

India as a Middle Power in the SCS Dispute

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Introduction

The South China Sea dispute today is the most volatile hotspot in the Asian maritime domain. While the territorial dispute is between six sovereign nations, developments in these crucial commercial and strategic waters have drawn attention from the global community. The dispute stands at a critical junction in the Asian security order, with the Permanent court of Arbitration (PCA) issuing a judgment on the matter and China's refusal to acknowledge the ruling. Beijing took a strong stand against the ruling, claiming "China solemnly declares that the award is null and void and has no binding force. China neither accepts nor recognizes it."¹

The events following this judgment will feed into the discourse on emerging security architecture in the Indo-Pacific, setting precedence for future dispute resolutions and norms of behaviour. Beijing's disregard for international law in international waters takes the dispute out of the region and places it at a global level. While the territorial disputes remain a concern only for the involved parties, what happens in the South China Sea now concerns every nation in consensus with the validity of the UN. It matters to every nation whose interests lie in upholding international rules and norms and, more importantly, in reaffirming a security order that respects consensus as opposed to unilateral changes.

As the environment in the SCS grows increasingly hostile, managing tensions in these waters has become crucial. This essay examines India's approach towards the South China Sea dispute and the role it can play as a middle power in the region. The paper argues that New Delhi's stance on the issue has gone through prominent changes under the leadership of Narendra Modi in line with India's changing outlook on maritime security as a whole. The first section examines India's approach towards the South China Sea, underlining the changes in its policies. The second section explores the role of a middle power and New Delhi's contribution in stabilising the situation. The conclusion briefly suggests further avenues for cooperation that would establish a constructive role for New Delhi in its relationship with Southeast Asia.

¹ Statement of the Ministry of Foreign Affairs of the People's Republic of China on the Award of 12 July 2016 of the Arbitral Tribunal in the South China Sea Arbitration Established at the Request of the Republic of the Philippines, July 12, 2016, available at-
http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1379492.shtml

India's changing approach

During the UPA government in India (2004–14), New Delhi's approach to competing claims on regions of the South China Sea was to maintain distance from the territorial disputes. This was in line with India's policy of non-interference in the affairs of other sovereign nations, which is how it perceived the issue. On the matter of freedom of navigation New Delhi's position has been clear: international waters must remain free and open to facilitate global trade. As far as disputes on international waters are concerned, they must be resolved directly by the parties involved and in accordance with international rules and norms. In essence, New Delhi saw little to no role to play in the simmering South China Sea dispute, heightened by the advent of the Scarborough Shoal incident in 2012. In the final East Asian Summit the Prime Minister of India, Manmohan Singh, encapsulated India's approach: "A stable maritime environment is essential to realize our collective regional aspirations. We should reaffirm the principles of maritime security, including the right of passage and unimpeded commerce, in accordance with international law, and peaceful settlement of maritime disputes."²

As Prime Minister Narendra Modi came to power in 2014 under the NDA government, India's views on the South China Sea have remained the same except in one area: New Delhi's role in stabilising the region. The Modi government saw a role and responsibility as a regional power to contribute towards maintaining peace and security in international waters. While the new government was still debating the level of engagement and the role it was willing to play, opinions began to emerge in speeches and remarks in the top leadership. At his first India–ASEAN summit as Prime Minister (PM), Modi emphasised India's position of maintaining international law: "We all have the responsibility that we all follow international law and norms on maritime issues, as we do in the realm of air passage."³ Modi's remarks were an indication of the new willingness of the Indian state to play its part in negotiations. While India's stand on the matter remains the same – i.e., no interference in the affairs of other sovereign nations, and that disputes must be resolved in accordance with international law – its voice on the issue since 2014 has grown more strident. At the same India–ASEAN summit, Modi initiated the "Act East Policy", the second phase of the Look East Policy launched in the early 1990s.

Gradually, the South China Sea began to feature in India's bilateral discussion with other nations and at regional forums. During Modi's first visit to the United States (US) in 2014 as the PM, the joint statement mentioned the South China Sea – "The leaders expressed concern about rising tensions over maritime territorial disputes, and affirmed the importance of safeguarding maritime security and ensuring freedom of

² Prime Minister's Statement at 8th East Asia Summit in Brunei Darussalam (October 10, 2013), Ministry of External Affairs, October 10, 2013, available at- http://www.mea.gov.in/Speeches-Statements.htm?dtl/22305/Prime_Ministers_Statement_at_8th_East_Asia_Summit_in_Brunei_Darussalam_October_10_2013

³ Remarks by the Prime Minister at 12th India-ASEAN Summit, Nay Pyi Taw, Myanmar, November 12, 2014, available at- http://www.mea.gov.in/Speeches-Statements.htm?dtl/24236/Remarks_by_the_Prime_Minister_at_12th_IndiaASEAN_Summit_Nay_Pyi_Taw_Myanmar

navigation and over flight throughout the region, especially in the South China Sea.”⁴ When Vietnamese Prime Minister Nguyen Tan Dung visited India in 2014, he thanked Modi for India’s “position regarding the East Sea issue and India’s continued cooperation with Vietnam in oil and gas exploration and extraction in the exclusive economic zone and continental shelf of Vietnam in the East Sea.”⁵ With the Philippines, New Delhi did not hesitate to refer to the South China Sea as the West Philippine Sea, Manila’s preferred term⁶.

Without changing the core of its position, New Delhi under Modi managed to transform its approach into a more engaged and supportive policy. This change aligns with India’s own shift in its maritime outlook as well as its increased willingness to play an active role in the region. Maritime security under Modi has become a priority driven largely by his Foreign Secretary, Dr. S. Jaishankar. The current leadership has been able to recognise the role cooperation in maritime security can play in New Delhi’s foreign affairs. Additionally, this leadership has also taken into consideration the changing security environment in the Asia-Pacific, leading to a revision of its maritime outlook. In the last two years, New Delhi has taken a number of steps to engage with its neighbouring states and partners on maritime security. India is renewing its commitments with old partners, prioritising areas of concern, and strengthening its bilateral relationships. The Indian Ocean region was always a priority for the Indian Navy, but now it is also reflected in New Delhi’s foreign policy. Modi is paying special attention to India’s neighbourhood, emphasising New Delhi’s commitment to the region.

Modi’s state visits to neighbouring and distant nations were crucial in marking a special relationship of commitment between New Delhi and states in the region. In an effort to open India’s avenues for cooperation in the maritime domain and increase its strategic presence, Modi’s visit to Fiji (first by an Indian PM in 33 years), Seychelles (33 years), Sri Lanka (28 years), Mauritius, Japan and Australia (28 years) carried a maritime dimension in building its relationships. To complement his outreach to the international community, he has hosted leaders from around the world, including the 14 leaders of the Pacific Islands Forum in 2015.

Reflecting India’s serious intentions to be an active player in the maritime domain is the 2015 maritime security strategy,⁷ which specifies greater cooperation with India’s partners to achieve a favourable maritime domain. India also signed the “Joint Strategic

⁴ Joint Statement during the visit of Prime Minister to USA, Ministry of External Affairs, September 30, 2014, available at- <http://www.mea.gov.in/bilateral-documents.htm?dtl/24051/Joint+Statement+during+the+visit+of+Prime+Minister+to+USA>

⁵ Media Statements by Prime Minister of India and Prime Minister of Vietnam in New Delhi (October 28, 2014), Ministry of External Affairs, New Delhi, available at- <http://mea.gov.in/Speeches-Statements.htm?dtl/24143/Media+Statements+by+Prime+Minister+of+India+and+Prime+Minister+of+V+ietnam+in+New+Delhi+October+28+2014>

⁶ Joint Statement : Third India-Philippines Joint Commission on Bilateral Cooperation, Ministry of External Affairs, October 14, 2015, available at- <http://mea.gov.in/bilateral-documents.htm?dtl/25930>

⁷ “Ensuring Secure Seas: Indian Maritime Security Strategy”, Integrated Headquarters, Ministry of Defence, 2015, available at- http://indiannavy.nic.in/sites/default/files/Indian_Maritime_Security_Strategy_Document_25Jan16.pdf

Vision for the Asia-Pacific and Indian Ocean region”⁸ with Washington, and a joint statement with Japan on working together for peace and prosperity of the Indo-Pacific region.⁹ New Delhi has made an effort to expand its naval cooperation by institutionalising bilateral exercises with Australia and Indonesia, and by supporting the inclusion of Japan as a permanent participating member of MALABAR, an annual naval exercise originally involving only the US and Indian Navy. Apart from increased cooperation with regional powers, Modi has also given special attention to strengthening New Delhi’s relationship with Indian Ocean island states. As a result of India’s active participation in the recent past, New Delhi today is a much more present and a visible player in regional security dynamics in the maritime domain.

The role of a middle power

The primary role of a middle power would be to stabilise and balance the South China Sea environment. Middle powers together can form a strong voice capable of deterring unilateral actions and ensuring behaviour in regard to disputed territory is addressed in accordance with international law, not just in the SCS but across the wider Indo-Pacific.

While many consider India’s role as inactive in the South China Sea issue, New Delhi has made a substantial contribution to maintaining peace and order in the region. One of India’s crucial contributions has been setting precedence for dispute resolution through international arbitration. In 2014 the Permanent Court of Arbitration (PCA) ruled in favour of Bangladesh in its dispute with India in the Bay of Bengal.¹⁰ Despite losing large areas of its maritime boundary, India accepted the award, upholding its obligations under international law. When China refused to recognise the award issued by the same court in favour of the Philippines, New Delhi was one of the first voices to express its support of the UNCLOS and international norms. As outlined above, India has raised the issue at regional forums and shared concerns with its partners regarding the destabilising undercurrents of this dispute.

India’s relationship with its ASEAN partners has grown and New Delhi’s presence in the region is steadily increasing. Countries such as Vietnam and the Philippines welcome a greater Indian presence in the region in the hope of balancing a rising China. While India does not have a foreign policy goal of China containment, it has a very strong Act East policy enabling New Delhi to maintain its presence. India’s oil exploration collaborations with Vietnam are one such example. India decided to continue its resource extraction presence in Vietnam’s block 128 on Hanoi’s request, extending it for

⁸ U.S.-India Joint Strategic Vision for the Asia-Pacific and Indian Ocean Region, The White House, Washington, January 25, 2015, available at- <https://www.whitehouse.gov/the-press-office/2015/01/25/us-india-joint-strategic-vision-asia-pacific-and-indian-ocean-region>

⁹ Joint Statement on India and Japan Vision 2025: Special Strategic and Global Partnership Working Together for Peace and Prosperity of the Indo-Pacific Region and the World(December 12, 2015), Ministry of External Affairs, December 12, 2015, available at- [http://www.mea.gov.in/bilateral-documents.htm?dtl/26176/Joint Statement on India and Japan Vision 2025 Special Strategic and Global Partnership Working Together for Peace and Prosperity of the IndoPacific R](http://www.mea.gov.in/bilateral-documents.htm?dtl/26176/Joint%20Statement%20on%20India%20and%20Japan%20Vision%202025%20Special%20Strategic%20and%20Global%20Partnership%20Working%20Together%20for%20Peace%20and%20Prosperity%20of%20the%20IndoPacific%20R)

¹⁰ Haroon Habib, “Bangladesh wins maritime dispute with India”, *The Hindu*, July 09, 2014, available at- <http://www.thehindu.com/news/national/bangladesh-wins-maritime-dispute-with-india/article6191797.ece>

the third time.¹¹ The block falls within Vietnam's EEZ but is disputed by China. Beijing has long protested India's energy collaborations in the South China Sea, and in 2012 put up block 128 for international bidding, disregarding Indo-Vietnamese collaboration in the same block.¹² While oil exploration is a commercial initiative, it also has strategic implications in the South China Sea. Additionally, India has provided lines of credit to Hanoi in an effort to boost Hanoi's coastal defence. New Delhi has also established a satellite tracking station in southern Vietnam covering the South China Sea, and is assisting both Hanoi and Manila in acquiring patrol vessels as both nations look to reinforce their maritime security in the face of China's assertive claims.

Where ASEAN failed to take a strong stand on the South China Sea judgment, New Delhi continues to affirm its support of the ruling, upholding its validity on a global stage. New Delhi issued a statement in support of the judgment on the day of the ruling,¹³ while India's Foreign Secretary has recently re-emphasised its authority and the need to uphold established norms. Speaking at an Indian Ocean conference in Singapore, he observed,

As a State Party to the UNCLOS, India urges all parties to show utmost respect for the UNCLOS, which establishes the international legal order of the seas and oceans. In that connection, the authority of Annex VII Tribunal and its awards is recognised in Part XV of the UNCLOS itself. India's own record in this regard is also well known.¹⁴

In essence, India's role in the South China Sea has been constructive and collaborative in its diplomatic support and its defence and security cooperation.

However, there remains a sense of disappointment among other powers in the region regarding India's role in the South China Sea. Much of the disappointment comes from expectation of a larger Indian role, in essence taking a lead in challenging China's activities in the SCS. However, this falls well beyond India's foreign policy scope as well its interests. To a considerable extent, India's role in the South China Sea will depend on its relationship with the Southeast Asian nations and with ASEAN. It will depend less on India's relationship with a great power such as the US, for both the US and India are extra-regional powers. Where India has responded to the requests of its partners in Southeast Asia, New Delhi has been balanced to turn away American ideas for joint

¹¹ *The Economic Times*, "ONGC Videsh Ltd not to exit Vietnam block despite poor prospectivity", July 12, 2015, available at- http://articles.economictimes.indiatimes.com/2015-07-12/news/64333955_1_block-128-block-127-block-06-1

¹² *The Hindu*, "India for peaceful resolution of South China sea dispute", July 06, 2012, available at- <http://www.thehindu.com/news/india-for-peaceful-resolution-of-south-china-sea-dispute/article3609324.ece>

¹³ Statement on Award of Arbitral Tribunal on South China Sea Under Annexure VII of UNCLOS, Ministry of External Affairs, Government of India, New Delhi, July 12, 2016, available at- http://www.mea.gov.in/press-releases.htm?dtl/27019/Statement_on_Award_of_Arbitral_Tribunal_on_South_China_Sea_Under_Annexure_VII_of_UNCLOS

¹⁴ Remarks by Foreign Secretary at Indian Ocean Conference (September 01, 2016), Ministry of External Affairs, New Delhi, available at- http://www.mea.gov.in/Speeches-Statements.htm?dtl/27356/Remarks_by_Foreign_Secretary_at_Indian_Ocean_Conference_September_01_2016

patrols the South China Sea¹⁵. India's stand on the matter has been clear, that it will undertake such an operation only if it is conducted under the UN flag. As outlined above, India's role in the South China Sea has been through capability enhancement, increased cooperation, collaborative mechanisms, and diplomatic and political support. Such a stand is likely to continue. Where India should have lent its voice, it has done so. India's engagement in the South China Sea has been as per requests and New Delhi's bilateral relationship with ASEAN nations. So far, none of the disputed nations have approached India for a joint patrol or in support of military challenges in the South China Sea. India does not see any strategic gain from such a move, nor does it have the capability to sustain a greater military presence in these waters.

Conclusion

The rise of China and its ambitions will alter the security order of Asia, and India will play its part to balance it in New Delhi's favour. It is in India's interest to maintain the current security order, welcoming a greater political and security role for India. This order will allow India the space to collaborate and grow in achieving its aspirations of a great power. In order to secure this eventuality India must sustain its current pace of engagement with the region and maintain its presence. While New Delhi has been supportive in its South China Sea role, there is still room for greater collaboration. India must explore options for bilateral naval exercises with Southeast Asian nations such as Vietnam. There is also room for an India-ASEAN multilateral naval exercise. Such collaborative and non-threatening measures will allow India to reinforce established international rules and norms, which are in India's favour. A collaborative and constructive approach towards the South China Sea will be crucial in maintaining peace and order in the region.

Given India's strategic, political and commercial interests in the region, it is in New Delhi's vital interests that the South China Sea remain open, free and stable. Apart from its commercial initiatives with ASEAN countries, 55 per cent of India's trade transits through these waters. Additionally, India must continue to shape the discourse on established rules and norms, as any changes in the South China Sea might affect the order in the Indian Ocean, a theatre in which New Delhi considers itself a prominent power. While India is unlikely to take a lead in collaborating with extra regional powers in the South China Sea, it is likely to continue its engagements with ASEAN nations. If ASEAN unites in its position on the South China Sea and calls on India for help in this matter, New Delhi is likely to consider and weigh its options. Beyond that scope, New Delhi's policy on the South China Sea will remain in support of international law and collaborative in its bilateral and regional relationship.

India is open to a multilateral and consultative approach designed to de-escalate tensions in the South China Sea. While India may not have a proactive policy on the SCS, it does have a strong Act East Policy which forms the basis of its engagements in the region. India is and will be conscious of any SCS development that may affect New Delhi's relationship with the region.

¹⁵ The Times of India, "No Indo-US naval patrol in South China Sea, defence ministry says", February 11, 2016, available at- <http://timesofindia.indiatimes.com/india/No-Indo-US-naval-patrol-in-South-China-Sea-defence-ministry-says/articleshow/50938927.cms>

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India's role in the South China Sea has grown substantially – nonetheless, its interests are served by continuing to explore further areas of cooperation with its neighbours and partners in Southeast Asia.,

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