

Japan Becomes Latest Nation to Contest Beijing's Claims in the South China Sea



Suga Yoshihide, Prime Minister of Japan speaks virtually during the 75th annual U.N. General Assembly, Sept. 25, 2020.

Japan has joined a growing list of countries that are challenging China's maritime claims in the South China Sea.

On Tuesday, Japan presented a one-page diplomatic note to the United Nations rejecting China's baseline claims and denouncing its efforts to limit the freedom of navigation and overflight.

Japan's note is the latest in series of recent criticisms of China's position, joining submissions to the U.N. from the United Kingdom, France, Germany, Malaysia, Australia, Indonesia, Vietnam, the Philippines, and the United States.

This backlash suggests that China's excessive claims and its assertive behavior are setting off alarm bells in a growing number of capitals—both in Southeast Asia and beyond.

“By joining the United States and several European and Asian nations in formally protesting China's claims, Japan is joining a diplomatic (and maybe operational) effort to reject specific elements of China's South China Sea claims,” said Isaac Kardon, an assistant professor at the U.S. Naval War College.

In its submission, Japan explicitly rejects China's claim that the “drawing of territorial sea baselines by China on relevant islands and reefs in the South China Sea conforms to UNCLOS and general international law.”

The United Nations Convention on the Law of the Sea is an international treaty that covers maritime jurisdictions, the use of sea resources, and the freedom of navigation and overflight. Baselines are imaginary lines on a map connecting the

outermost points of the features of an archipelago and are meant to circumscribe the territory that belongs to it.



Japanese Ground Home Defence Forces Amphibious Assault Vehicles (AAV) manoeuvre along the beach of a Philippine navy training center facing the South China Sea in annual U.S.-Philippine marines exercises. San Antonio town, Zambales province, Oct. 6, 2018.

Deeper Southeast Asia ties

Although Japan is not among the claimants in the South China Sea, this is not its first foray into those turbulent waters.

Japan has deepened security ties with several of the Southeast Asian claimant nations in recent years, and in October 2020 carried out anti-submarine exercises in the South China Sea.

Japanese companies have signed onto joint offshore energy projects with Vietnam, and Japanese Prime Minister Yoshihide Suga recently set a defense export agreement with Vietnamese Prime Minister Nguyen Xuan Phuc.

Similarly, the Philippines has acquired coast guard vessels and radar systems from Japan. And Japanese vessels have participated in exercises in the South China Sea with forces from the United States and the Philippines.

Japan's decision to challenge China's position in the South China Sea is also likely related to its dispute with China over the Japanese-occupied Senkaku Islands in the East China Sea.

"The timing of the note is crucial," Pooja Bhatt, a PhD candidate at Jawaharlal Nehru University, said, "as it was released a few hours prior to a reportedly high-level consultation on maritime issues between China and Japan where the latter lodged a diplomatic protest over increasing Chinese belligerence near the Senkaku Islands."

More broadly, Bhatt said Japan's action reflected a trend of non-claimant states that "seek safety and freedom of trade and navigation" and hope to "uphold the

rule of law and internationally accepted norms in the high seas of the South China Sea just like any other global commons.”

Because “the waters of the South China Sea beyond the territorial sea are high seas that impact global peace and security,” Bhatt explained, claimant and non-claimant states “are increasingly vocal to register their concern through diplomatic notes to the United Nations at the multilateral level.”

At odds with UNCLOS

For example, France, Germany, and the United Kingdom submitted joint notes to the United Nations in September 2020. They contended that China’s baseline claims and historic rights claims were inconsistent with UNCLOS.

China claims straight baselines around the Paracel Islands, an area in the northern South China Sea disputed by Vietnam, China, and Taiwan. Assessments of these claims have long concluded that China’s baselines in the Paracels are at odds with UNCLOS requirements. China has not yet claimed baselines around the Spratly Islands, the site of overlapping claims between China, Vietnam, the Philippines, Brunei, Taiwan, and Malaysia.

In July 2016, an UNCLOS tribunal ruled that China “is constituted principally by territory on the mainland of Asia and cannot meet the definition of an archipelagic State,” which means that any future straight baseline claims around the Spratly Islands will not find any support under international law. The arbitral award also invalidated China’s historic rights claims within its so-called “nine-dash line.”

The UNCLOS tribunal at the Permanent Court of Arbitration in The Hague issued this arbitral award in response to a legal challenge brought against China in 2013 by the Philippines. China refused to participate in the arbitration, rejected the PCA’s ruling, and has continued to defend its baseline claims.

In the years since the UNCLOS tribunal ruling, the legal battle over China’s South China Sea claims has continued. According to Kardon, Japan’s recent note to the U.N. is part of “a series of such diplomatic notes that began with Malaysia’s December 2019 submission of extended continental shelf claims to the United Nations Commission on the Limits of the Continental Shelf.”

China responded by asking the Commission to “not consider”

Malaysia's submission. "This provided another target for claimants and other interested parties to voice formal objections to specific aspects of China's claims," Kardon said.

Japan's note to the United Nations is a response to China's retort to the joint notes that France, Germany, and the United Kingdom submitted in September 2020.

Japan's note also expresses concern about China's position on freedom of navigation and overflight in the South China Sea - specifically over what are called "low-tide elevations," features exposed at low tide but submerged at high tide that do not generate a territorial sea.

Japan specifically accuses China of protesting "the overflight of Japanese aircraft in the airspace surrounding Mischief Reef" - a low-tide elevation in the Spratly Islands that China transformed into a major outpost through land reclamation.

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