South China Sea Dispute

Part of: GS Prelims and GS-II-IR

About South China Sea

- The South China Sea is an arm of western Pacific Ocean in Southeast Asia.
- It is south of China, east & south of Vietnam, west of the Philippines and north of the island of Borneo.
- Bordering states & territories (clockwise from north): the People’s Republic of China, the Republic of China (Taiwan), the Philippines, Malaysia, Brunei, Indonesia, Singapore and Vietnam.
- It is connected by Taiwan Strait with the East China Sea and by Luzon Strait with the Philippine Sea.
- It contains numerous shoals, reefs, atolls and islands. The Paracel Islands, the Spratly Islands and the Scarborough Shoal are the most important.

Importance

- This sea holds tremendous strategic importance for its location as it is the connecting link between the Indian Ocean and the Pacific Ocean. (Strait of Malacca)
- According to the United Nations Conference on Trade And Development (UNCTAD) one-third of the global shipping passes through it, carrying trillions of trade which makes it a significant geopolitical water body.
- According to the Department of Environment and Natural Resources, Philippines, this sea has one-third of the entire world’s marine biodiversity and contains lucrative fisheries providing food security to the Southeast Asian nations.
- The South China Sea is believed to have huge oil and gas reserves beneath its seabed.

In News: The Chinese fishing fleets have been seen raiding the rich waters of the South China Sea that are internationally recognised as exclusively Indonesia’s to fish. The fishermen in Natuna Islands (Indonesia) are worried.

The Chinese steel trawlers scrape the bottom of the sea and destroy other marine life. Chinese trawling also breaches the maritime borders. Since China is its largest trading partner, it has been argued that the Indonesian government has not taken any steps to deal with the incursions by Chinese fishing boats.

China’s illegal fishing near the Natuna islands carries global consequence, reminding regional governments of Beijing’s expanding claims to the South China Sea through which one-third of the world’s maritime trade flows. China wants to claim the resources such as oil, natural gas, and fish in the South China Sea. The presence of Chinese fishers also helps to embody China’s maritime claims. The nine dash line (rejected by an international tribunal) asserted by China violates the principle of Exclusive Economic Zones (EEZ).

History of Dispute

- In the first half of the 20th century, the Sea remained almost quiet. In fact, at the end of
World War II, no claimant occupied a single island in the entire South China Sea.

- China laid claim to the South China Sea in 1947. It demarcated its claims with a U-shaped line made up of eleven dashes on a map, covering most of the area.
- But two “dashes” were removed in the early 1950s to bypass the Gulf of Tonkin as a gesture to communist comrades in North Vietnam.
- The remaining ‘nine-dash line’ stretches hundreds of kilometers south and east of its southerly Hainan Island, covering almost 90% of South China Sea.
- After 1960’s when the huge reserve of oil and natural gas were discovered in the region, the territorial claims started growing in an unprecedented manner.

**The United Nations Convention on the Law of the Sea (UNCLOS),** which came into force in 1994, established a legal framework intended to balance the economic and security interests of coastal states with those of seafaring nations.

- While UNCLOS has been signed and ratified by nearly all the coastal countries in the South China Sea, based on their own interpretation of the UNCLOS, claimant countries started to legitimize their claims.
- In 2002, ASEAN and China came together to sign the Declaration on the Code of Conduct of Parties in the South China Sea to keep disputes away. However, it didn’t achieve the desired outcomes.
- In 2009, Malaysia and Vietnam sent a joint submission to the Commission on the Limits of the Continental Shelf (CLCS) for setting out some of their claims. In response to this China submitted a map containing the infamous “nine-dash” line and due to which, there was no headway in the dispute resolution.

**Why in the news?**

- The **Permanent Court of Arbitration (PCA)**, based in The Hague, Netherlands, recently ruled that China’s claims of historical rights over the South China Sea (SCS) has no legal basis. The case against China was initiated by the Philippines.

- The Permanent Court of Arbitration (PCA) has ruled that China’s claims to the waters within the “nine-dash line”, was in breach of the **UN Convention on the Law of the Sea (UNCLOS)**. The court also observed that China has caused “severe harm to the coral reef environment” by building artificial islands.

- The Philippines had lodged the suit against China in 2013 and has welcomed the ruling, but China has reacted furiously, saying that it “does not accept and does not recognise” the decision.

- China had even refused to participate in the case, saying that the tribunal had “no jurisdiction” over the issue.

- It is important to note that this ruling, comes at a critical juncture, as China bolsters its global economic status. China has a long-standing ambition to be accorded recognition as a market economy under the World Trade Organization (WTO).

- With reference to the current ruling by the tribunal, the U.S. can’t exert much moral pressure as it has not even ratified the United Nations Convention on the Law of the Sea (UNCLOS). Conversely, since both China and the Philippines have ratified the UNCLOS, there is more pressure on China to comply.

**Geopolitics and Activities undertaken in the region:**
• Between China and the Philippines, the conflict centers around the **Scarborough Shoal**. The Scarborough Shoal is essentially a triangle-shaped chain of reefs and rocks with a total area of 150 square kilometers.

• In 1995, China took control of the disputed **Mischief Reef**, constructing octagonal huts on stilts- Chinese officials said at the time that these would serve as shelters for fishermen. The Philippines registered a protest through the Association of Southeast Asian Nations.

• In fact, the current round of tension between the two countries began in 2008-2009 after a tense but bloodless stand-off over the Scarborough Shoal, led to China gaining de facto control of it in 2012.

• Also recently, China has constructed and installed military-capable infrastructure in the **Spratly Islands**.

• China’s state-owned **China National Offshore Oil Corporation (CNOOC)** has accelerated oil exploration, especially in the western region of the South China Sea. China’s rising energy demands appears to be a factor fuelling its assertion in South China Sea, and sharpening its disputes with littoral states, especially Vietnam and the Philippines, along with Taiwan, Malaysia and Brunei.

• Recently, Chinese and Russian naval forces carried out joint air defense and anti-submarine drills in the South China Sea (SCS)- this was part of an eight-day naval war game, **Joint Sea-2016**, which is the largest naval military exercise ever between the two countries.

### Reasons for the stalemate on a possible solution

• ASEAN member nations, namely, Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam, often show signs of anxiety whenever claimants over the South China Sea, most often China, escalate the conflict.

• In fact, one of the fundamental principles of the Association of Southeast Asian Nations (ASEAN) has been to resolve disputes by peaceful means and to reach agreement by a consensus.

• But on the issue of the South China Sea, ASEAN has been unable to formulate a consensus policy. Reasons for this can be attributed partly to the fact that not all 10 ASEAN members are claimants to the South China Sea. While another reason is that members of ASEAN have overlapping claims among themselves. Moreover, bilateral relations between China and some smaller ASEAN members, such as Laos and Cambodia, are also a factor. Because of its economic and military power, China has been able to win over some ASEAN members.

• In fact, when China insisted on talks among the parties concerned, the claimants in ASEAN wanted to pursue it through multilateralism or the Court of Arbitration. Thus, the existence of two opposing approaches was, and continues to be a major challenge for bringing a mutually acceptable solution to the South China Sea disputes.

### Strategic Importance of South China Sea:

• It is important to note that the South China Sea (SCS) contains one of the world’s busiest
international sea lanes and is also home to many of the world’s busiest shipping ports. The South China Sea also connects the Pacific and Indian Oceans and thus is of a unique strategic importance to the littorals of these two oceans which are important naval powers in the region—such as India, Japan, etc.

- The SCS, is one of the main arteries of the global economy and trade. More than $5 trillion of world trade ships pass through the SCS each year. The SCS is rich in resources, with numerous offshore oil and gas blocks. The natural resources in the region are yet to be explored.

- The United States Energy Information Agency estimates that there are 11 billion barrels of oil and 190 trillion cubic feet of natural gas in deposits under the South China Sea (SCS).

- The waters of the South China Sea (SCS), contain lucrative fisheries that, according to some estimates, account for 10% of the global total.

The Indian Context

- It is important to note that in July 2014, an Arbitration Tribunal, set up under the Permanent Court of Arbitration, delivered its ruling, in the matter of the Bay of Bengal Maritime Boundary Delimitation between India and Bangladesh. The maritime boundary so delimited covered the territorial sea, the exclusive economic zone (EEZ) and the continental shelf.

- The United Nations tribunal awarded Bangladesh 19,467 sq. km of the 25,602 sq. km sea area of the Bay of Bengal.

- India has been widely credited, with her acceptance of the decision and the manner in which she has abided by it. This is an example which China should be encouraged to emulate. In fact, it is interesting to note that the US has asked China to learn from India’s handling of its maritime disputes with its neighbours—referring to the maturity with which India has agreed to the settlement on the maritime boundary with Bangladesh.

- Under the ‘Act East’ policy, India has been taking a higher position at the global high table—this was reflected in the joint statement issued in September 2014, by the Governments of U.S. and India when Indian PM Narendra Modi, travelled to U.S. The joint statement “urged the concerned parties to pursue resolution of their territorial and maritime disputes through all peaceful means, in accordance with universally recognized principles of international law, including the United Nations Convention on the Law of the Sea.” The joint statement also, “affirmed the importance of safeguarding maritime security and ensuring freedom of navigation and over flight throughout the region, especially in the South China Sea.”

- In the wake of the recent judgement by the Permanent Court of Arbitration, it is a good time for India to assert that it believes in global commons, and in freedom of navigation. India has rightfully not come out in ‘open’ support of the verdict from the tribunal, as any overt support to this verdict might run against India’s ambitions of securing membership into the NSG—where China’s support is needed.

- India has legitimate commercial interest in the South China Sea (SCS) region. But India
follows the policy of not involving itself in the disputes between sovereign nations.

- India has been concerned about the security of its trade-flows and energy interests in the South China Sea. Vietnam has offered India seven oil blocks in its territory of the SCS-this move didn’t get down well with China. India has signed energy deals with Brunei too.

- India has been a strong advocate of the idea of freedom of navigation. This belief is strongly echoed by most other major powers, including the U.S.

**Possible Way Forward**

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

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

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

- To resolve the disputes peacefully, the claimants in the region should be willing to abandon their confrontational attitude, and instead agree to find a middle path- even if this requires sacrificing certain portions of their claims.

- All claimants can perhaps limit their claim to the areas of 200 nautical miles of the Exclusive Economic Zone in accordance with the United Nations Convention on the Law of the Sea (UNCLOS). Thus, by agreeing to such a proposal, the claimants can also reach an agreement to leave international waters for free navigation.

- Another possible solution would be for the parties concerned to establish a common ownership of the disputed areas whereby all the revenues from the South China Sea are equitably shared among the littoral countries.

- Perhaps another possibility would be for the disputing countries to specifically lay out their claims and allow a neutral party to adjudicate on the basis of the UNCLOS or any other relevant international laws.