

Non-Claimant States Perspectives On The South China Sea Dispute

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Article Info	Abstract
<p>Keywords: <i>UNCLOS, South China Sea Dispute, Non-Claimant States Perspectives.</i></p> <p>DOI: <i>10.25041/lajil.v5i1.2717</i></p>	<p><i>The problem in the South China Sea is becoming increasingly complex because other parties outside the claimant country also fight for their regional interests. The other party was later called a non-claimant state in the South China Sea area. The main purpose of these non-claimant states is to ensure that international law of the sea is enforced in any part of the sea on the planet. The main reason is to ensure safety and freedom to cross this route, the main sea route for transporting various goods and commodities with high economic value. In general, these non-claimant states oppose China's actions that do not follow the agreed UNCLOS. The juridical normative research methods with literature studies present the legal basis for the actions of non-claimant states in the South China Sea region. This study describes the basis of international law as well as the interests and policies of non-claimant states such as Indonesia, the USA, the UK, Australia, the EU, Japan, and India over the South China Sea region, which is most active in showing their attention to the dynamics in the South China Sea.</i></p>

A. Introduction

The South China Sea disputes are not only involved with neighboring countries as claimants. Complications of problems are also colored by non-claimant states directly or indirectly interested in the Area. As previously stated, the South China Sea is the main sea transportation route in the Asia-Pacific Region¹. As a significant energy line, transit point for one-third of global crude oil and half of global liquefied natural gas. South Korea and Japan on this route about 66% and 60% of their energy imports because it is a transportation route². Given the enormous economic importance of each regional stakeholder, they are concerned about trade disruptions due to disputes or direct conflicts in contested waters.

In December 2015, the commander of the US Pacific Fleet issued a stern warning against China building military bases around its artificial islands that are still in dispute with other countries. The United States is not a claimant, but it still needs to initiate the management and resolution of disputes considering its role as a guarantor of regional security. However, China's escalating actions and current policies have led to more regional players getting involved in South China Sea issues, both in the diplomatic arena and in the contested waters. As a result,

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

² US Energy Information Administration, "South China Sea Energy Brief."

the non-claimant states are likely to play a more significant role in influencing events in the South China Sea.

Understanding the perspectives of non-claimant countries such as Indonesia, the United States, Australia, India, Japan, Singapore, South Korea, and the two multilateral organizations, ASEAN and the EU, is critical. Despite disparities in geography, politics, and economics, it is clear that strategic interests push all of these non-claimant³ players to maintain security in the South China Sea.

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

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

Source: CSIS Project, International Monetary Fund

Non-claimant states feel the need to advocate for the value of preserving freedom of navigation, rights of passage, and overflight in the South China Sea, in addition to economic issues. All non-claimant states demand that disputes be resolved peacefully following international standards and law. The execution of amicable dialogue to resolve the conflict is anticipated to be maintained by ASEAN's stance in this instance. The slightest error, though, will put stability in the peace at risk and trigger a bigger escalation.

According to an international relations specialist from Europe, Mathieu Duchâtel, an institution's approach to collective security would be in jeopardy if international legal decisions were not supported. All claimant nations must be aware of and act upon the desire of non-claimant states to uphold international norms and protect the rights of the world community to the sea under international law.

Several non-claimant states have conducted specific marine deployments in the South China Sea to demonstrate their interest, concern, and resolution, despite all non-claimant states formally supporting peaceful conflict resolution⁴. US naval officer Admiral Thomas Fargo claimed the country's South China Sea navigation operations are based on prominent freedoms. Notwithstanding its quieter mission in the waters, Rory Medcalf stressed that Australia would continue to exercise its rights and seek a rules-based strategy. India, like China, has increased its operational presence in the South China Sea. A set of four frigates completed a two-month deployment in June 2015, and one frigate deployed to the Philippines again in November.

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

⁴ Bill Hayton, "How to Solve the South China Sea Disputes" ISEAS – YUSOF ISHAK INSTITUTE. (2022).

In terms of arms sales and military tactical equipment, a number of non-claimant governments have also stepped up their military cooperation with Southeast Asian claimant states. India and Malaysia now work more closely together militarily. To help lessen political and military pressure from China, Japan also routinely holds combined coast guard drills with some of its Southeast Asian allies, including the Philippines and Vietnam. By assisting Southeast Asian claimant states to improve their marine and coast guard capacities, some European nations are also not left behind. Frigates from the Netherlands and anti-ship cruise missiles from France were ordered by Vietnam. Armed light helicopters are imported by the Philippines from France and Italy. The actions done are not provocative attempts to promote the militarization of conflicts. This initiative is part of the non-claimant governments' efforts to foster more collaboration, avoid tensions from rising, and stop China from putting too much pressure on them⁵.

Several nations, in this case, non-claimant states, are concerned about China's escalating aggressiveness in the South China Sea and its rising influence and profile on the international scene. We will go into detail about the perspectives of numerous non-claimant states to explore regional geopolitical issues concerning the interests of their governments in the South China Sea.

The Author uses juridical normative research methods with literature studies, namely by examining library materials or secondary data as a basis for research by searching for regulations, in this case, UNCLOS, and literature related to the problem under study⁶. This research has an analytical descriptive providing a clear and comprehensive description of the provisions of international law related to the position of non-claimant states in the South China Sea dispute. Furthermore, explain how the policy and the position of the non-claimant states in the South China Sea dispute.

B. Discussion

In explaining the problem in the South China Sea need to be careful and pay attention to several aspects so that it does not seem subjective in the presentation. The number of interested parties complicates the problems in that area. Moreover, it is undeniable that both the claimant and non-claimant countries are fighting for their respective national and economic interests. Each country must have its perspective in assessing the South China Sea issue.

The legal basis for non-claimant states in the South China Sea is UNCLOS 1982, in the section that regulates freedom of navigation. For example, articles 36 on freedom of navigation in straits used for international navigation, articles 58 on freedom of navigation in the exclusive economic zone, and articles 78 and 87 on freedom of navigation on the high seas. Then regarding the right of innocent passage in the territorial sea and through archipelagic waters as stipulated in articles 17 to 26 and 52, as well as the freedom of passage in transit in straits used for international navigation as contained in article 38. The three freedoms have the same meaning regarding the freedom of movement of ships. What distinguishes it is the different influences and limitations the coastal states imposed on the freedom of movement. In other words, it is returned to the regulations of each country as long as it does not conflict with UNCLOS.

Many non-claimant countries actively pay attention to the South China Sea issue. However, this time we will discuss some of the most vocal and get the public's or international media's attention, such as Indonesia, the United States of America, the United Kingdom, Australia, Japan, the European Union, and India. This study will specifically describe the views of non-claimant countries and the policies taken in addressing the South China Sea issue, as well as

⁵ Ibid.

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

review the position of this non-claimant in international law of the sea. It will be described as follows.

1. Indonesia

Indonesia is the largest country in Southeast Asia and the largest archipelagic country globally. Indonesia's position, which connects two oceans, namely the Indian Ocean and the Pacific Ocean, makes it a country with a strategic geographical location, including part of the South China Sea area, based on a map made by the International Hydrographic Organization (IHO). Besides, Indonesia sometimes clashes with other countries regarding violating maritime zone boundaries.

In the context of this research, in the South China Sea region, which Indonesia calls the "North Natuna Sea," Indonesia is often in conflict with other countries, especially China. Indonesia's constitution, which mandates maintaining world order, leaves Indonesia with no choice in resolving disputes other than negotiating with related countries. This is because Indonesia's zee limit overlaps with the other nine-dash borders of China even though Indonesia is one of the members of ASEAN countries that does not participate in embedding its claim to the South China Sea area. However, Indonesia has officially stated that the position has been determined as a non-claimant country over the South China Sea area.

Indonesia's stance is critical for maintaining security in the South China Sea region. Because it was one of the founding members, Indonesia has a large voice in how the ASEAN work agenda is formed, including how the South China Sea issue is addressed. The ASEAN forum has already addressed the South China Sea dispute⁷. One of them attended the 2012 ASEAN Foreign Ministers Conference in Phnom Penh. Indonesia prefers a multilateral approach to conflict resolution, as seen by its adoption of the 2002 Declaration on the Behaviour of Parties to Disputes in the South China Sea and its attempts to construct the Declaration of Conduct (DOC).

Indonesia's "free and active" foreign policy is one of the strongest supporters to show Indonesia's bargaining power to reconcile the claimants in the South China Sea region⁸. Step by step, improving the situation in the South China Sea tends to progress. However, the Philippines' unilateral decision to take the South China Sea dispute case to the international arbitration tribunal in The Hague is a setback in maintaining security stability in the region. This action shows the incompatibilities among ASEAN member countries. On the other hand, the diplomatic efforts taken so far have become meaningless.

Many international relations experts regretted the Philippine decision and considered it a sign of disharmony in relations between ASEAN members. But the Philippines believes it is the best way to pressure China in its maneuvers in the South China Sea. As a result, the Philippines' victory in the trial did not significantly influence China's regional policy. Nevertheless, China has continued its claim and strengthened it by building several artificial islands in the disputed Area.

The Philippines' unilateral actions will undoubtedly affect the harmonization of relations between ASEAN countries. Even though on the other hand, it harms the harmony of relations between ASEAN countries and China. Nevertheless, the Philippines' victory in the tribunal cannot be denied; that also benefits other ASEAN member countries, including Indonesia itself, further strengthening its position in fighting for the North Natuna Sea maritime boundaries. The basis of international law of the sea is becoming more assertive in fighting for national interests.

Despite the repeated exchange of protest notes between Indonesia and China at the UN council against claims of the U-shaped line, Indonesia still welcomes economic and security

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

⁸ Ibid.

cooperation with China. Indonesia's non-claimant status allows it to avoid the political burden of territorial disputes while fostering closer cooperation with China and the United States. China is one of Indonesia's largest trading partners, with a total value of around \$27.2 billion⁹. The Indonesian government welcomed China's statement to finance large-scale infrastructure projects, such as ports, which is expected to help accelerate the achievement of President Widodo's maritime agenda.

Due to its "intimacy" with China, Indonesia became frightened of the possibility of a free and active political transition, which it had before repeated. Indonesia continues to work with the US and other Western nations to avoid being accused of going against its independent and active foreign policy. The US continues to be one of Indonesia's top trading and investment partners, and it has even expressed interest in joining the Trans-Pacific Partnership, which we are spearheading. Additionally, Indonesia wants to strengthen its naval ties with the US and its allies.

Tensions that continue to increase in the South China Sea have made Indonesia and the US work together to conduct regular flights and submarine operations to conduct military survey in the Natuna Islands and surrounding waters. In addition, from 2015, the US funded the operation of the Southeast Asia Maritime Security Initiative, of which Indonesia was one of the beneficiaries. The assistance helps Indonesia develop coast guard equipment to patrol marine areas that are difficult to reach, given Indonesia's vast marine Area, including the waters around the Natuna Islands. It is important to note that accepting this assistance can be interpreted as a sign of Indonesia's alignment with the United States¹⁰. Indonesia hopes that all major powers, including the United States and China, will remain at peace with each other. Thus, the security of the ASEAN region is maintained because it is not pressured by one of the major powers.

2. The USA.

As a superpower, America always appears in every strategic water dispute. For example, the Strait of Hormuz issue, the Mediterranean Sea disputes, the North Sea, the Strait of Malacca, and many more. Especially on the theme of this paper, namely the South China Sea dispute¹¹. As the non-claimant states, America is the most frontal against China in determining its claims in the South China Sea.

Geographically speaking, the South China Sea is pretty far away from America. However, the US considers the situation in the South China Sea crucial from a political and economic standpoint. As mentioned in the previous chapter, the tankers use the South China Sea and the Straits of Malacca to convey cargo, oil, and other commodities from Middle Eastern nations to America. The South China Sea is used for most oil and gas imports to China, South Korea, and Japan. For the continued growth of East Asian economies, the seabed can also be a major source of energy supply. However, compared to China, the US estimates of potential energy reserves are substantially lower.

Additionally, investments totaling \$160 are located in Southeast Asia¹². By US companies and is America's fifth-largest trading partner. So the stability of security in the region is vital for America.

The freedom of navigation campaign is the main reason for America to show its existence in the South China Sea. For the US, based on UNCLOS articles 78 and 87 concerning freedom

⁹ Ibid.

¹⁰ United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, LIMITS IN THE SEAS No. 141, INDONESIA ARCHIPELAGIC AND OTHER MARITIME CLAIMS AND BOUNDARIES. Office of Ocean and Polar Affairs Bureau of Oceans and International Environmental and Scientific Affairs U.S. Department of State. (2014).

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

¹² Ibid.

of navigation on the high seas, the middle part of the South China Sea is a high sea that each country has the right to pass through without asking permission from any party. China objected to America's attitude, which is considered disrespectful and ignores the current situation as a claimant country¹³. On the other hand, America's presence is advantageous for ASEAN countries and claimants to the South China Sea region. Moreover, America's involvement in the region offsets China's economic and military power dominance.

In early 2021 the United States Navy's aircraft carrier fleet entered the South China Sea. The fleet was led by the aircraft carrier USS Theodore Roosevelt. China considers this action provocative and does not respect the conflict situation in the region. In response, China also held military exercises in the waters for a month. The increasing military and naval cooperation was exacerbated between America and Southeast Asian countries such as Indonesia, Malaysia, the Philippines, Singapore, and Vietnam¹⁴.

America believes maintaining peace and security throughout Asia is increasingly critical to global progress. Whether through maintaining freedom of navigation in the South China Sea, countering North Korea's proliferation efforts, or ensuring transparency in North Korea's military activities, crucial issues, and other developments in the region. These measures are intended to protect America's vital interests in stability and freedom of navigation and have paved the way for continuing multi-party multilateral diplomacy with claims in the South China Sea. Seeking to ensure disputes are resolved peacefully and with established principles of international law.

At a meeting of ASEAN defense ministers in late October in Bali, US Defense Secretary Leon Panetta said there is no doubt that the Pacific will be a priority to protect international rights to move across the oceans freely. Rising tensions in the South China Sea pose the most challenging security issue in China's relations with Southeast Asia. US support for basic American security principles provides many reasons for Southeast Asian countries to seek to improve bilateral relations with Washington. The role of the US is also seen as supporting ASEAN's position in the South China Sea.

To defend its interests in the region, the United States has offered a number of security-related solutions. When deploying its armed troops between the Pacific and Indian Oceans, the United States relies on unrestricted access to the South China Sea's airspace and waterways. But the United States must also take into account using China's fleet. Despite the weak naval power projection capabilities of the People's Liberation Army (PLA) Navy, China advanced by building a sizable naval station on Hainan Island. The station improves the capability of the Chinese navy to send units into the South China Sea. The US power posture has changed, but not just because of the South China Sea¹⁵.

US policy consistency regarding the South China Sea from 1995 is still ongoing. However, US interest in these waters diminished as China and several ASEAN countries set aside conflicting claims in the South China Sea as Beijing's approach to ASEAN countries intensified. As the strategic situation developed, the United States has reacted pragmatically and according to the old policy. The two elements of US policy for the South China Sea are distinct and should not be combined. First, the United States does not take a legal basis of competing sovereignty claims in the South China Sea. Second, the fundamental national interest for the United States is to maintain the principle of freedom of navigation. Therefore, the United States states that states may not restrict military survey operations within their Exclusive Economic Zones¹⁶.

¹³ Ibid.

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

¹⁵ Rahman and Tsamenyi, "A Strategic Perspective on Security and Naval Issues in the South China Sea." Ocean Development and International Law. (2010). pp. 315-333. DOI: <https://doi.org/10.1080/00908320.2010.499277>.

¹⁶ Ibid.

The United States and 11 other nations denounced China's conduct in the South China Sea during the ASEAN Regional Forum (ARF) summit in July 2010, which sparked a diplomatic dispute with China. However, the US has reiterated to foreign media that it respects international law in the South China Sea and has a national interest in maritime freedom of passage and open access to Asia. Additionally, the US volunteered to mediate the Code of Conduct negotiations between all South China Sea claimants.

In response to the US action, China reassured Southeast Asian countries by sending former Premier Wen Jiabao and other Chinese leaders to the Area and exercising prudence in the South China Sea. As a result, there were no significant accidents for eight months. Furthermore, to execute the Declaration on the Conduct of Parties in the South China Sea, China also consented to a meeting of the ASEAN-China Joint Working Group (DOC).

3. The United Kingdom

The construction of an outward-looking "Global UK" posture reform with global reach and impact and a "support rules-based system" has been sparked by the UK's exit from the European Union (BREXIT). Britain has historical, diplomatic, military, and trade relations in the South China Sea region. The presence of Commonwealth allies Malaysia, Singapore, and Brunei Darussalam, as well as the UK's and Australia's and New Zealand's commitments to the Five Powers Defense Arrangement, which includes Malaysia, Singapore, Australia, and the UK. The need to maintain a presence and contribute to regional security and stability is further underscored by the global balance of power change from the Euro-Atlantic to the Indo-Pacific, particularly concerning regional economic interests.

The region is essential to the global trading system in addition to the UK's strong economic, military, and diplomatic interests there. The South China Sea is the leading commerce route for the UK between Europe and East Asia. The South China Sea is traversed annually by 12% of the UK's seaborne trade or £97 billion worth of imports and exports. China, Hong Kong, Japan, Singapore, Australia, and South Korea comprise six of the UK's top 25 commercial partners¹⁷. As of April 2019, China was the third-largest export market and third-largest source of imports for the UK. Southeast Asia is also the third-largest market for defense exports from the UK and its third-largest non-EU export destination.

Britain has historically had close relations with South and Southeast Asia, formed from the colonial period. This relationship continues to this day. Singapore is home to the regional defense staff and naval logistics facilities for the British Armed Forces. Brunei is home to the British Army's jungle combat training facility, including a Gurkha battalion. According to a Chinese scholar, official British documents from 1955 to 1957 show that, at least in part, during the early Cold War, Britain did not view the South China Sea region as being of main strategic importance. Nevertheless, Britain accepts or supports China's assertion of sovereignty¹⁸. South China Sea dispute has become more contentious in the twenty-first century, and Britain has gradually begun to pay greater attention to the maritime conflict. Early in January 2014, the country's foreign secretary William Hague claimed that Britain's presence in Asia ensured trade and security. The key issue is that every region, including the South China Sea, continues to abide by international law. Power-based dispute resolution is not preferred over rule-based resolution.

The significance of freedom of navigation and a rules-based regime in the South China Sea has been emphasized time and time again by the UK Secretary of State and Defense. Britain expressed concern about the South China issue in March 2018 and stressed the significance of

¹⁷ Yoji Koda, "Japan's Perspectives on U.S. Policy toward the South China Sea," *Perspectives on the South China Sea: Diplomatic, Legal, and Security Dimensions of the Dispute*, no. September (2014), pp. 82–95. DOI: 10.1353/asp.2016.0011.

¹⁸ *Ibid.*

open and accessible sea lanes. Gavin Williamson, the defense secretary for the United Kingdom, said in a speech in February 2019 that Britain "may have to act" in the future to face China for "violating international law" and "rising back" in terms of restocking its arsenal¹⁹. He added that the Pacific would be the focus of HMS Queen Elizabeth's maiden operational mission.

According to some British politicians, China's activities in the South China Sea are not based on rules. Furthermore, after establishing its military base in the South China Sea region, freedom of navigation is threatened. Britain was also concerned that China would threaten the free movement of Anglo-American military ships. As a result, in September 2018, China assessed that Britain had violated international maritime law and threatened China's national security, where there was activity by British military vessels, namely Royal Navy ships, entering the sea within 12 nautical miles of the Paracel Islands²⁰.

Credible engagement with the region will be a key priority for the UK as long as the UK aspires to remain a global actor, given the Indo-increasing Pacific's strategic importance. This trend is expected to persist in the long run. However, the strategic problem that must be overcome is finding a middle ground between opposing demands to uphold a rules-based order, relations with Washington, connections with regional partners, and forging pragmatic relations with Beijing.

4. Australia

Australia first became involved in the South China Sea during the Cold War, when the Australian air force supported ally efforts to detect Soviet ships and submarines. Australia and North Asian nations' long-standing commercial ties have made them heavily dependent on this sea route. Because of this, Australia viewed the South China Sea primarily in terms of the Cold War, referring to it as the only space for Australian surveillance planes from the advance station at Butterworth, Malaysia²¹. With the end of the Cold War, Canberra began to acknowledge concerns about "competing for territorial claims" among "well-armed nations." This situation remains one of many regional problems that must be "handled with care" rather than a significant threat²². This is still an era when China's growing military power and economic weight are a concern.

Canberra has maintained strong efforts to build a long-standing trust-building, transparency, and conflict-prevention regime in Asia. Australia is also active in regional security diplomacy, including building cooperation with ASEAN forums to maintain regional stability and security. As one of the economic powers in Asia-Pacific, Australia has a significant interest in the South China Sea. Australia has many reasons to engage in this critical strategic challenge²³.

By the end of 2015, the Australian Air Force had used freedom of navigation, underlining Canberra's determination to uphold its rights and urge for an international response to tensions based on established rules. However, there is still some ambiguity on how far Australia is willing to go, especially in light of its economic ties with China. AUSMIN, or the Australian-United States Ministers Joint Communiqué, was signed by Australia and the United States in

¹⁹ Ian Storey, "Britain, Brexit, and the South China Sea Disputes," *Maritime Awareness Project Analysis* (2020).

²⁰ *Ibid.*

²¹ Australia's defense white paper 1987.

https://www.apf.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1516/DefendAust/1987. (Accessed June 14, 2022).

²² Australia's defense white paper 1994.

https://www.apf.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1516/DefendAust/1994. (Accessed June 14, 2022).

²³ Medcalf, "Rules, Balance, and Lifelines: An Australian Perspective on the South China Sea." *Asia Policy*. (2016). pp. 6-13. DOI: <https://doi.org/10.1353/asp.2016.0002>.

September 2011²⁴. Outlining national interests in trade in the South China Sea, freedom of passage, peace, and stability, respect for international law and its unimpeded enforcement, and no position is taken on conflicting territory claims, Force or coercion is highly rejected.

A comprehensive vision for engagement with Asia is presented in Australia's military white paper from 2012, emphasizing the economy. The South China Sea is currently a substantial challenge that Australian foreign and defense officials cannot ignore, even though it is unclear what should be done about it. Australian officials have many justifications for why their interests are involved in the South China Sea dispute. The term "make international law the key reference in making choices" is one of them. It frequently appears in ministers' and senior officials' speeches, remarks, and bilateral and trilateral communiqué.

Australia enjoys remarkable trade and energy flow interconnectedness with other nations, which is advantageous from an economic perspective. Southeast Asian waters serve as a crucial maritime route, and the South China Sea is traversed by around 54% of Australia's entire international trade. Australian government representatives also noted that the South China Maritime region's Southeast Asian sea route was the main hub for trade movements in the Asia-Pacific region²⁵. Due to this, Australia is worried about the continued ability to use international waters in a setting governed by laws.

5. Japan

For Japan, the South China Sea is a territorial dispute between coastal states and a trigger for significant problems that can lead to direct military clashes, undermine existing stability, and potentially bring the region and the world into an unprecedented chaotic situation. Furthermore, China's reclamation and military development activities for Japan are worrying because, ultimately, it can make China take complete control of sea communication lines. Then, the emergence of tensions between China and the United States, Japan's main allies, poses a threat to regional stability.

Before the end of the Cold War, Japan's security policy had a narrow focus on its defense. Japan considered any offensive or defensive action against an adversary's home country unconstitutional. The Japan Self-Defense Forces (JSDF) are exclusively limited to fending off the foreign military assault following Japan's pacifist constitution. Japan gradually increased the JSDF's role after the Cold War²⁶. However, the JSDF is explicitly barred from using force in any overseas assignment. The JSDF is limited to conducting military operations as a true armed force to defend Japan's airspace, territory, and adjacent waters up to a distance of a thousand nautical miles. Therefore, it is challenging to justify the deployment of the JSDF's full military capability for incidents in the South China Sea. However, JSDF personnel can be sent on assignments apart from the home defense. The mission involves port calls, combined training and exercises, logistical support, humanitarian aid, disaster relief, and surveillance.

In theory, an armed attack on allied forces would not constitute an act of direct aggression against Japan but would challenge its national sovereignty and jeopardize its fundamental stability. Under Japan's new law, the SDF in the South China Sea will be bigger than ever.²⁷ Therefore, it could be a subject of self-defense for Japan. One thing to note is that the Japanese government adopted another policy to strictly limit the conditions for exercising its right to collective self-defense in the above situations. The primary purpose of these restrictions is not to violate the current pacifist constitution.

²⁴ Ibid.

²⁵ madan L. Shrestha and Takio Murakami, "Intraseasonal Fluctuations in Low-level Meridional Winds over the Indian Ocean and Monsoonal Convection over South Asia," *Tellus A* 40 A, no. 2 (1988), pp. 120–132. <https://doi.org/10.3402/tellusa.v40i2.11787>.

²⁶ Yoji Koda, "Japan's Perceptions of and Interests in the South China Sea," *Asia Policy* 21, no. 1 (2016), pp. 29–35. DOI: 10.1353/asp.2016.0011.

²⁷ *ibid*

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

Because of China's unilateral moves in the South China Sea, coastal governments, especially non-claiming nations like Singapore and Indonesia, are concerned about potentially major conflict. However, many of these nations' military strength is extremely constrained and disproportionate to China's capabilities. Thus, it is evident that Japan can assist in boosting these nations' maritime capacities, with the navy and coast guard being given first attention²⁸. Japan started undertaking several capacity-building projects for Southeast Asian littoral nations in 2015, especially the Philippines and Vietnam, which have long been subject to political and military pressure from China. Its activities include training maritime law enforcement personnel and moving non-military patrol boats.

It is also acknowledged that the capacity of the air-maritime domain among the coastal countries of Southeast Asia is still minimal. Therefore, Japan and the US are intensively cooperating with Southeast Asian countries to encourage the improvement of the air-maritime domain. Japan also encourages military exercises along Southeast Asia's coastline on a bilateral and multilateral basis. Japan started military exchanges with nations in the South China Sea region after the Cold War, and ties were generally excellent. Australia, Indonesia, Singapore, Malaysia, Thailand, Brunei, the Philippines, and Vietnam are some of these nations. Over the past 20 years, the JMSDF has also engaged in bilateral and global exercises with the warships of South China Sea nations. These exercises show Beijing that Japan and the United States are ready to respond to any regional adventure, strengthening naval-to-naval ties, mutual understanding, and interoperability rapidly and significantly²⁹.

6. European Union

G-7 foreign ministers from the European Union, France, Germany, Italy, and the United Kingdom issued a declaration on maritime security in Lübeck in April 2015. In the Declaration, they reaffirmed their dedication to international maritime law, namely as it is represented in UNCLOS, and to freedom of navigation and overflight. The Declaration made it clear that Europe is concerned about "unilateral moves" in the East and South China Seas, just like the United States and Japan are. Europe's aspirations and capabilities in terms of Asian security are currently at odds.³⁰ Due to the deteriorating security situation in Europe's near region, this gap is growing. Such as the necessity to safeguard the populace of Europe against terrorist attacks, the conflicts in eastern Ukraine and Syria, and the refugee crisis.

In general, Europe has stayed silent on recent events in the South China Sea. Instead, the EU's reaction to the worsening security situation has taken the shape of reactionary statements that reiterate the fundamentals of the peace agreement, international law, and the value of fostering confidence. The EU Foreign and Security Policy Guide in East Asia summarizes this strategy. The statement outlines Europe's interests in the South China Sea in terms of advancing a rules-based international system, the principles of freedom of navigation, and the possibility of tensions that could harm trade and investment growth for all parties³¹. The paper also serves as an invitation to the plaintiffs to settle their differences amicably and in accordance with international law, while urging all parties to make their claims clear.

²⁸ *Ibid.*

²⁹ Renato Cruz De Castro, "China and Japan in Maritime Southeast Asia: Extending Their Geo-Strategic Rivalry by Competing for Friends," *Philippine Political Science Journal* : Taylor & Francis, (2013).

³⁰ Duchâtel, "Europe and Maritime Security in the South China Sea: Beyond Principled Statements?"

³¹ *Ibid.*

In December 2015, Nguyen Tan Dung, the prime minister of Vietnam, paid a visit to Brussels, underscoring Europe's severe concerns regarding extensive land reclamation. The Association of Southeast Asian Nations (ASEAN), which leads all initiatives to preserve peace and stability in the South China Sea, is constantly emphasized as a final key component of the European strategy. The core of the European strategy for resolving the conflict in the South China Sea is to adhere to the applicable legal standards and avoid taking sides with any party. In addition, Europe has chosen to stress international law without declaring specifically which provisions of UNCLOS or other texts are applicable in the given circumstance. Due to this circumstance, the EU has decided not to support the Philippines in the Permanent Court of Arbitration publicly. When the court ruled that it had jurisdiction and competence over most of the issues raised by the Philippines, the EU remained silent³².

The Permanent Court of Arbitration ruling serves as the foundation for the European strategy for South China Sea security. Europe is attempting to portray itself as a normative force that upholds the rule-based order of the world. However, that impression might suffer if the EU does nothing in response to China's disrespect for the Permanent Court of Arbitration ruling. Nearly all of the demands made by the Philippines were granted by the Court of Arbitration, which has been the subject of policy discussions in Europe about freedom of navigation in the South China Sea since 2014. These studies ensure the effectiveness of Europe's participation in Asian security issues and its interaction with Asian partners outside of commerce and investment. Obviously, Europe must abide by the court's ruling because it does so following applicable international law. The EU is in a challenging diplomatic relationship due to this circumstance.

Two European policy tools, namely arms sales and freedom of navigation activities, can affect developments in the South China Sea. Recent years have seen new agreements between Southeast Asia and European arms manufacturers. Worth 2.682 billion euros in 2013. For instance, Vietnam ordered French Exocet anti-ship missiles and Dutch Sigma frigates. Meanwhile, the Philippines acquires light-arm helicopters from France and Italy. The "European arms embargo on China" refers to the stringent limitations on the shipment of weapons to China enforced by various European export control laws. When the developing military technology collaboration between France, Britain, and Japan is considered, it appears that Europe has little impact on the distribution of military power in Asia. However, its influence must continue to be seen as a counterweight to China's military might.

Overall, it is important to note that diplomatic support from Europe for measures grounded on international law. Despite the US Navy's adherence to UNCLOS regulations, the US has not ratified the convention, which is a diplomatic liability in the South China Sea³³. Despite its inability to exert sufficient leadership to defend the UNCLOS-based international maritime order, Europe continues to use it as its principal framework when deciding on policy in the South China Sea. Whether certain South China Sea operations represent a legal challenge to the system that governs the seas will be made clear by the Permanent Court of Arbitration's ruling. It will also address whether Europe's desire to support a global order based on norms and rules is consistent and coherent.

7. India

In principle, India promotes freedom of navigation campaigns, including freedom of navigation in the South China Sea area. So it seems strange lately that India has been a little quiet about the dynamics in the South China Sea. New Delhi, however, remains acutely aware of its official position on impartiality in disputes. Officials in India say that China's actions in

³² Paul Saurette, *The Kantian Imperative, Humiliation, Common Sense, Politics*. University of Toronto Press. (2005).

³³ McLaughlin, "U.S. Strategy in the South China Sea Perspective." American Security Project. (2020).

East China and South China Seas are arbitrary and unreasonable. The Indian strategist also said that if a negotiated solution to the dispute in the South China Sea cannot be reached, continued pressure should be exerted on China, given China's aggressiveness³⁴. For this reason, India supports and participates in US naval patrols in the region. Indian leaders have stressed the need for freedom of navigation, the right to passage and overflight, and the peaceful resolution of disputes under the UNCLOS.

There were two concurrent events in November 2015: the thirteenth ASEAN-India Summit and a public speech in Singapore. Prime Minister Narendra Modi brought up the South China Sea issue as he advocated for measures to improve maritime security, anti-piracy efforts, and disaster relief. However, according to numerous reports, India harassed China during the third India-Philippines meeting³⁵. Joint Commission for Bilateral Cooperation in New Delhi in October, when a joint statement used the name "West Philippine Sea," which Beijing objects to, to allude to the South China Sea.

Economically, India is interested in the South China Sea in oil exploitation projects. In October 2011, the Vietnamese government granted the Indian state oil company ONGC Videsh the right to drill for oil in the waters of the South China Sea³⁶. However, China did not remain silent, and they criticized this decision. Through a spokesman for the Chinese Ministry of Foreign Affairs, Hong Lei said, "China opposes all forms of gas and oil exploitation in the disputed South China Sea area. This act is a form of disrespect for China's sovereignty". On the other hand, about 40 percent of India's trade volume passes through the Indian Ocean and the South China Sea. Therefore any conflict that occurs in that region will impact Indian trade.

In order to strengthen its security presence in the western Pacific, India needs to increase its marine deployments in the South China Sea. The Indian navy has engaged in intense operational exchanges with the American navy. By allowing Japan to take part in the most recent version of Exercise Malabar in October, we are increasing its complexity. Four Indian naval ships completed a two-month tour of Southeast Asia in June, and in November, the stealth frigate INS Sahyadri was dispatched to the Philippines for operational deployment. Additionally, India expands its military partnerships with ASEAN members Vietnam, Malaysia, Myanmar, and Thailand. It is even rumored to be discussing the possibility of exporting the BrahMos supersonic cruise missile to Vietnam as a strategic hedge against China³⁷. New Delhi is increasingly showing concern over the deteriorating security relationship in Asia-Pacific. India and the United States urge all Southeast Asian countries to avoid military confrontation and resolve territorial and maritime disputes through peaceful means. Both of these States generally agree that China's goal in the Indian Ocean is to support its maritime interests in the Pacific. However, Indian analysts argue that China's reclamation efforts in the South China Sea are a precursor to more significant power projections into the Bay of Bengal³⁸.

Indian security agencies were rocked by reports in 2015 that Chinese ships were cruising closer to the Andaman Islands. Indian analysts worry that increased Chinese maritime activity near the Andaman and Nicobar Islands is in response to US marine patrols in the South China Sea, as the PLA Navy looks to increase the scope of its operational presence there. Ironically, on the congested Pacific coast, it employs the same strategies as the US Navy³⁹. The Indian navy's approach to dealing with a foreign military presence close to the Andaman and Nicobar Islands is influenced by the legality of coastal patrols in the South China Sea. Without legal

³⁴ Abhijit Singh, "India's Strategic Stakes in the South China Sea," *Asia Policy* 21, no. 1 (2016), pp. 14–20. DOI: <https://doi.org/10.1353/asp.2016.0005>.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Buszynski and Son, "The South China Sea: From a Regional Maritime Dispute to Geo-Strategic Competition."

³⁸ Permanent Court et al., "13 July, 2016" ASEAN Regional Experts on the South China Sea Ruling – Stress Long Term Risks, Including Australian Overreaction" (2016), p. 18.

³⁹ Ibid.

recognition as "islands," New Delhi contends, they cannot stop foreign ships from gaining access to these waterways.

India's short-term strategic preference is for China to tone down its aggression and quit attempting to change the South China Sea's status quo on its own. the cessation of reclamation efforts as well as rigorous marine patrols. China and other claimants must adhere to the 2002 Declaration on the Conduct of Parties in the South China Sea and refrain from using military terminology in order for territorial disputes to be settled peacefully and in accordance with international law⁴⁰. In order to negotiate a binding agreement to govern maritime conduct in the South China Sea, all parties must act sincere. Long term, more stable forces across the Indo-Pacific strategic system will balance India's interest in enhancing the maritime operating capabilities of Southeast Asian nations, resulting in greater excellent stability and predictability in the Indian Ocean⁴¹. India understands the necessity of cooperating with the US, Japan, and Australia on the larger Asian coast in order to secure its leverage over China's fast growing naval presence.

C. Conclusion

In conclusion, the dispute in the South China Sea involves not only neighboring countries who feel that their maritime borders have been violated but also countries that do not claim the South China Sea area. The existence of non-claimant countries in the South China Sea region further adds to the complexity of the problems in the region. Basically, the leading spirit brought by non-claimant countries is the spirit of freedom of navigation based on UNCLOS. All countries do not want certain restrictions in international waters that can disrupt the stability of trade mobilization between countries, which can also disrupt security stability which will certainly disrupt the economy of countries that use these routes as shipping routes for goods or trade commodities of high economic value.

The biggest concern for non-claimant countries if China fully controls the South China Sea is that it will limit the space for transport ships from each country with interests in that route. Every country that goes through this route must comply with China's rules. If a party does not want to follow it, China will easily stop the trade flow of the country that is subject to sanctions. From a political point of view, if countries are contrary to the will of China's policies, it will be difficult for the South China Sea trade route. Furthermore, the most important thing is that the border of the South China Sea region with the nine-dash line doctrine is unknown in UNCLOS and will cause new problems if accepted.

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⁴⁰ Shyam, "Extended Maritime Jurisdiction and Its Impact on South Asia."

⁴¹ Forbes, *The Limits of Maritime Jurisdiction*, vol. 12, (2016), p. 253.

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