and economic characteristics of the SCS region's nations.

The tremendous growth of ports and shipping activities in the region over the years underlines the value of the maritime sector to the region's socio-economic well-being. Ports, shipping and the maritime ancillary services are recognized as essential facilitators of the region's trade, hence crucial to its economic prosperity and the wellbeing of its people. Although the growth in maritime trade and shipping sector in the SCS region was halted by the global credit crunch and economic downturn, there should be no doubt that trade volumes and demand for shipping trade will rebound once the financial markets recover and the world economy is back on track. With an estimated 80% of the world's trade being carried by seaborne transport,¹⁰ and the SCS region commanding a major slice of the global trade, the long term perspective for maritime trade and the shipping sector in the area should be promising.

10 UNCTAD (2008) p.16.

3. South China Sea as a key energy sealane

Various literature reviewed suggest that a third of the world's oil trade passes through SCS.¹¹ Figure 2 highlights the importance of the Straits as a key energy route and chokepoint for the flow of crude oil between the Gulf and the economies in East Asia, which passes through SCS.



Source : Straits, passages and chokepoints : A maritime geostrategy of petroleum distribution
http://people.hofstra.edu/faculty/Jean-paul_Rodrigue/downloads/CGQ_strategicoil.pdf(30 Oct. 2009)

Figure 2. World shipping routes of crude oil

The emergence of China as an economic power has resulted in huge demand for oil and gas to power its booming economic growth and to cater to growing ownership of passenger vehicles. The world's populous nation is already its second largest consumer of oil and the third largest net importer of the 'black gold' after the US and Japan.¹² Such is China's rapacious appetite for these goods that it has resorted to importing them from places as far away as Africa and Latin America to ensure adequate supply and to lessen its dependency on oil traditionally obtained from the Middle East. Due to this, East Asia has emerged as a key center for the unloading of crude oil, a fact reflected by the heavy tanker traffic in SCS.¹³

11 Burgess (2003)

12 Anon (13 Oct. 2009) *China energy profile*. http://tonto.eia.doe.gov/country/country_energy_data.cfm?fips=CH (Last accessed on 23 Oct. 2009)

13 According to UNCTAD, developing Southern and Eastern Asia accounts for 424.8 million tons of unloading of tanker cargo, which reflects the region's growing energy requirements and developing intra-regional South-South trade.

Although SCS is an energy rich sea, much of the region's energy needs come from imported sources, especially from Middle Eastern and African countries and energy resources-rich SCS nations such as Malaysia and Indonesia. An estimated 80% of the crude oil used by China, Japan, Korea and Taiwan passes through SCS.¹⁴ The SCS provides the main route for much of these oil imports, especially from the Gulf, to be transported to those countries. As the region's energy demands grow to match its growing population, industrialization and robust economic growth, its reliance on imported oil is set to increase. It is expected that demand for oil from East Asia will grow 2.7%, annually from 14.8 million barrels per day (mmbpd) to 29.8 mmbpd by 2030, with China accounting for half of this demand.¹⁵ This will further enhance the importance and strategic value of SCS as an energy sealane in facilitating the transportation of the region's energy needs.

4. An unwitting chessboard for strategic calculations

Where there was once one giant land mass in the region aeons ago, there are now continents and nations. With them came borders that restrict movements and multiple interests that put countries at loggerheads. Powerful nations of the day sought to conquer other nations to expand their territories and to gain access to natural resources and riches not available in their own countries.

The quest for territories and conflicts over boundaries are not exclusive to terra firma. Countries extend their border claims to the maritime realm as a means of power projection and to exert their superiority. Only conceptually the seas appear as an expanse unbroken by borders and checkpoints which figure prominently on land. Truth is, the seas provide an equally dramatic stage for nations to stake sovereign claims over areas, as does the land. In pursuit of their national interests, countries set aside goodwill and diplomacy, and even respect for the needs and concerns of others. It is sad to lament that the ancient saying '*the land divides but the Sea unites*' remains more of a romantic ideal than a statement of fact.

Few maritime areas in the world provide a potentially explosive backdrop for nations pursuing their maritime interests than the SCS. This sprawling maritime area is increasingly commanding keen international attention for being an unwitting chessboard in the contest of grandmasters. Its historical background and strategic, political and economic importance combine to attract the interest of many countries. Providing an extremely

14 Anon (2008) *Country analysis brief: South China Sea*. http://www.eia.doe.gov/cabs/South_China_Sea/Background.html (Last accessed on 17 Nov. 2009)

15 Oil gas resources and terminals in South China Sea (9 May 2006) *In Oil & Gas Articles*. <http://www.oilgasarticles.com/articles/474/1/Oil-Gas-Resources-and-Shipping-Terminals-in-South-China-Sea/Page1.html> (Last accessed on 5 Nov. 2009)

strategic location from an economic and military viewpoint, and hosting a prolific amount of hydrocarbon energy riches, it is no wonder that parts of the SCS have become the subject of intense claims and counterclaims by a number of nations. There are also competing security priorities in the Sea that contribute to the rising of the temperature there and threatening the balance of power in the region.¹⁶

Over the years, several events and territorial claims that underscore the tension in the SCS have occurred. Some resulted in full blown deadly affairs between navies, while some continue to simmer to the extent that many analysts fear that it would not be long before they come to a head. It is feared that the presence of warships in SCS by nations adamant to protect their interests will result in the militarization of the waters. This, combined with excessive claims, unflinching positions, aggressive military posturing, and long history of animosity among some of the claimants make for a potentially combustible cocktail that may trigger serious conflicts in the SCS.

The use of different names by different countries for SCS and its islands underscore the sharply divergent views, positions and interests in the sea. Although known worldwide by its English name, SCS is officially called *Bien Dong* (East Sea) in Vietnam, while the Philippines refers to the part of SCS in its territorial seas as *Dagat Luzon* (Luzon Sea). Even the islands in the SCS are known by different names by different nations. The disputed islands of Senkaku, so called by Japan, are known as Diaoyu to China.

Despite the fact that almost all the littoral nations in the SCS are parties to the United Nations Convention on the Law of the Sea (UNCLOS) 1982, they have not been able to use the convention to resolve ownership disputes in the sea. The guidelines outlined in UNCLOS regarding the status of islands, continental shelves, Exclusive Economic Zones (EEZ), enclosed seas, and territorial limits call for countries with overlapping claims over them to resolve their disputes based on good faith and negotiation.¹⁷ Sadly, this call is not always observed in among parties with territorial claims in SCS. Some have even resorted to taking actions that have resulted in casualties and have stoked tension in the sea.

Several military clashes involving nations claiming parts of the SCS in the waters in the between the 1970s to the 1990s are listed in Table 2.¹⁸ They serve as a grim reminder of how vulnerable the Sea is to quarrels that can undermine good relations among the

16 For a succinct analysis on the military interests in the South China Sea, see Rosenberg, D. (13 Apr. 2005), Dire straits : Competing security priorities in the South China Sea. *Japan Focus*. <http://japanfocus.org/-David-Rosenberg/1773> (Last accessed on 12 Nov. 2009)

17 Article 279 (Obligation to settle disputes by peaceful means) in Part XV on Settlement of Disputes (Section 1 – General Provisions) of UNCLOS states that “States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance of Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 3, paragraph 2, of the Charter”. See Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs (1983), *The Law of the Sea*, Hampshire, Palgrave Macmillan, United Kingdom, p.129.

18 Anon (2009) *Military clashes in South China Seas*. <http://www.globalsecurity.org/military/world/war/spratly-clash.htm> (Last accessed on 3 Nov. 2009)

region's nations and pose a serious threat to regional security and unity. Tension in the Sea may be anathema to the smooth flow of international seaborne trade and socio-economic development in the region. Anything but a peaceful SCS is not desirable not only to the region's nations which depend heavily on the Sea as a conduit to their trade and economic growth, but to the international community that depends on smooth passage of merchant ships to facilitate much of global trade.

Table 2. Military clashes in the South China Sea in the 1970s-1990s

Date	Countries involved	Military action
1976	China, Vietnam	Chinese seized Paracel Islands from Vietnam
1988	China, Vietnam	Chinese and Vietnamese navies clashed at Johnson Reef in the Spratly Islands. Several Vietnamese boats were sunk and over 70 sailors killed.
1992	China, Vietnam	Vietnam accused China of drilling for oil in Vietnamese waters in the Gulf of Tonkin, and accused China of landing troops on DaLucReef. China seized almost 20 Vietnamese cargo ships transporting goods from Hong Kong from June-September.
1994	China, Vietnam	China and Vietnam have naval confrontations within Vietnam's internationally recognized territorial waters over oil exploration blocks 133, 134, and 135. China claimed the area as part of its Wan Bei-21 (WAB-21) block.
1995	China, Philippines	China occupied Philippines-claimed Mischief Reef. Philippines military evicted the Chinese and destroyed Chinese markers.
1995	Taiwan, Vietnam	Taiwanese artillery fired on Vietnamese supply ship.
1996	China, Philippines	Three Chinese vessels engaged in a 90-minute gun battle with a Philippines Navy gunboat near Campones Island.
1997	China, Philippines	Philippines Navy ordered a Chinese speedboat and two fishing boats to leave Scarborough Shoal. Philippines fishermen removed Chinese markers and raise their flag. China sent three warships to survey Philippine-occupied Panata and Kota Islands.
1998	China, Philippines	Philippines Navy arrested Chinese fishermen off Scarborough Shoal.
1998	Philippines, Vietnam	Vietnamese soldiers fired on a Philippines fishing boat near Tennent (Pigeon) Reef.

Source : Global Security. <http://www.globalsecurity.org/military/world/war/spratly-clash.htm>(3 Nov. 2009)

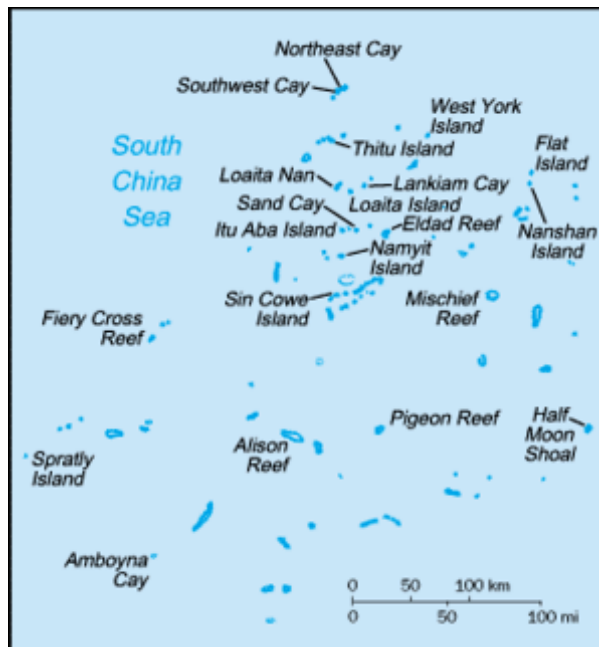
Serious concerns have been raised by analysts and observers that if these situations are not addressed, SCS could become a potential flashpoint. Pronouncements of commitment by claimants to resolve the territorial disputes in the Sea have not allayed fears of the outbreak of conflict in the sea. Recent developments such as the move by the Philippines in February 2009 to declare parts of South China Sea as its territory,¹⁹ and the tense

¹⁹ In 2009, the Philippines Government declared a bill 2009 claiming an area covering more than 50 islets, shoals, and reefs known by China as Nansha Islands and known by the Philippines as Kalayaan Island Group. The signing of the bill and the ensuing strong protestation by China presented a serious challenge for Manila and Beijing to adhere to the Declaration of the Conduct of Parties in the South China Sea signed by ASEAN and China in 2002.

confrontation between five Chinese vessels and a US Navy ship, *Impeccable*²⁰ in March 2009 provide a stark reminder of how edgy things can be in the sea.

5. Spratlys : Islands of indignation?

Of the ongoing disputes in the SCS, few are as hotly contested as the one over Spratlys Islands (Figure 3). This archipelago hosts most of the islands in the SCS, also known as the South China Sea Islands. Despite the remoteness of its location and the largely uninhabitable features of its islands and reefs, Spratlys is a monumentally important area not only for its natural resources and biodiversity riches but for its location along one of the busiest shipping routes and its immense geo-political and geo-strategic value.



Source : http://naijapinoy.files.wordpress.com/2008/03/300px-spratly_islands.png

Figure 3. Map of Spratlys Islands

20 Depending on whose side of the story, the *Impeccable* either ‘provoked’ the incident or was ‘harassed’ by the Chinese vessel. See McDonald, M. (10 Mar. 2009). US Navy provoked South China Sea incident, says China. *New York Times*. <http://www.nytimes.com/2009/03/10/world/asia/10iht-navy.4.20740316.html> (Last accessed on 11 Nov. 2009) See also De Luce, D. (10 Mar. 2009). Chinese ships ‘harassed’ USNS *Impeccable* in South China Sea’. *Agence France-Press*. <http://www.news.com.au/story/0,27574,25164890-401,00.html> (Last accessed on 11 Nov. 2009)

The cagey geo-political and geo-strategic situation in this monumentally important maritime area requires the parties involved to exercise maximum restraint, diplomatic maturity, close cooperation and extreme care to avoid the already tense situation from coming to blows. It is a matter of concern that certain countries exert their claims in a sweeping and vigorous manner, to the point of not hesitating to take unilateral military actions and even use deadly force and claiming entire areas that overlap with virtually the claims of all other countries in the region. It is also unsettling that certain claimants have a somewhat skewed interpretation of the United Nations Convention on the Law of the Seas (UNCLOS) in staking their claims in the SCS and upholding their positions vis a vis their claims. It would not be in the interest of nations in the region, and in fact other nations which depend on peace and stability and freedom of navigation in the SCS region, for any types and levels of conflict to occur in these waters.

Figure 4 shows the claims over the islands and reefs in the Spratlys by several countries. Some make their claims based on their respective EEZ, some on historical grounds which are arcane in nature, while others are propelled by their geo-strategic interests and their intention to lay claim on the rich hydrocarbon and fisheries riches in the areas.²¹ The clouded situation is evident by the names given to the islands and maritime features in SCS in various languages by the claimants.²² Although the claims are largely made using legal arguments, they stand on various interpretations of UNCLOS which can appear doubtful and exaggerated at best and convoluted and erroneous at worst. All the same, they provide a concoction that could potentially brew into serious conflicts if not handled judiciously.

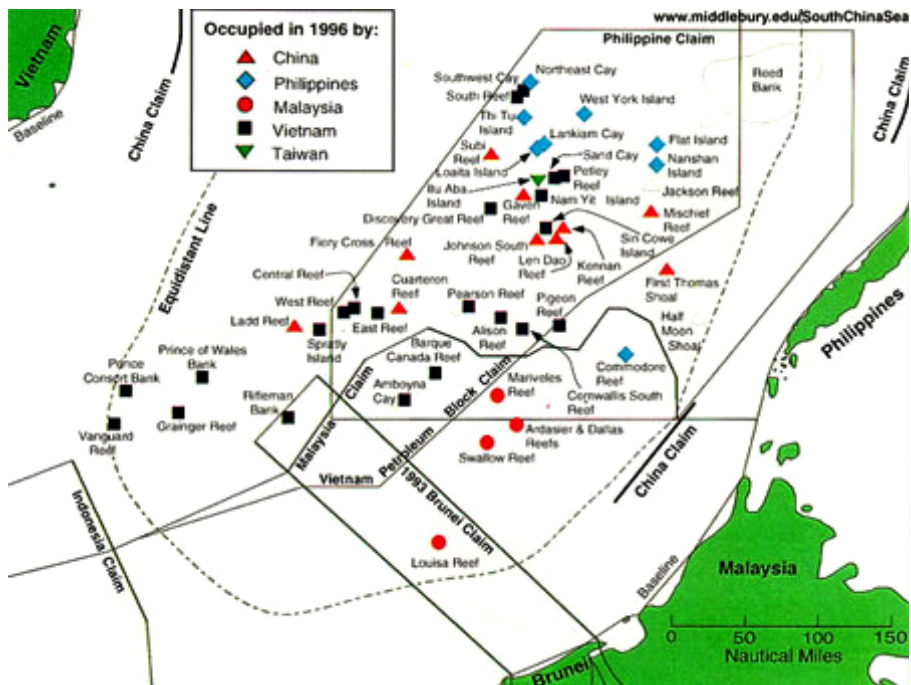
The situation in SCS is undoubtedly worrying, no thanks to the overlapping territorial claims over Spratlys, and aggressive posturing and potentially provocative initiatives in the surrounding waters.²³ Maritime scholars and analysts are not confident that clashes will not break out in SCS when disputing parties come at loggerheads with one another.²⁴ They fear that the tension, if left unchecked, could escalate into full-blown military confrontation.

21 China, for example, believes that the Spratlys form an integral part of its sovereign territory based on discovery made during the Han Dynasty in 2BC. For further reading on this subject, see, among others, Jianming, S. (1996). Territorial aspects of the South China Sea Island disputes. In Nordquist, M. H. and J. N. Moore (eds.) (1998) *Security flashpoints : Oil, islands, sea access and military confrontation*, Martinus Nijhoff Publishers, Hague, Netherlands, p.139-218. See also Jianming, S. (2002) China's sovereignty over the South China Sea Islands : A historical Perspective. *Chinese Journal of International Law* 2002(1) . pp.94-157.

22 Dzurek, D. J. (1996) *The Spratly Islands : Who's on first?*, Maritime Briefing 2(1), International Boundaries Research Unit, Durham, p.4-6.

23 Schofield, C.H. (2009) Dangerous ground : A geopolitical overview of the South China Sea. In: Bateman, S. and R. Emmers (eds), *The South China Sea : Towards a cooperative management regime*, p.8-11. Routledge, London, UK.; Hancox, D. and V. Prescott (1997) *Secret hydrographic surveys in the Spratly Islands* Maritime Institute of Malaysia, Kuala Lumpur, p.2.

24 Schofeld, C. and I. Storey (2009) *The South China Sea disputes : Increasing stakes and rising tension*, The Jamestown Foundation, Washington D.C., p.5.



Source : <http://www.pcij.org/blog/wp-content/uploads/2008/03/spratlys-claims.jpg> (4 Nov. 2009)

Figure 4. Claimants of Spratly Islands

Nevertheless, it is heartening to note the efforts of several nations to resolve disputes and overlapping territorial claims in the SCS in a peaceful and amicable manner. For example, Malaysia and Thailand have set up a Joint Development Authority (JDA) to jointly develop gas fields in an area in the Gulf of Thailand where both nations have interest.²⁵ Malaysia and Singapore also settled their dispute over Pulau Batu Puteh or Pedra Branca, a cluster of maritime features bordering the Strait of Johore in Malaysia and Strait of Singapore, at the International Court of Justice (ICJ). ASEAN members have also engaged in confidence building measures via platforms such as the ASEAN Regional Forum and Shangri-La Dialogue involving Defense Ministers of member nations to promote peace, stability and prosperity in the region's seas. Indonesia hosted a series of unofficial conferences in the 1990s to discuss territorial disputes in the SCS with the objective of getting the parties involved to find amicable multilateral solutions to the issue. Member states of ASEAN and China have agreed to a set of conduct known as the Declaration on the Conduct of Parties in the South China Sea (DoC) in 2002 to ensure that disputes

²⁵ The Malaysia-Thailand Joint Development Area encompasses a 7,250 sq. km. area of overlapping continental shelf claimed by both Malaysia and Thailand. It is located in the lower part of the Gulf of Thailand near the South China Sea. See the Malaysia- Thailand Joint Authority website at <http://www.mtja.org/whatisjda.php> for information on the joint development between the two ASEAN neighbours.

are settled through diplomatic channels and not escalate into armed conflicts.²⁶

Even more encouraging is the fact that claimants who have in the past engaged in deadly confrontations in the Sea have managed to engage in a diplomatic manner. For example, China has made good progress in its bilateral talks with Japan, South Korea and Vietnam on managing common fisheries resources in the SCS via joint fisheries management and conservation efforts.²⁷ There is no doubting that some of the efforts have not yielded much result but the examples given are a step in the right direction to build confidence among the parties with interests in the Sea that could act as a buffer against hostility among them. It provides a glimmer of hope that nations will exercise restraint in SCS and work towards peaceful solutions of long-standing problems among them arising from their claims and from protecting their interests in the sea.

6. Promoting maritime trade as a pillar for prosperity in South China Sea

Despite its stature as a pivotal maritime trade lane, the stark reality is the SCS faces a plethora of challenges that will test its ability to facilitate international trade in a safe, secure and smooth manner. The tension stoked among claimants may seriously undermine the free flow of international merchant shipping in the waters and may have an adverse impact on the socio-economic prosperity and stability in the region and beyond.

There is therefore a strong argument to focus on trade as a pillar on which to build and promote prosperity in SCS and its vicinity. This approach presents the best chance for nations involved in claiming territorial claims in the waters to come together and set aside their historical, political and strategic differences and work on a common platform. Given that nearly all the countries in the region depend on trade to boost their economic growth, they should direct their attention on enhancing trade among them and between them and their trading partners. Efforts should be spent on using SCS as a vector for economic growth instead of an avenue for altercation.

The growing economic interdependency among nations in the SCS area demands them to stay on their toes to reap the opportunities and overcome the challenges presented by the ever-changing tides in regional and global maritime trade. As trade barriers are dismantled and the business environment becomes more liberalized, SCS regional countries will no longer be able to retain the old way of thinking and conducting trade. More than

26 The text of the declaration can be viewed at the ASEAN website at <http://www.aseansec.org/13163.htm>

27 Rosenberg, D. (30 Jun. 2005). Managing the resources of the China Seas: China's bilateral fisheries agreements with Japan, South Korea, and Vietnam. *Japan Focus*. <http://japanfocus.org/-David-Rosenberg/1789> (Last accessed on 12 Nov. 2009)

ever, they need to cooperate to enhance trade among them and to boost the attraction and competitiveness of the region to attract more trade and investments in the region.

The unmistakable trend of free trade agreements in the SCS region demands that previously closed doors are opened to enable greater trade and economic integration across the region.²⁸ This will result in greater level of competition for the regional nation and among maritime industry players to attract and handle more trade. When seen in this context, it should dawn upon the parties which are at loggerheads in SCS of the need to work out, if not set aside, their differences and close ranks to achieve common objectives of attaining peace, prosperity and stability. SCS can be a conduit for prosperity instead of a lightning rod for instability, if the littoral nations so wish.

The establishment of regional initiatives such as AFTA and APEC, and the success of bilateral free trade agreements among the SCS region's nations stand testimony to the practicality and workability of achieving the lofty ideal of creating a peaceful and prosperous SCS area.²⁹ There is no reason why nations which can work together to generate more trade and facilitate economic integration among them cannot resolve their disputes at Sea in an equally amicable fashion.

To this end, the construct of a common platform to promote cooperation among the regional nations would be most helpful. Such a platform can act as a catalyst for them to work together and rally behind a familiar, mutually agreeable cause as a prelude to creating peace and stability in the sea.

That common platform could well be trade – the elixir of the SCS region. Promoting trade is easily a common objective around which the nations along the Sea can rally and work together to promote. By cooperating on the premise of enhancing trade in the region and among them, they will find a common denominator to direct their efforts on something productive rather than destructive, something that can unify them rather than split them apart.

To this end, nations in the SCS region could engage in capacity building measures to promote greater trade among them and facilitate the movement of more trade in SCS. This could include taking the following actions :

28 For example, South East Asia, a region within SCS, has made much progress in promoting trade and economic integration among its members. In pursuit of Asian Economic Community's objectives, ASEAN leaders have agreed to focus on i) accelerating the integration process in 11 priority sectors by 2010 ; ii) removing barriers to the free flow of goods, services and skilled labor and freer flow of capital by 2010 ; iii) putting in place all the essential elements or conditions for ASEAN to function as a single market and production base ; and iv) pursuing strong external economic relations and terms of trade with Dialogue Partners through the establishment of Free Trade Areas (FTAs) and Closer Economic Partnerships (CEPs)

29 For a discussion on the impact of trade liberalization on regional economy, see Khalid, N. (2007) *AFTA initiatives on trade and transport : implications for Malaysia's maritime sector*. MIMA, Kuala Lumpur , Malaysia (unpublished). Available at <http://www.mima.gov.my/images/stories/ResearchCentres/MEI/Research/nazery%20-%20afta%20initiatives%20on%20trade%20and%20transport%20-%20implications%20for%20malaysias%20maritime%20sector.pdf>

- Setting up a South China Sea Economic and Trade Cooperation Council to promote greater trade and economic cooperation among the SCS region.
- Developing common strategies to enhance the capacity and competitiveness in areas such as ports, shipping and shipbuilding / ship repairing to cater to more trade, meet demand for maritime trade related services, and withstand more intense competition from other economic regions.
- Sharing in providing infrastructures for navigation safety to ensure that merchant shipping can traverse the Sea in the safest manner.
- Putting in place anti pollution and environmental protection measures to face any eventuality of accidents that may pose a threat to the Sea and its environment.
- Conducting joint scientific exploration and research in areas of common interests, especially those rich with resources and biodiversity.
- Conducting joint exploration to find hydrocarbon sources and setting up Joint Development Authorities in disputed areas which are rich in energy resources to commercialize them through a fair and equitable arrangement.
- Entering into agreements to manage fisheries resources together, as done by China and Japan, and ensuring that the sea's riches are harnessed in a sustainable and environmentally friendly manner.
- Abiding at all times the principles of international law and observing international conventions and diplomatic norms to avoid conflicts and to find peaceful resolutions to conflicts.
- Working together in a bilateral or multilateral manner to patrol the Sea to deter piracy, smuggling and terrorism.
- Promoting eco and marine tourism in suitable areas such as diving, cruise and sailing.

To face the new dynamics and realities of a more liberalized trade environment, it is essential that institutional support is put in place to facilitate efforts to enhance the SCS region's comparative advantage over other economic regions. This could be achieved on a platform of strong cooperation and coordination among nations and agencies in the SCS region in planning, implementing and monitoring of policies affecting trade and transport.³⁰ A strong institutional platform provides a solid base on which cooperation in efforts to improve trade and trade transport performance can be carried out. This would

go a long way towards averting confrontations and conflicts arising from geo-strategic interests.

The maritime sector has played an instrumental role in galvanizing trade and economic growth in the SCS region. The growth of ports, shipping services, shipyards and other maritime ancillary has helped nations in the region to foster closer trade and economic ties with one another and with their trading partners elsewhere.³¹ Further investments into the maritime sector to procure assets, build infrastructures, expand capacity, develop human capital and enhance productivity and service levels will contribute to regional trade and economic growth. This will only be good for a region which generally advocates open trade and will enhance its standing as a business- and investment-friendly region and a major maritime trade area. It will also inculcate a sense of common objective among SCS nations to use the Sea to attain socio-economic prosperity together instead of engaging each other in an adversarial manner.

7. Some policy proposals towards promoting peace in SCS

The tense situation in SCS provides a stark indication that measures in place to avoid and manage conflict in the SEA have not been effective. Despite efforts by regional players to engage in discussions to quell tension among them arising from overlapping claims in the SEA - such as the dialogues between ASEAN and China - the situation in the SCS is far from ideal. Even the DoC between ASEAN and China has not resulted in any significant cooperation between them and in advancing peace and stability in the region.³² In the same vein, the push towards promoting a more formal Code of Conduct in SCS has not borne any tangible result. This is evident in China's insistence of addressing territorial claims in SCS on a bilateral platform instead of treating them as a multilateral issue, and its rather forceful display of power in the Sea.³³

30 The example of ASEAN in promoting greater intra-regional trade by dismantling trade and technical barriers among them is worth emulating. Analysts have suggested that many positive lessons can be learned from the ASEAN experience in formulating regional grouping in other economic regions. In what can be seen as an endorsement of AFTA's successful implementation, it has even been suggested that world leaders should look at the ASEAN model of economic integration under AFTA to revitalize the stalled World Trade Organization (WTO) negotiations in the Doha Round in 2006.; Mandelson, P. (23 Aug. 2006), Free trade pacts are no substitute for Doha. *New Straits Times*.

31 Kreinin, M., T. Lowinger and A. Lal (1998) Determinants of inter-Asian direct investment flows. In: Dunning, J. (ed.) (1998) *Globalization, trade and foreign direct investment*, Elsevier, Oxford, UK, p.197.; Poon, J. (2003) Trade networks in South East Asia and emerging patterns. In: Chia, L.S (ed.) *South East Asia transformed: A geography of change*, ISEAS, Singapore, p.385.

32 Schofeld, C. and I. Storey (Nov. 2009), pp.24-27.

33 A speech by Singapore's Minister Mentor, detailed the naval build-up by China which is geared towards developing blue-water capability to sustain operations and presence in a far away theater. The text of the speech,

Several policy options are worthy of consideration to ease simmering tension in the SCS and to tangle the complex strategic dynamics therein. For a start, nations involved in claims should take it upon themselves to adopt a more flexible and less belligerent posture in the Sea. It certainly would not be helpful for the promotion of peace and prosperity in the Sea for the actors to act aggressively and assuming a hard-line stance in staking their claims. Countries deemed to be projecting power in the Sea in a way that creates anxiety to others would do well to assuage the apprehension through diplomatic or other means. The path of peaceful resolution through diplomatic channels should be exhaustively explored and preferred over the road that leads to the raising of tension in the Sea.

Nations involved in overlapping claims in the SCS should consider jointly developing maritime areas in the Sea which are believed to be rich with untapped resources. There are several example of successful joint developments of disputes areas that disputing nations in SCS can take heed from. This avenue should be exhaustively explored as it would bring mutual benefit to the parties concerned and would be conducive to promoting economic development and creating stability in the region. The proposals by several scholars on a model for cooperation in SCS could provide useful reference in developing a workable joint development model in the Sea.³⁴

It is felt that ASEAN should play a more assertive role in engaging China and other powers in the SCS and also to provide a calming influence in disputes in the Sea among their member nations. The failure of the DoC to prevent tension between ASEAN and China in SCS, and the unilateral action of the Philippines in passing the Archipelagic Baseline bill that lays claim to disputed territories in SCS, underscore the need for a more assured ASEAN to respond to the situation in the Sea. While not suggesting ASEAN to ignore the precious relations it enjoys with China, the time has come for the association to be more assertive in its dealing with Beijing in matters pertaining to disputes and claims in SCS. ASEAN must start upping the ante from current position of not giving high priority to engage China in SCS in its agenda.³⁵ It must forge a common, unified position in engaging China lest it runs the risk of China continuing to engage ASEAN members bilaterally in disputes in SCS.

It is not in the interest for the littoral nations in the SCS region to see the area to be continuously fraught with tension and weighed down by complex strategic interplays by multiple actors. ASEAN's failure to engage China in SCS would inevitable

delivered at the US-ASEAN Business Council's 25th Anniversary Gala Dinner on 27 Oct. 2009.

http://www.news.gov.sg/public/sgpc/en/media_releases/agencies/mica/speech/S-20091027-1.html

34 Keyuan, Z. (2006) Joint development in the South China Sea : A new approach, *International Journal of Marine and Coastal Law* 21(1):83-109, p.84.

35 Ho, S. (22 Oct. 2009) Beijing: South China Sea territorial disputes not on ASEAN agenda. <http://www.voanews.com/english/2009-10-21-voa20.cfm> (Last accessed 1 Nov. 2009); Anon. (22 Oct. 2009) We want good ties, says China. *The Straits Times*.

result in outside powers entering the fray to counter the growing power of the Middle Kingdom in the Sea. This would only make an already complex theater even more complicated, and would not be conducive to promoting peace, prosperity and stability in the Sea and its region.

8. Conclusions : Managing conflict, maintaining prosperity

Since time immemorial, SCS has provided the stage for maritime trade and movements of people that significantly shaped the socio-political, cultural, economic and strategic landscape in the regions surrounding the Sea. Being a Sea that sits along a key trade lane and borders many countries, the multifunctional role of the SCS as a strategic sealane, a facilitator of economic growth and a provider of resources and livelihood is paramount.

On account of these, it is crucial to preserve safety, security and prosperity in the Sea not only from an economic perspective but also from an environmental point of view. The situation in SCS should never be allowed to degenerate and the Sea should not be turned into theater of conflict that will threaten the economic interests of the littoral nations and the international community. It should also not be subjected to rapacious exploitation that will deplete its resources and degrade its environment, which is already under the strain from intense human activities³⁶ A full blown military confrontation in the Sea would only result in the intervention by outside powers keen to capitalize on such situation in the name of creating ‘balance of power’ in the region.

It is therefore crucial that the conflicts arising from the overlapping claims in SCS settled in an amicable way. To this end, all diplomatic channels must be exhausted and nations must close ranks and work hard to ensure that disputes do not become overblown to full scale conflicts. It would not serve anyone’s interest to have a South China Sea that is wrought by conflict and is heavily militarized. This would hamper trade flow in its crucial shipping lanes and would cause adverse effect to the livelihood of people, not to mention of the threat that it would be to the vulnerable environment of the Sea. In the same token, other maritime security threats such as pollution, illegal fishing, piracy, smuggling and even terrorism must also be addressed and contained to ensure that the Sea is meets the needs of its littoral states and is kept open and safe for international use.

While initiatives such as the establishment of DoC in the South China Sea and collaboration among nations to manage fisheries resources are laudable, much more needs

36 UNEP/GEF’s *Reversing environmental degradation trends in the South China Sea and Gulf of Thailand* project website at : <http://www.unepscs.org>

to be done to promote cooperation and understanding among littoral nations of the Sea to ensure that conflicts are avoided and prosperity therein preserved. In this regard, trade and economic interests are powerful motivators for nations in the SCS, which share a common objective to enhance trade to attain socio-economic prosperity, to promote cooperation rather than create confrontation.

It should dawn upon the littoral nations of SCS, that the trade and economic interdependence among them is crucial for their economic wellbeing and survival. They simply must not let their differences get the better of their judgment. In the waters of SCS lies their shared destiny. The onus is on them to use the mighty Sea as a platform for prosperity instead of turning it into an arena for altercation.

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