

Report on
IMPLICATIONS OF THE SUBMISSION OF CLAIMS FOR
EXTENDED CONTINENTAL SHELF IN THE SOUTH CHINA SEA
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The comments are as follows:

First, according to the Author:

This paper explores the implications of the ECS submissions in the South China Sea. First, it provides an overview of the dispute in the South China Sea. Then it discusses the nature of the extended continental shelf (ECS) and the impetus for making a claim for it. Afterwards, it explains the ECS submissions made in the South China Sea and the series of reactions and counter-responses it has generated. Finally, it identifies and discusses the implications of such submissions especially on the dispute in the South China Sea and on the relations of the concerned claimant states.

This paper should present an overall hypothesis that is going to test regarding these points. Also, there is no need to hide the paper's conclusions until the end. They should also be stated up front.

Second, "The South China Sea dispute refers to the conflicting territorial claims over the various geological features in the area." This is not how the parties originally defined the dispute. Arguably, this originally is a dispute about seemingly rather homogeneous bodies of water, the drawing of lines on a map, and issues of historical control and discovery. Knowledge of, and specific claims based on, specific features came only in the past few decades.

Third, related to the Author's description of the claims based on five grounds, somewhere the author should note that UNCLOS and these rights do not confer sovereignty over islands. Rather the reverse is true: sovereignty over islands confers EEZ rights over nearby waters.

Fourth, explain why whether some living organisms belonging to sedentary species can be found in the area is the last point that matters.

Fifth, on Page13, the Author wrote "While it may be viewed that the ECS submissions made by Malaysia and Vietnam may have undermined their position in the South China Sea". On this point Author should provide the reasons to support.

Sixth, on Page15, Author mentioned the ASEAN's attitude and actions towards the SCS issues. However, this is misleading. ASEAN has preferred a multilateral setting for some aspects of the disputes, such as the declaration for code of conduct, CBMs, joint development, etc., but not others. Most notably, many ASEAN countries do NOT see a multilateral setting as useful for dealing with the issues of sovereignty. Vietnamese officials were blunt in telling me this last year: why have more than two parties in the room? It's not as though sovereignty disputes will be solved through majority votes in a multilateral forum. For them, only one-on-one talks with China will resolve their bilateral territorial dispute. Others, such as Thailand, also oppose a multilateral approach in principle, since they do not want the same principle applied elsewhere: e.g. Thailand strongly opposes a multilateral framework for dealing with its border dispute with Cambodia.

Seventh, the ASEAN policy mentioned on the Page18 is not convincing enough, except for perhaps on CBMs, non-use of force, joint development, etc. Certainly, this article presents little evidence to back up the claim that ASEAN acts as a block, and I see this claim as being rather unrelated to the previous part of the article that focused on legal aspects related to UNCLOS.

Eighth, the paper argues that a joint ECS submission among all ASEAN claimant states would probably have more chance of being considered as it would only get objection from China. Here, another important dimension of conflict is missing from the analysis: ASEAN claimant versus non-claimant states. Thailand, Singapore, Cambodia, Laos, Burma, and to some extent Indonesia might not have an interest in pursuing a unified ASEAN position vis-à-vis China on the South China Sea because they have no territorial claims there and have other interests they give higher priority. This article does not provide any explanation of why they need to balance China. Put another way, why do the Philippines have to balance China more than Vietnam, especially as Vietnam has a larger presence in the Spratlys. If the author wants to attribute this need to China's growing power then the case should be laid out explicitly. Moreover, such a case is rather incompatible with the UNCLOS-based analysis in most of this article. Under UNCLOS China poses no greater threat to, say, the Philippine's claims than does Vietnam or Malaysia, and UNCLOS and its dispute mechanism do not tilt toward great powers.

Ninth, a point mentioned on Page 20 is totally out of this article:

However, beyond the issue of ECS submissions, ASEAN claimant states and also non-claimant states should focus on how to respond to the threat of an aggressive China in the South China Sea.

If this is what the author wants to focus on, they should write a different article. Also, a careful analysis of how aggressive China is related to other states is called for: e.g. Vietnamese CG vessels bumping or ramming Chinese CG vessels in disputed waters, or Vietnam and the Philippines prospecting for oil in areas known to be in dispute (actions possibly inconsistent with the 2002 DOC). In other words, a careful analysis would have to consider the possibility that many or all sides are acting aggressively in certain respects and that an action/ reaction process of escalation has been underway.

Tenth, China is securing supplies of oil and gas as reflected by its foreign policy. This can be considered a motivation for the Philippines and Vietnam to start drilling in disputed SCS waters. Related to above, in order to secure oil imports, China is allowing even the sale of arms to countries like Iraq and Iran. The Author should name a major oil importing power that doesn't do this, and Japan is only a partial exception at best.

In addition, the conclusion is very unclear: joint development with China can be achieved or not. If that could be achieved, yes that would help to prevent conflict. Without China's inclusion it would only provoke it. This point should be clearly clarified.

Finally, some problems about the wording and evidence providing.

For example:

I. Acronyms: Although they are not hard to figure out, the author needs to identify and spell out acronyms such as ECS and SCS when they are first used. Note: use of yellow highlighting reflects identification of key passages, and does not indicate the need for editing.

II. Formatting problem need to be revised.

III. Some definitions in the report needed to be clarified such as on Page 2 "continental margin" is that different from continental shelf?

IV. The worded phrase should be revised, on Page 5 "Owing to rapid development trend" does it can be rephrased as "Due to rapid global economic growth"?

V. An incomplete sentence appeared on Page 19: "Although, in hindsight, ASEAN claimant states to the South China Sea missed an opportunity to make a joint ECS submission in the South China Sea."

VI. Evidence needed to prove "China has been exercising a more assertive policy in the South China Sea" on Page 21.