



GA

General Assembly

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Introduction

Dear delegates,

It is a pleasure to welcome you to the thirty-first model of the Latin American Model United Nations of Universidad de las Américas Puebla. The following pages intend to guide you in the research of the topics that will be discussed throughout LAMUN 2018 in committee sessions. Please, take into consideration that this guide only provides the basis for your investigation. It is your responsibility to find as much information as necessary on the topics and how is related to the country you represent.

Territorial conflicts of the South China Sea

CURRENT SITUATION

Within the national interests of The People's Republic of China lies all the claims of sovereignty in the Sea of the South of China, for what, they would be willing to use in a direct and believable way the force to defend their national interests, which, cover the fields of economic and military strategic interests.

It has been estimated, that the Sea of the South of China may contain 105.000 billions of barrels of hydrocarbons reserves. Then, on issue of geopolitics, whoever has the control and achieve the sovereignty under the disputed islands, reefs and waters shall have the control of big amounts of energy reserves. Furthermore, across of these waters of the Sea of the South of China around the 80% of their importations of hydrocarbons are transported, ergo, the control of these waters would prevent international and regional restrictions for them. (Fravel, 2011, p.296)

Due to the events, it has been considered the disputed waters and territory as a *buffer zone*, for what it could represent a military barrier of protection to avoid future military threatens, because the

control of the area would deny the unauthorized access to the zone to possible adversaries and would prevent military activities against the country of China.

Nowadays, it can be observed how China have used diplomatic, military and economic means to achieve their ends in the Sea of the South of the country. But the Asiatic country has failed in demonstrate the auto-allocated historical rights under the zone and has not agreed with the jurisdiction dictated by the Hague Tribunal about the case, triggering international and regional tension, mostly with countries like: The Republic of Filipins, mainly; United States of América, who has proposed to themselves to balance their military power to strengthen their military bases in the zone; and of course all the countries of the region that also have claims about having rights under the islands and sea, driven mostly by commercial and diplomatic motifs: Vietnam; Brunei; Malaysia; Filipins and Taiwan.

The past May, United States channels, using anonymous resources that figure to have direct knowledge of the U.S intelligence, reported that Chinese military personnel have transported the missiles Fiery Cross Reef, Subi Reef and Mischief Reef, in thirty days. This has happened after the Chinese country previously already has installed military equipment of blockade to interrupt communication systems, vessel's radars or planes that without authorization of China roam around the disputed zone. The Department of Defense of the United States has stated that is opposed to the deployment of China military installations in the advance positions that have built in the Sea of Southern China. For its part, the Asiatic country decided to decline any answers of the recent events.

HISTORY OF THE PROBLEM AND UNITED NATIONS RESPONSE

Historically, the conflict of sovereignty in the zone starts after the Second World War because the Peace Treaty of San Francisco of 1951 does not clarified on of the ownership of the archipelagos. This omission has cost the development of successive confrontations for the sovereignty of the islands, the adjacent maritime space and reefs. All the countries involved in the conflict, China, Filipinas, Malaysia, Vietnam, Brunei y Taiwan claimed sovereignty but only Vietnam, Taiwan and China claim for the entire sovereignty of the archipelagos. (Raine and Le Miere, 2013, p. 30)

The past events in the Sea of South of China have been unbalancing the stability and the security of the region. A conflict based on the *nine-dash line*, defined by the maps published by the People's Republic of China in 1947 to delimitated the territorial waters in the Southern China Sea, parallelly, they have been building military infrastructure in artificial islands within the zone. They are claiming the jurisdiction of seven islets/reefs, including the Spratly and Paracel, reefs very important geopolitically because of their key function in the maritime trade. Nevertheless, the problem comes tied to the definition that not only include demands interpreted unilaterally but that also is at odds because of the maritime limits also claimed by Filipins, Vietnam, Brunei, Malaysia and Taiwan. (Silberberg, 2016, p.32)

To analyze the flaw is important to arise awareness of the points made in the Convention of the Law of the Sea, that stipulates in the Article 279 everything that concerns with disputes regarding the law of the sea. The part XV clarifies some terms that relates the territorial waters and the contiguous zone, claiming that the sovereignty of a riverside State extends beyond of its territory and interior waters only

in the case of archipelago state, with their archipelago waters, will be designed with the name of territorial sea, and that the sovereignty over the territorial sea will be exercised in accordance to the UNCLOS, for his initials in English. (UNCLOS, 1982, p. 127). Taking the above information into consideration, under UNCLOS the *nine-dash line* has deprived the legitimacy of the Economic Exclusive Zone and the continental platform of the riverside States. China has used historical reasons to demand rights under the zone, but indeed, the arguments of the Asiatic country are contrary to the UNCLOS arguments, ones, that have been ratified by China once. According to the law, the right of a State to claim under adjacent waters is applicable only if there is land dominating the sea, in the absence of land there is no right of an Economic Exclusive Zone or any other type of maritime projection.

However, according to UNCLOS definitions one island that is a natural extension of land, surrounded by water, that is above the water during the high tide. The rocks unfit to maintain own human life or economic life will not have EEZ nor continental platform. (UNCLOS, 1982, p.63) So, it is observable that the built islands by China do not applied to the all their revindications.

In relation with the above information, in July of 2015 the Permanent Court of Arbitration of the Hague began a hearing under the case presented by Filipins against China regarding all the revindications in the Sea of the South of China. In October of the same year, the tribunal stated that the problem was rightfully in virtue of the UNCLOS and stated in favor of Filipins that all the claims made by China are not based in any legal argument for the sovereignty complaints, adding to this, that also China violated their EEZ. But in July of 2016, China disregarded the sentence favorable for Filipins and did less the resolution of the Tribunal in spite of his binding character. (International Crisis Group, 2016, p.1-2) As a result of the past events, the region has been leading to an arms race triggering instability, making more risky the clashes because the increasing of the mobility of vessels in the dispute zone.

Controversial points

- People's Republic of China claims the archipelagos of the Southern Sea of China under historical rights
- Not all countries of the zone recognize the unilateral assumptions of China
- Chinese constructions of military infrastructure and monitoring of the area
- Strategic territory in dispute

Possible solutions

- Create a free zone of risk between the international and regional powers
- Guarantee the liberty of access and free navigation in the Sea of the South of China
- Incentive China to participate in the global economy under the international law
- Stablish mechanisms to control the Chinese aggression in the dispute zone

Recognition of intra-territorial sovereignties

CURRENT SITUATION

The self-determination of peoples has become a topic of importance in the past years. There are currently seventeen territories named as 'non-self-governing' by the Committee of 24 (Special Committee on Decolonization) of the United Nations. Moreover, other territories not-consider on this committee have made attempts to gain independence from their central government (such as Catalonia from Spain and The Regional Government of Kurdistan from Iraq). On the 25th of September, 2017, 92 percent of the population of the Region of Kurdistan voted in favor of independence over a 72 percent turnout (Iraqi Kurds decisively back independence..., 2017). In Catalonia 90 percent of the voters backed independence from Spain over a 43 percent turnout (Catalonia's bid for independence, 2018).

Currently, the Committee of 24 reunites every year and issues several documents regarding the non-self-governing territories by the United Nations. On the session of 2017, the Committee attended issues over the Falkland Islands, the French Polynesia, Puerto Rico and the Saint Vincent and the Grenadines (Committee of 24 - 2017 Session). The Third Committee (Social, Humanitarian and Cultural) of the General Assembly reunited on November of 2017 as a result of the recommendation of the General Committee on the "Rights of peoples to self-determination" (Molina, 2017). The General Assembly (under this context) released the resolution 72/159 that stated the "universal realization of the right of peoples to self-determination" (Resolutions of the 72nd session, 2017).

HISOTORY OF THE PROBLEMA AND UNITED NATIONS RESPONSE

The history of self-determination of peoples goes back to the fourteen points of Woodrow Wilson in front of the United States Congress in 1918 (Thürer & Burri, 2008). With the end of the II World War, the concept became essential in the foundation of the United Nations, in its Article 1 (2), the Charter states that one of the purposes of the United Nations is "[t]o develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace..".

With the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly resolution 1514 (XV) of 14 December 1960 the principle of self-determination became a right, and thus, " [a]ll peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development" (Main Documents-Declaration on the Granting of Independence..., s.f). In the resolution 1541 (XV) of 1960, the General Assembly set the principles to which territories the Chapter XI of the Charter (regarding non-self-governing territories) applied (Thürer & Burri, 2008).

Self-determination can be studied through history cases. The International Court of Justice has applied this right in the Western Sahara Advisory Opinion, where in paragraph 70 the Court states that "[t]he right of that population (of Western Sahara) to self-determination constitutes therefore a basic

assumption of the question put to the Court” (in Thürer & Burri, 2008). In the Summary of Judgements on the East Timor (Portugal vs. Australia) case, the ICJ on its paragraph 31 asserted that the peoples of Timor had the right to self-determination. Other important cases are the right of self-determination by the Palestinian People (expressed in the Israeli War Advisory Opinion [Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory]) and the people of Kosovo (The Kosovo Report: Conflict, International Response, Lessons Learned by the Independent International Commission on Kosovo) (Thürer & Burri, 2008).

The United Nations has also issued statements on the cases of Catalonia and the Kurdistan Region in Iraq. In the Catalanian Case, “the United Nations Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas, is calling on Spanish authorities to enter into negotiations in good faith with leaders in Catalonia following the announcement that the Spanish Government would suspend the region’s autonomy (UN independent expert..., 2017). On the region of Kurdistan, “[t]he Secretary-General regrets that the opportunity for serious negotiations to resolve outstanding issues between the Government of Iraq and the Kurdistan Regional Government, based on the Constitution and in a spirit of partnership and mutual respect, were not fully seized prior to this move” (Note to Correspondents on the referendum...,2017).

Controversial Points

- Do the self-determination of Catalonia and Kurdistan stand within International Law?
- Self-determination in current era outside of decolonization process: Europe pro-independence significant movements (ex. Scotland, Flanders, Corsica, Sicily)
- Violations of the right of self-determination of the Palestinian people given the recently Gaza attacks
- The role of UNPO in advocating for peoples/nations within the jurisdiction of the United Nations
- The usefulness of the Committee of 24 when the General Assembly appoints a Third Committee (on Social, Humanitarian and Cultural issues)

Possible solutions

- Mediation between Catalonia-Spain and Kurdistan-Iraq (although the self-determination of the Kurds stands far beyond just the state of Iraq)
- Under International Law there are currently certain points under a people have the right of self-determination, state if those are liable for the cases of Europe pro-independence movements
- Give a voice to UNPO in participating in reunions of the General Assembly (with the purpose of representing the 44 nations/peoples members of it)
- Either dismiss the Committee of 24 and give its tasks to the Third Committee or reiterate their importance on resolutions of the GA.

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