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Maritime issues have emerged as one of the most important security issues in the Indo-Pacific, driving major powers to strategically adjust their policies towards the region. During the past decade, maritime disputes have escalated to the point where the regional order is being affected and the risk of subsequent armed conflict cannot be entirely ruled out.

The South China Sea (SCS) is at the centre of maritime disputes in the Indo-Pacific region. Many states have significant maritime security interests in the SCS including, inter alia, freedom of navigation and overflight, peace and security in the region, and respect for international laws and norms. While governmental talks have not yet brought about significant progress to solve the disputes, Track II dialogues such as this have the potential to provide open and frank analysis and discussions leading to recommendations that can more effectively manage the situation.

With these considerations in mind, UNSW Canberra at the Australian Defence Force Academy (ADFA), the Diplomatic Academy of Vietnam (DAV), and the Japan Institute for International Affairs (JIIA) hosted a conference and two associated workshops, termed 'The South China Sea in the broader maritime security of the Indo-Pacific', from 28 to 30 September 2016 in Canberra at the Australian Defence Force Academy. This special December 2017 edition of NASSP Issue Briefs are a result of the conference, workshops, and institutional partnership.

The Diplomatic Academy of Vietnam (DAV)

The Diplomatic Academy of Vietnam is an educational and research institution affiliated to the Ministry of Foreign Affairs of Viet Nam. It was established in 1959 and focuses on conducting strategic research in international affairs and foreign policies; teaching students and post-graduates in the areas of international relations, law, economics, journalism and foreign languages; and training mid-career professionals from central and local government agencies on international affairs and diplomatic skills.

The Japan Institute of International Affairs (JIIA)

The Japan Institute of International Affairs (JIIA), founded in 1959, is a private, nonpartisan policy think-tank focused on foreign affairs and security issues. In addition to a wide range of research projects, the institute promotes dialogues and joint studies with other institutions and experts at home and abroad, examines Japanese foreign policy and makes proposals to the government, and disseminates information on international relations to the public. The institute, together with a large network of affiliated scholars, aims to serve as an indispensable resource on international affairs in a complex world.

National Asian Security Studies Program (NASSP)

UNSW Canberra at the Australian Defence Force Academy

The new National Asian Security Studies Program builds on the Executive Education Program developed in 2014. Aside from conferences, workshops and publications to enhance the policy community’s understanding of the Indo-Pacific, the Program is specifically designed to develop leading scholar-practitioners. Through the Program, graduates will be better networked with regional and global partners who will have strengthened their capacity to formulate best practice policy responses to contemporary security challenges.
4.2

India as a Middle Power in the SCS Dispute

Darshana M. Baruah
Carnegie India

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.”

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.

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.”

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.” 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 navigation and over flight throughout the region, especially in the South China Sea.” 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

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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

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
shelf of Vietnam in the East Sea.” With the Philippines, New Delhi did not hesitate to refer to the South China Sea as the West Philippine Sea, Manila’s preferred term.

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 neighbourhhood, 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, which specifies greater cooperation with India’s partners to achieve a favourable maritime domain. India also signed the “Joint Strategic Vision for the Asia-Pacific and Indian Ocean region” with Washington, and a joint statement with Japan on working together for peace and prosperity of the Indo-Pacific region. 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.

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 Justice (PCA) ruled in favour of Bangladesh in its dispute with India in the Bay of Bengal.\(^\text{10}\) 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 the third time.\(^\text{11}\) 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.\(^\text{12}\) 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, 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.

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. 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 demands of its partners in Southeast Asia, New Delhi has been balanced to turn away American proposals to patrol the South China Sea. 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. If expectations from the region are for New Delhi to take a leading role in challenging China’s activities in the South China Sea, India’s partners will be disappointed. 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


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

China Sea role, there is still room for greater collaboration. India must explore options for bilateral naval exercises with its regional neighbours, especially 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 respond. 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. Although it maintains a strong Act East policy, New Delhi is determined to ensure tensions in the South China Sea do not derail its impressive pace of progress in its regional relationships. 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, thereby relying on the protective and authoritative benefits of international law and ASEAN interests of regional balance.

Darshana M. Baruah is a Research Analyst at Carnegie India. Her research examines maritime security in Asia with focus on the Indian Navy’s role in changing security architecture.