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Security Council

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Guiding Package

Topic 1: Conflict in the South China Sea

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Table of contents.....	2
I. Abstract.....	3
II. Introduction.....	4
III. Background Information.....	5
IV. Key terms.....	7
V. Major parties involved.....	8
VI. UN involvement.....	9
VII. Possible solutions.....	10
VIII. Guiding questions.....	10
IX. Useful links.....	11
X. Bibliography.....	11
XI. Appendix.....	13

I. Abstract:

Territorial, political and military conflict in the South China Sea (SCS) has been a source of tension and a threat to international security for the past years. The SCS is a 3.5 million kilometer square sea in the Pacific Ocean that borders China, Brunei, Malaysia, the Philippines and Vietnam. The region is extremely important economically, politically and militarily. It is estimated that one third of the world's sailing ships pass through it every year.

The control and ownerships of numerous different islands and regions in the SCS has been a source of international dispute. Countries have different claims over the sovereignty of these regions. In 1939, the Japanese imperialist regime occupied all islands and regions in the SCS and put in place military bases in islands such as Woody and Pattle Island¹. After the loss of Japan in the Second World War, the latter retreated its forces and of its control over islands in the region. Since then, the region has faced control from numerous different countries, which has led to the current sovereignty dispute.

The region has faced rapid militarization in numerous islands from nations notably the People's Republic of China; the latter has been reportedly building and militarizing islands by putting in place military warships, aircrafts and missiles, an estimated total of 3000 acres.²³ The United States has claimed that the islands are still international waters and have sailed ships as freedom of navigation operations (FONOP) near the islands⁴. The region faces a humongous threat of military conflict that could be deadly for the region. The Security Council has to focus on finding a peaceful and just solution to the growing conflict.

¹ Hayton, Bill, *Fact Fiction and the south china Sea*, May 25th 2016, <http://www.asiasentinel.com/politics/fact-fiction-south-china-sea/>

² Cohen, Zachary, *Photos reveal military growth in the south china sea*, CNN, May 16th 2016, <http://edition.cnn.com/2016/05/13/politics/china-military-south-china-sea-report/>

³ Asia Maritime Transparency Initiative (AMTI), <https://amti.csis.org/island-tracker/>

⁴ Chalmers, John, March 24th 2016, *Obama says he will ensure freedom of navigation operations in the south china sea*, <http://www.reuters.com/article/us-vietnam-obama-southchinasea-idUSKCN0YF0IJ>,

II. Introduction:

The South China Sea dispute is a territorial and economic conflict that regroups the countries bordering it, which are the People's Republic of China, the Socialist Republic of Vietnam, Malaysia, the Nation of Brunei and the Republic of the Philippines. The conflict is not only over the maritime territory but also some of the islands of the sea such as the Scarborough Reef, Spratly, Parcel islands and the Indonesian Natuna islands.

The conflict is of great importance mainly for economic reasons as the South China Sea supposedly has an estimation of 11 billion barrels of oil and 190 trillion cubic feet of natural gas according to the People's Republic of China⁵, however, some countries disconfirm these numbers. There is also an estimated \$5.3 trillion total annual trade passing through the sea⁶.

The conflict has not yet reached the premises of the United Nations Security Council, nevertheless, the security concerns of this conflict has been handled by the "Shangri-La Dialogue" forum⁷ as first option. The second option for the dialogue on security issues is The Council for Security Cooperation in the Asia Pacific.

Under the United Nations Convention on the Law of the Sea (UNCLOS), there has been an arbitral tribunal formed to rule on the disputed territory between the People's Republic of China and the Republic of Philippines. On July 2016, the tribunal ruled against China; however the Chinese government stated that "it does not acknowledge the tribunal nor abide by its ruling"⁸.

⁵ Council on foreign relations, contingency planning memorandum number 14, *armed clash in the south china sea*, April 2015, <http://www.cfr.org/asia-and-pacific/armed-clash-south-china-sea/p27883>

⁶ Council on foreign relations, contingency planning memorandum number 14, *armed clash in the south china sea*, April 2015, <http://www.cfr.org/asia-and-pacific/armed-clash-south-china-sea/p27883>

⁷The Shangri-La dialogue is an intergovernmental security forum held annually by the International Institute for strategic studies. The latter is attended by defense minister permanent heads of ministries and military chiefs of 28 Asia-Pacific states.

⁸For the full text of the article, see: <http://www.bloomberg.com/news/articles/2016-07-12/china-no-historic-right-to-south-china-sea-resources-court-says>

III. Background information:

a) Legal disputes:

Conflict over the control of regions in the SCS has led to legal disputes, the most important one being between the Philippines and the People's Republic of China (PRC). In January 2013, the Philippines raised a case in The Hague Permanent court of Arbitration (PCA) seeking a ruling that declares that claims in the SCS must comport within the United Nations Convention of the Law of the Sea (UNCLOS) which would thus invalidate China's nine-dash line claims⁹¹⁰. In June 2016, the PCA ruled in favor of the Philippines, concluding that China has no legal or historical basis to claim the Nine-Dash line. The PCA also concluded that the PRC does not have the right to resources within its "nine-dash line"¹¹. However the PRC has publicly denied the sovereignty and the legal basis of the court stating that: "that the award is null and void and has no binding force. China neither accepts nor recognizes it"¹² and that the court is "completely a political farce staged under legal pretext"¹³. It is extremely important for the international community to try to negotiate to find a peaceful resolution to the legal disputes.

b) Conflict regarding natural resources:

The overwhelming amount of natural resources in the SCS has led to disputes over their exploitation. In May 2014, a Chinese oil rig, the HYSY 981 moved into waters south of the Paracel Islands a region claimed by Vietnam. The latter laid to diplomatic disputes between the

⁹ For more details regarding the nine-dash line claims see definition of key terms c)

¹⁰ Philippines department of foreign affairs, Statement of claim, January 2013, <https://assets.documentcloud.org/documents/2165477/phl-prc-notification-and-statement-of-claim-on.pdf>

¹¹ For the full ruling of the Permanent court of arbitration see useful links 4

¹² Statement of the Ministry of Foreign Affairs of the PRC on the Award of 12 July 2016 of the Arbitral Tribunal in the SCS Arbitration Established at the request of the Republic of the Philippines 7th of July 2016. <http://www.china-embassy.org/eng/zt/abc123/t1379492.htm>

¹³ Remarks by Chinese Foreign Minister Wang Yi on the Award of the So-Called Arbitral Tribunal in the South China Sea Arbitration 12th of July 2016. <http://www.china-embassy.org/eng/zt/abc123/t1380241.htm>

two states and even to anti-Chinese protests in Vietnam.¹⁴ China then removed its oil rigs, but a similar dispute also happened in 2015¹⁵. However, the rig has been reportedly operating near the mouth of the Tonkin Gulf since the start of April 2016¹⁶. Vietnam has strongly condemned the matter with Mr. Hai Bin, foreign ministry spokesperson stating the latter: “Vietnam strongly protests this and demands that China drop its drilling plans and move it out of the area.”¹⁷ China then denied these protests stating that “The Operation is in waters under undisputed jurisdiction of China.”¹⁸ There has also been conflict regarding fishing, with countries such as Indonesia reportedly blowing up 27 fishing boats in 2016 that had gone into Indonesia contested regions.¹⁹

c) Militarization of the SCS:

The biggest concern in the SCS conflict is its militarization by the disputed countries as it can result in an armed clash between them. Most of the countries bordering the sea have already militarized their territory. The People’s Republic of China however, is seemingly increasing its militarization. “Vietnam for example has deployed marines, equipped with not just small arms but heavier weaponry such as anti-armor recoilless rifles and shoulder-launched surface-to-air missiles.”²⁰ In the 1990s, it withdrew marines and replaced them with coast guard personnel.

The People’s Republic of China has heavily militarized their claimed territories, especially by building artificial islands. They are now increasing this militarization by building runways on the islands, placing radar stations and moving some of its artillery forces to these islands. On Woody Island, China has built a new 2700 meter runway that can fit most of its

¹⁴ <http://www.bbc.com/news/world-asia-2740385> , Vietnam Anti-China Protests, Factories burnt, BBC, May 14th 2016

¹⁵ <http://thediplomat.com/2015/06/chinas-hd-981-oil-rig-returns-to-disputed-south-china-sea-waters/> , China’s HD981 oil rig returns near disputed south china sea waters, The diplomat, Panda Anikdt, June 27th 2016

¹⁶ <http://www.wsj.com/articles/vietnam-tells-china-to-remove-oil-rig-from-disputed-waters-1460042757> , Vietnam tells China to remove oil rig from disputed waters, Tiezzi, Shannon, The Wall street Journal, Trong Khankh, Vu, April 8th 2016

¹⁷ http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns16012009051 , Statement of Mr. Hai Bin, Vietnamese foreign ministry spokesperson, April 5th 2016

¹⁸ Foreign ministry Spokesperson Hong Lei’s Regular Press Conference on April 8 2016, http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1354229.shtml

¹⁹ <http://www.wsj.com/articles/indonesia-blows-up-23-foreign-fishing-boats-to-send-a-message-1459852007> , the wall street Journal, Indonesia blows up 23 foreign fishing boats to send a message, Moss, Trefor, April 5th 2016.

²⁰ For the full article, see: <http://nationalinterest.org/blog/the-buzz/beijings-militarization-the-south-china-sea-really-defensive-15673>

fighter jets, some of them have been seen in this island. Also, in early 2016, it has deployed long-range surface-to-air missiles on the island. It also has a growing air carrier fleet deployed in these waters. China has reportedly been using methods such as armed fisherman to attack neighbouring countries.²¹

d) Freedom of navigation operations:

The United States of America is in disagreement with China in this dispute as it supports the countries opposing China and because it has not ratified the UNCLOS.

“The United States Freedom of Navigation program challenges territorial claims on the world's oceans and airspace using diplomatic protests and/or by challenge. The country's position is to insist that all nations must obey the international law of the sea, as stated by the UN Law of the Sea Convention”²². This program has been heavily criticized by China, as they believe that the USA is trying to infringe their right in the SCS and the East China Sea. Since October 2015, the USA has been increasing its FON operation in the SCS – once every 3 months-. They are done near Spratly islands, three destroyers have “sailed within 12 nautical miles of reclaimed-land islands in the Great Wall of Sand”.²³

IV. Definition of key terms:

a) Exclusive Economic Zone (EEZ):

According to the UNCLOS, an EEZ is a sea zone where a state has special rights regarding the use and exploration of marine resources including energy production from water and wind. An EEZ extends to 200 miles from the coast of an island.

b) Air Defense Identification Zone (ADIZ):

²¹ For the full article, see: <http://atimes.com/2016/06/chinas-militarization-of-the-south-china-sea-building-a-strategic-strait/>

²² <http://georgewbush-whitehouse.archives.gov/news/releases/2007/05/20070515-2.html>

²³ For the full article, see: <http://www.lowyinterpreter.org/post/2016/05/10/US-Navy-carries-out-third-FONOP-in-South-China-Sea.aspx>

An ADIZ is a publicly defined area extending beyond national territory over land or sea in which civil aircrafts can be interrogated for identification before they cross into a country's airspace. A notable example of an ADIZ is in the East China Sea declared by the PRC in November 2013.

C) Nine-Dash line:

The Nine-Dash line is the geopolitical border used by the PRC for their claims of the major part of SCS. The contested regions include Paracel and Spratly Islands and various other areas including the Pratas Islands, the Macsfield Bank and the Scarborough Shoal. The Nine-Dash line includes almost 90% of the disputed lands in the SCS.

d) Freedom of Navigation:

Freedom of navigation is a principle of customary international law. The latter states that apart from exceptions under international law, ships with the flags of any sovereign state shall not face interference from any other state. The latter is enforced by article 87 a) of the UNCLOS.²⁴ However not all UN member states have ratified the convention.²⁵

V. Major parties involved:

- **The People's Republic of China:** It is the main party of the dispute as it claims the largest portion of territory. It's claimed territory is defined by the "nine dash line". The People's Republic of China started building artificial islands in the sea as a way of affirming their sovereignty over the sea; these islands reportedly are large enough to "boast sports field and airplane runways"²⁶ and there is a harbor big enough for military tankers.

²⁴ For the full text of the article see: http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

²⁵ Chronological list of ratifications of, accessions and succession to the Convention and the related agreements, http://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm

²⁶ For the full text of the article see: <http://time.com/4341510/south-china-sea-artificial-islands/>

- **The Nation of Brunei:** It does not claim any of the disputed islands, however it lays claim to territory in the South China Sea that is – according to it – in its economic exclusion zone.
- **Malaysia:** Malaysia also claims some of the territory of the South China Sea like the Nation of Brunei; however, it claims some of the islands in the Spratly island chain.
- **The Republic of Philippines:** The Republic of Philippines claims the Spratly islands as part of their territory as it is geographically the closest to them. It is also in a dispute with the People’s Republic of China over the Scarborough Shoal.
- **The Socialist Republic of Vietnam:** Vietnam is an important part of the dispute as it claims that the People’s Republic of China is using historically inaccurate information. It claims that Vietnam ruled over the Paracel and Spratly islands since the 17th century and that the People’s Republic of China never ruled over them before the 1940s.
- **The United States of America:** The USA is also an important party in the dispute although it does not claim any of the territory of the South China Sea. The USA has an important significance in this dispute for two reasons. Firstly, because it does “freedom of navigation” operations with its military force in the Pacific Ocean, also because of the trading and economic freedom that should be kept unhindered.

VI. UN involvement:

Numerous different states have put in place claims regarding regions in the SCS. The international community has thus put in place a variety of forums, summits and organizations to try to resolve and find solutions regarding these claims and disputes. In 2002, the Association of Southeast Asian States (ASEAN) as well as China under the supervision of the United Nations agreed to a code of conduct²⁷. The latter included respecting legal evidence and claims and seeking peaceful solutions according to the 1982 UNCLOS as well other principles and treaties of international law. It also recommended resolving disputes through friendly negotiation.

²⁷ For the full text of the code of conduct see useful links 1

The UNCLOS was adopted in 1982²⁸. It defines and limits territorial sea and details the rights and responsibilities of nations who use the oceans. The latter puts in place a legal base and reference and is extremely important legal source for solving disputes in the SCS. Specifically it introduces the notion of Exclusive Economic Zones²⁹ within which a Member State has exploitation rights over natural (living and nonliving) resources. It also puts in place the legal definition and rights of islands and rocks.

VII. Possible Solutions:

The involvement of the United Nations Security Council should:

- Ensure that all reach a legal agreement regarding disputes in the SCS under the basis of customary international law and the UNCLOS.
- Ensure that a peaceful agreement is reached.
- Attempt to decrease the military presence in the South China Sea to avoid any confrontation there.
- Ensure the protection of the ethnic minorities living in the islands of the South China Sea.
- Ensure the protection of the sovereignty as well as the economic, political and diplomatic rights of each country.

VIII. Guiding questions:

1. What is your country's policy regarding conflict in the SCS?
2. Does your country support Freedom of Navigation Operations put in place by the United States of America?
3. Has your country ratified the UNCLOS?
4. In what way is your country affected by a possible military clash in the SCS?
5. Does your country support the historical and territorial claims made by the People's Republic of China? Does it believe in the sovereignty of The Hague Permanent Court of Arbitration regarding in the SCS case?
6. How can the SC prevent an armed military clash in SCS?
7. How can the SC ensure that the rights of each Country in the SCS is respected notably concerning freedom of navigation, EEZ's, resource exploitation and fishing rights?
8. In what way can the SC enhance, strengthen and develop the political, economic and diplomatic relations between countries in the SCS?

IX. Useful links:

1. 2002 Declaration on the conduct of parties in the South China Sea:

<https://cil.nus.edu.sg/rp/pdf/2002%20Declaration%20on%20the%20Conduct%20of%20Parties%20in%20the%20South%20China%20Sea-pdf.pdf>

²⁸ For the full text of the 1982 UNCLOS see useful links 2.

²⁹ See definition of key terms a

2. 1982 Convention on the law of Sea:

http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

3. Asia Maritime Transparency Initiative, <https://amti.csis.org/>, Analysis, primary documents and satellite images

4. Permanent court of Arbitration Case Number 2013-10 “In the matter of the South China Sea Arbitration”, <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>

5. Grey, Raymond, *The South China Sea, next stop for the UN Security Council*, The interpreter, 30th of May 2016, <http://www.lowyinterpreter.org/post/2016/05/30/The-South-China-Sea-Next-Stop-the-UN-Security-Council.aspx>, Analysis on the potential role of the UN Security Council in the SCS conflict

6. Hunt, Katie. *Showdown in the South China Sea: how did we get there?* CNN, August 2nd 2016, <http://edition.cnn.com/2015/10/28/asia/china-south-china-sea-disputes-explainer/>, Analysis on the causes of the conflict in the SCS

7. Hume, Tim, *Has South China Sea ruling set scene for next global conflict?* CNN, July 13th 2016, <http://edition.cnn.com/2016/07/13/asia/south-china-sea-global-conflict-risks/>, Analysis on the risks and potential consequences of conflict in the SCS

8. Poling, Gregory, *Judgment Day: The South China Sea tribunal issues its ruling*, Center for strategic and international studies (CSIS), July 12th 2016, [Cfr.org/global/global-conflict-tracker/p32137#!/conflict/territorial-disputes-in-the-south-china-sea](http://www.csis.org/global/global-conflict-tracker/p32137#!/conflict/territorial-disputes-in-the-south-china-sea), Analysis of the legal aspect of the conflict

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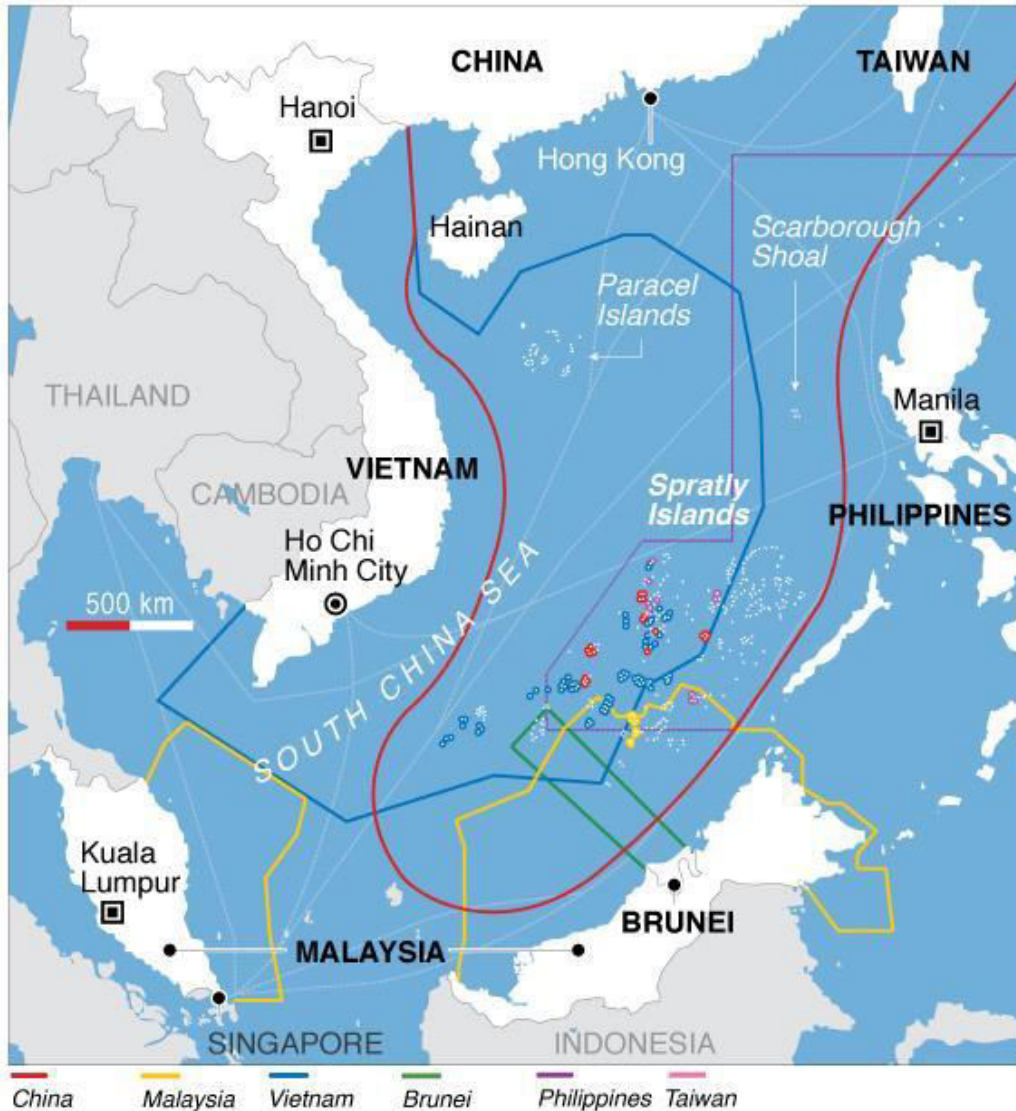
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- Cohen, Zachary, *Photos reveal military growth in the south china sea*, CNN, May 16th 2016, <http://edition.cnn.com/2016/05/13/politics/china-military-south-china-sea-report/>

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 - Philippines department of foreign affairs, Statement of claim, January 2013, <https://assets.documentcloud.org/documents/2165477/phl-prc-notification-and-statement-of-claim-on.pdf>
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- <http://www.bbc.com/news/world-asia-2740385> , *Vietnam Anti-China Protests, Factories burnt*, BBC, May 14th 2016
- <http://thediplomat.com/2015/06/chinas-hd-981-oil-rig-returns-to-disputed-south-china-sea-waters/> , *China’s HD981 oil rig returns near disputed south china sea waters*, The diplomat, Panda Anikdt, June 27th 2016
 - <http://www.wsj.com/articles/vietnam-tells-china-to-remove-oil-rig-from-disputed-waters-1460042757>, *Vietnam tells China to remove oil rig from disputed waters*, Tiezzi, Shannon, The Wall street Journal, Trong Khankh, Vu, April 8th 2016
 - http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns16012009051 , Statement of Mr. Hai Bin, Vietnamese foreign ministry spokesperson, April 5th 2016
 - Foreign ministry Spokesperson Hong Lei’s Regular Press Conference on April 8 2016, http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1354229.shtml

- <http://www.wsj.com/articles/indonesia-blows-up-23-foreign-fishing-boats-to-send-a-message-1459852007> , the wall street Journal, *Indonesia blows up 23 foreign fishing boats to send a message*, Moss, Trefor, April 5th 2016.
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XI. Appendix:

- 1- Map explaining territorial claims in the South China Sea:



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2. Summary of Area of disputes:

An interactive look at claims on the South China Sea, The Straits times, 29th of February 2016, <http://graphics.straitstimes.com/STI/STIMEDIA/Interactives/2016/02/turf-wars-on-the-south-china-sea/index.html>

The map below shows a summary of the claims of each country in different regions of the SCS.



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https://en.wikipedia.org/wiki/Territorial_disputes_in_the_South_China_Sea#/media/File:South_China_Sea_claims_map.jpg

Area of dispute	Bru nei	Cambo dia	China	Indon esia	Malays ia	Philippin es	Singapo re	Vietnam
The nine-dash line area	✓		✓	✓	✓	✓		✓
Vietnames e coast	✓	✓	✓		✓	✓		✓
Sea area north of Borneo	✓		✓		✓	✓		✓
South China Sea islands	✓		✓		✓	✓		✓
Sea area north of the Natuna Islands		✓	✓	✓	✓			✓
Sea area west of Palawan and Luzon	✓		✓		✓	✓		✓
Sabah area				✓	✓	✓		
Luzon Strait			✓			✓		
Pedra Branca					✓		✓	

area								
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