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# **The South China Sea: A Powder Keg in Asia**

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# Introduction

The Earth's surface is predominantly covered by interconnected and expansive bodies of water known as the world's oceans, which collectively occupy over 70% of the earth's total area.<sup>1</sup> This makes them a vital transportation route for goods and people. Ships travel the oceans every day, carrying everything from food to fuel to manufactured goods. In addition to its role as a transportation route, the sea is also an important source of food. Fish, shellfish, and other marine animals provide a significant source of protein for people all over the world. The sea is also a source of minerals and other valuable elements, such as oil, gas, and rare earth metals. Thus, the South China Sea is of significant importance due to its strategic location, serving as the gateway to several crucial maritime passages including the Strait of Malacca, Sunda Strait and Lombok Strait.<sup>2</sup>

The South China Sea is a maritime region that is contested with overlapping territorial claims by several nations, including the People's Republic of China, the Republic of China (Taiwan), the Philippines, Malaysia, Brunei, Indonesia and Vietnam, along with multiple small islands, rocks and atolls in the region such as Paracel Islands, Spratly Islands and Scarborough Shoal. Paracel islands are a group of 130 islands with a total population of about 1440 in 2014, while Spratly islands are a group of 100 plus islands and is largely uninhabited. Each of these islands has reserves of natural resources and fisheries. “The Paracel Islands are surrounded by productive fishing grounds and by potential oil and gas reserve.”<sup>34</sup> “The Spratly Island territory may contain significant deposits of undiscovered hydrocarbons.”<sup>5</sup> “The Scarborough Shoal's surrounding waters have rich fishing grounds, and the seabed is believed to hold substantial mineral resources,

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<sup>1</sup> (Stierwalt 2019) <https://www.scientificamerican.com/article/how-did-water-get-on-earth/>

<sup>2</sup> (Noer 1996) <https://apps.dtic.mil/sti/pdfs/ADA394162.pdf>

<sup>3</sup> (CIA 2023), CIA. 2023. *THE WORLD BOOK Paracel Islands East and Southeast Asia*. JULY 12. Accessed AUGUST 9, 2023. [https://www.cia.gov/the-world-factbook/countries/paracel-islands/#:~:text=1%2C440%20\(July%202014%20est.\)](https://www.cia.gov/the-world-factbook/countries/paracel-islands/#:~:text=1%2C440%20(July%202014%20est.))

<sup>4</sup> (Lendon 2020) <https://edition.cnn.com/2019/08/29/asia/vietnam-china-paracel-islands-intl-hnk/index.html>

<sup>5</sup> (ADMINISTRATION 2013) , ADMINISTRATION, EIA U.S. ENERGY INFORMATION. 2013. *South China Sea*. February 7. Accessed AUGUST 9, 2023.

including petroleum and natural gas.”<sup>67</sup> Therefore it becomes important for the nations in the region to get these islands under their jurisdiction.

Each country in the region wants to acquire these islands, which has sparked tensions in the region. China, a prominent actor in the region, asserts a territorial claim known as the nine-dash line against many small nations that also seek to exert control over the same territory. Nevertheless, it is worth noting that the South China Sea territory claimed by China's nine-dash lines also comprises areas classified as the high seas, all countries in the region have the equal rights over it.<sup>8</sup> Now looking at the various

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<sup>6</sup> (The Columbia Encyclopedia 2023), he Columbia Encyclopedia, 6th ed. 2023. *Scarborough Shoal*. JULY 25. Accessed AUGUST 9, 2023. <https://www.encyclopedia.com/reference/encyclopedias-almanacs-transcripts-and-maps/scarborough-shoal>

<sup>7</sup> (fishing n.d.) <https://britishseafishing.co.uk/the-scarborough-reef-dispute/>

<sup>8</sup> (Hong 2023) <https://chinaus-icas.org/research/what-does-the-high-seas-treaty-imply-for-china-in-the-south-china-sea-and-the-arctic-ocean/#:~:text=Based%20on%20this%2C%20it%20seems,archipelago%20was%20a%20side%20issue>

# Claims Made by Nations in the South China Sea

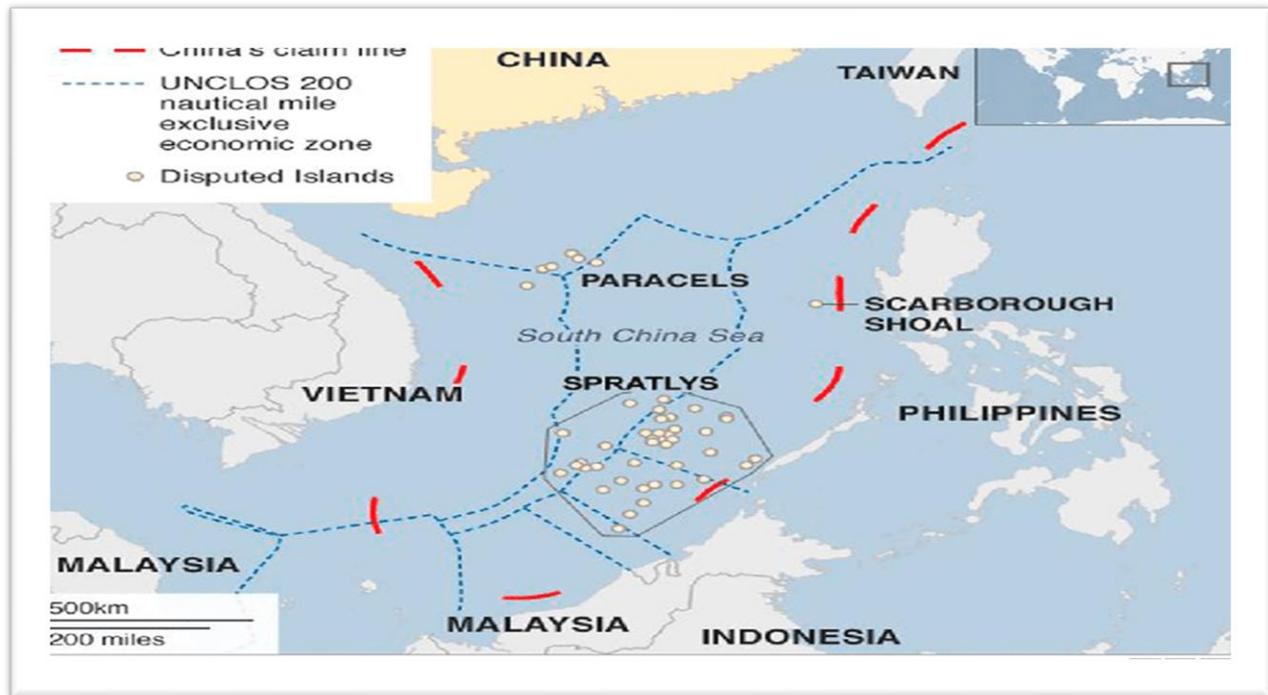


Figure 1: Map showing China's nine-dash line and Indonesia's territorial waters around the Natuna islands. Photo: New York Times

## Peoples Republic of China

China citing its 'historic claims' - Nine Dash line claim- wants to take over the entirety of The South China sea.<sup>9</sup> In 2010, China declared for the first time in 2010 that its sovereignty in the South China Sea is a "core interest" that cannot be compromised.<sup>10</sup> This was a significant escalation in Beijing's stance on the issue, as it elevated the South China Sea to the same level of importance as Taiwan, Tibet, and Xinjiang. China also stated that it is "willing to respond to actions

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<sup>9</sup> (BEECH 2016) <https://time.com/4412191/nine-dash-line-9-south-china-sea/>

<sup>10</sup> (Kim 2015), Kim, Jihyun. 2015. "Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond." *Strategic Studies Quarterly*, Vol. 9, No. 2 107-141. <https://www.jstor.org/stable/26271078>

it perceives as challenging"<sup>11</sup>to its national interests of sovereignty, territorial integrity, and maritime rights.

This declaration was viewed as an indicator of China's growing assertiveness in the South China Sea. China has started constructing artificial islands in the disputed waters to assert its authority over the area.<sup>12</sup> This has heightened tensions with other claimant states, such as Vietnam over Paracel and Spratly islands and the Philippines over Spratly islands and Chinese activities in its EEZ.<sup>13</sup>

Some experts believe that China is seeking to militarize the South China Sea thus impacting the SLOCs.<sup>14</sup> Others believe that China is simply trying to assert its sovereignty over what it sees as its own territory.

In early May 2014, China deployed its colossal oil drilling platform *Hai Yang Shi You 981* into contested Vietnamese waters near the Paracel Islands.<sup>15</sup> This provocative action revealed Beijing's deliberate intent to alter the regional environment to its favour. The deployment of the oil rig also bolstered the perception that China is becoming more proactive in promoting periphery diplomacy and quietly departing from Deng Xiaoping's counsel to "hide our capacities and bide our time."<sup>16</sup>

In 2014 China's early withdrawal of the oil rig<sup>17</sup> was viewed as a face-saving measure to ease tensions with Vietnam. China's ongoing defiance of international jurisdiction in the South China

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<sup>11</sup> Ibid;

<sup>12</sup> (Guardian 2022) <https://www.theguardian.com/world/2022/mar/21/china-has-fully-militarized-three-islands-in-south-china-sea-us-admiral-says>

<sup>13</sup> (Davidson 2023) <https://www.theguardian.com/world/2023/aug/08/china-philippines-dispute-could-escalate-into-superpower-conflict-say-analysts>

<sup>14</sup> (Patrick M. Cronin 2012) <https://www.jstor.org/stable/resrep06426>

<sup>15</sup> (Kim 2015) Kim, Jihyun. 2015. "Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond." *Strategic Studies Quarterly*, Vol. 9, No. 2 107-141. <https://www.jstor.org/stable/26271078>

<sup>16</sup> (Kim 2015) Kim, Jihyun. 2015. "Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond." *Strategic Studies Quarterly*, Vol. 9, No. 2 107-141. <https://www.jstor.org/stable/26271078>

<sup>17</sup> (C. Thayer 2014) <https://thediplomat.com/2014/07/4-reasons-china-removed-oil-rig-hysy-981-sooner-than-planned/>

Sea, on the other hand, demonstrates that it is still doing what it believes is right, regardless of international opinion. This could exacerbate future conflicts in the region.

## Taiwan

In recent years, Taiwan has made significant attempts to clarify its claims in the South China Sea. In 2015, its Ministry of Foreign Affairs revised its official statement on the South China Sea to include a reference to the United Nations Convention on the Law of the Sea (UNCLOS).<sup>18</sup> “This suggests that Taiwan is claiming UNCLOS-compliant maritime zones in the South China Sea, including a territorial sea extending up to 12 nautical miles from its coast, as well as an exclusive economic zone (EEZ) extending up to 200 nautical miles over which it has sovereign rights to explore, exploit, conserve and manage natural resources.”<sup>19</sup>

However, Taiwan has not denounced its claim to the entire South China Sea, which is demarcated by a nine-dashed line.<sup>20</sup> This has led to some ambiguity about the extent of Taiwan's claims. Nevertheless, Taiwan's commitment to observing UNCLOS is a positive step and it is playing by the rules of the game. This is important in a region where there is a growing risk of conflict over competing claims in the South China Sea.

“Taiwan has also provided evidence that aims to show that Taiping Island, which it controls, is an “island” entitled to an EEZ and continental shelf and not a “rock” entitled only to a 12 nautical mile territorial sea because it cannot sustain human habitation or economic life.”<sup>21</sup> This is further evidence that Taiwan is playing by the UNCLOS rulebook.

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<sup>18</sup> (KUOK 2015), KUOK, LYNN. 2015. "Taiwan and the South China Sea: More steps in the right direction ." *BROOKINGS*. AUGUST 24. Accessed AUGUST 9, 2023. <https://www.brookings.edu/articles/taiwan-and-the-south-china-sea-more-steps-in-the-right-direction/>

<sup>19</sup> Ibid;

<sup>20</sup> (TSAI 2016) <https://amti.csis.org/taiwan-implicitly-clarified-u-shaped-line/>

<sup>21</sup> (KUOK 2015) KUOK, LYNN. 2015. "Taiwan and the South China Sea: More steps in the right direction ." *BROOKINGS*. AUGUST 24. Accessed AUGUST 9, 2023. <https://www.brookings.edu/articles/taiwan-and-the-south-china-sea-more-steps-in-the-right-direction/>

Taiwan has shown flexibility in its claims in the South China Sea. Other actors should support its efforts for peace and stability in the region.

## Vietnam

Based on historical records dating back to the 17th century,<sup>22</sup> Vietnam has long claimed full ownership of the Paracel and Spratly Islands. Vietnam has also cited the Vietnam-China dispute of 1974, the Vietnam-China confrontation for the Spratly Islands of 1988, and the provocation of a Vietnamese naval vessel as evidence of its claims<sup>24</sup> showing that it has been involved in the region over the period of time.

However, China has also claimed<sup>25</sup> the Paracel and Spratly Islands, and the dispute between the two countries has been ongoing for many years. In the South China Sea, three Chinese maritime surveillance vessels severed the exploration cables of a Vietnamese oil survey ship searching for oil and gas deposits in the South China Sea.<sup>26</sup> China described this as "completely normal marine enforcement and surveillance activities in China's jurisdictional area."<sup>27</sup> However, Vietnam condemned the incident as a "serious violation of its sovereignty."<sup>28</sup>

This incident is a reminder of the tensions that exist in the South China Sea, and the potential for military confrontation. It also highlights the risks of "disorderly resource development" in the region, which could damage the delicate environment of the South China Sea.

## Philippines

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<sup>22</sup> (Kelly 1999) <https://scholarspace.manoa.hawaii.edu/server/api/core/bitstreams/f255c9e1-b4e1-4d25-b527-fa63fc3cc797/content>

<sup>24</sup> (Thayer 2016) <https://www.jstor.org/stable/48601796>

<sup>25</sup> (Blanchard 2015) <https://www.reuters.com/article/us-southchinasea-china/china-says-changing-position-on-sea-dispute-would-shame-ancestors-idUKKBN0P708U20150627>

<sup>26</sup> (Watts 2011) <https://www.smh.com.au/world/vietnam-accuses-china-of-sabotage-20110601-1fgec.html>

<sup>27</sup> (SURYANARAYANA 2011) <https://frontline.thehindu.com/world-affairs/article30176124.ece>

<sup>28</sup> (Watts 2011) <https://www.smh.com.au/world/vietnam-accuses-china-of-sabotage-20110601-1fgec.html>

The Philippines filed a case against China's nine-dash line before an arbitral tribunal of the International Tribunal for the Law of the Sea (ITLOS).<sup>29</sup> The Philippines argued that China's nine-dash line is an invalid demarcation of maritime rights and obligations in the South China Sea.<sup>30</sup> The Philippines also accused China of conducting illegal maritime activities inside the Philippines' exclusive economic zone, such as fishing without permission and extracting oil.<sup>31</sup> The arbitral tribunal ruled in favour of the Philippines, declaring that China's nine-dash line is invalid and that China has violated the Philippines' maritime rights.<sup>32</sup> The tribunal's ruling is legally binding on both China and the Philippines.<sup>33</sup> However, China has refused to recognize the ruling, and it has continued to assert its claims in the South China Sea.<sup>34</sup>

The Philippines' lawsuit against China's nine-dash line was a significant step towards establishing a new environment for peaceful dispute resolution based on the rule of law rather than power politics. However, given China's unwillingness to take part in the proceedings, it is unclear how the decision would impact the on ground reality.<sup>35</sup> There has also been a softer stance on the part of Philippine government in seeking economic favour from China. However, a more recent incident is the firing of water cannon by Chinese coast guard on a Philippine's resupply mission on the 5<sup>th</sup> of August 2023 demonstrates <sup>36</sup> the never changing attitude of China and hence Philippines cannot relax its posture over the region and must be assertive and proactive about its sovereignty.

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<sup>29</sup> (Medina 2017) <https://globalchallenges.ch/issue/1/legal-victory-for-the-philippines-against-china-a-case-study/>

<sup>30</sup> Ibid

<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Ibid

<sup>34</sup> (Phillips 2016) <https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china>

<sup>35</sup> (Baviera 2014)

[https://www.wilsoncenter.org/sites/default/files/media/documents/event/China\\_US\\_ASEAN%20Relations\\_Maritime%20Security%20in%20the%20South%20China%20Sea\\_BAVIERA2015March.pdf](https://www.wilsoncenter.org/sites/default/files/media/documents/event/China_US_ASEAN%20Relations_Maritime%20Security%20in%20the%20South%20China%20Sea_BAVIERA2015March.pdf)

<sup>36</sup> (FRANCE24 2023) <https://www.france24.com/en/live-news/20230806-philippines-accuses-china-coast-guard-of-firing-water-cannon-at-its-boats>

## Malaysia

Malaysia has claimed ownership of the seven islands that make up the Spratly Islands since 1979, but it only physically occupies two of the islands.<sup>37</sup> It has taken a relatively low-key approach to the dispute with China, fearing that provoking its largest trading partner could damage its economy. It has also tried to maintain a neutral stance towards China within ASEAN.

Even though Malaysia considers James Shoal to be its territory, it did not protest the incursion of Chinese warships into the area in 2013 for fear of upsetting China. Malaysia has been silent, as China has been constructing artificial islands in the Spratly Islands.<sup>38</sup> Malaysia's approach to the South China Sea dispute is based on pragmatism. It is wary of angering China, at the same time not wanting to cede its claims to the Spratly Islands. Malaysia is trying to find a balance between these two competing interests.

Malaysia claims that its continental shelf limitations extend to the whole Spratly Islands region of the South China Sea.<sup>39</sup> The country derives a significant part of its oil and gas resources from the South China Sea. However, several of its fields and platforms that are used to exploit hydrocarbons are within China's nine-dash line.<sup>40</sup> It is not surprising that Malaysia sought to formalize its claim with the United Nations Secretary General, even though doing this means going against China.<sup>41</sup> Malaysia is taking steps to safeguard its interests in the South China Sea but treading carefully so as not to provoke China.

## Brunei Darussalam

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<sup>37</sup> (Roach 2014) <https://www.cna.org/reports/2014/iop-2014-u-008434.pdf>

<sup>38</sup> (Grudgings 2014) <https://www.reuters.com/article/malaysia-china-maritime-idINDEEA1P0GL20140226>

<sup>39</sup> (Fenton 2021), Fenton, Christine Elizabeth Macaraig and Adam James. 2021. "Analyzing the Causes and Effects of the South China Sea Dispute." *The Journal of Territorial and Maritime Studies* Vol. 8, No. 2 42-58.

<sup>40</sup> Ibid

<sup>41</sup> (Fenton 2021), Fenton, Christine Elizabeth Macaraig and Adam James. 2021. "Analyzing the Causes and Effects of the South China Sea Dispute." *The Journal of Territorial and Maritime Studies* Vol. 8, No. 2 42-58.

“Brunei Darussalam does not claim any islands in the South China Sea, but it does claim a portion of the seabed surrounding it as part of its continental shelf and exclusive economic zone (EEZ). Brunei established an EEZ around Louisa Reef in 1984.”<sup>42</sup> Louisa Reef is a small, uninhabited reef located approximately 120 miles northwest of the Brunei coast and 408 miles from Vietnam.<sup>43</sup> Brunei has been labelled a "silent claimant" in the South China Sea conflict.<sup>44</sup> This is possible because Brunei, as an oil-rich country, does not have to compete with other nations for natural resources. Brunei was severely impacted by the decline in global oil prices in 2015 and was compelled to rely on foreign investors, particularly China, for economic viability.<sup>45</sup> Since then, there have been allegations that Brunei and China are planning to jointly explore for oil and natural gas in the South China Sea.<sup>46</sup>

Brunei has not actively asserted its claims in the South China Sea. Instead, it has prioritised cooperation with China. In 2018, Brunei refused to participate in "talks among the four Southeast Asian nations with claims on the South China Sea," promoted by the Philippines. Brunei stated that it would not be in its "national interest" to participate in the talks.<sup>47</sup> Brunei's ability to strike a balance between its economic and security objectives in the South China Sea remains to be seen. Brunei's cooperation with China could be interpreted as a sign of weakness by other claimants. However, Brunei may believe that it is in its best interest to maintain cordial relations with China, even if it means sacrificing some of its claims in the South China Sea.

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<sup>42</sup> (Rossiana 2022), Rossiana, Yasintha Selly. 2022. *The South China Sea Dispute: Code of Conduct Implementation as the Dispute Settlement*. Accessed august 9, 2023.

<https://jurnalprodi.idu.ac.id/index.php/DP/article/download/884/788>

<sup>43</sup> Ibid

<sup>44</sup> (Fenton 2021), Fenton, Christine Elizabeth Macaraig and Adam James. 2021. "Analyzing the Causes and Effects of the South China Sea Dispute." *The Journal of Territorial and Maritime Studies* Vol. 8, No. 2 42-58.

<sup>45</sup> Ibid.

<sup>46</sup> (Zhen 2018) <https://www.scmp.com/news/china/diplomacy/article/2173959/china-and-brunei-step-oil-and-gas-development-disputed-south>

<sup>47</sup> (Reuters 2014) <https://www.reuters.com/article/us-philippines-southchinasea-idUSKBN0FN0SF20140718>

## Indonesia

Indonesia has adopted a cautious approach to the South China Sea dispute, asserting its sovereignty over the Natuna Sea while avoiding direct confrontation with China. Under Jokowi, Indonesia has issued a foreign policy prohibiting fishing by foreign vessels in Natuna without a permit, which has led to tension with China.<sup>48</sup>

Indonesia's Prime Minister Retno Marsudi has said that the country does not want to get caught up in a conflict in the South China Sea, which has been exacerbated by the involvement of the United States.<sup>49</sup> However, Indonesia has a number of security interests in the region, including territorial integrity, regional stability, and the economy.

China's nine-dashed line claim, which overlaps with Indonesia's exclusive economic zone (EEZ) and continental shelf in the Natuna Sea, threatens Indonesia's territorial integrity. The Natuna Islands off Indonesia's coast are situated 4 kilometres inside Indonesia's Exclusive Economic Zone (EEZ), where China has been accused of engaging in illegal fishing activities.<sup>50</sup> This conflict could escalate to armed conflict between the claimants, potentially destabilizing the region and could even draw in non-claimants like the United States.<sup>51</sup> According to the press statement released by the US Department of state they do not accept any of China's claims in the South China sea and in accordance with rights and obligations under international law, the United States supports its allies and partners in Southeast Asia in defending their sovereign rights to offshore resources.<sup>52</sup>

However, Indonesia does not wish to align with the USA as the South China Sea dispute also

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<sup>48</sup> (Widianto 2020) <https://www.reuters.com/article/indonesia-china-idUSL4N29B32K>

<sup>49</sup> (Tom Allard 2020) <https://www.reuters.com/article/us-indonesia-politics-foreign-minister-idUSKBN25Z1ZD>

<sup>50</sup> (Irma 2016) <https://www.voanews.com/a/chinese-indonesia-fishery-dispute-rekindles-competing-sea-claims/3252385.html>

<sup>51</sup> (POMPEO 2020) <https://2017-2021.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea/>

<sup>52</sup> Ibid

affects its economy. The country is a major maritime power, with the South China Sea serving as an important shipping corridor. The conflict could disrupt shipping in the region, which would have a negative impact on Indonesia's economy as Indonesia is an archipelagic state<sup>53</sup> and any disturbances in the South China Sea would also impact its domestic activities across the water. In addition, the archipelagic nature of the region necessitates that all ships pass through these straits between these states which China's military might can easily make difficult.

When it comes to the conflict in the South China Sea, Indonesia could employ several different approaches. It could maintain its cautious approach, avoiding direct confrontation with China. It could also increase its military presence in the region as a deterrent against China's continued aggression. Or it could collaborate with other claimants in the region to try and resolve the dispute peacefully. The best option for Indonesia will depend on a few factors, including the level of Chinese aggression, the reaction of other claimants, and the impact of the conflict on Indonesia's economy. However, Indonesia will need to take a more active role in the South China Sea dispute to protect its interests in the region.

## Other Nations in the Region

While Thailand, Cambodia, and Laos, do not have any direct interests in the South China Sea dispute, they are nonetheless indirectly affected by it.<sup>54</sup> As they all rely on the sea for trade and transportation. The South China Sea contains a portion of the world's major shipping lanes<sup>55</sup>, and any disruption to shipping in the region would have a negative impact on each of these countries' economies.

In addition, the South China Sea could destabilize the region, leading to conflict and violence. This could impact the security of Thailand, Cambodia, and Laos negatively. They have a vested

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<sup>53</sup> (unice Caroline 2019) <https://www.finansialku.com/indonesia/>

<sup>54</sup> (DARMAWAN 2021) <https://www.policyforum.net/aseans-dilemma-in-the-south-china-sea/>

<sup>55</sup> (CSIS n.d.) <https://chinapower.csis.org/much-trade-transits-south-china-sea/>

interest in seeing the dispute settled peacefully and in a way that does not disrupt trade or stability in the region.

## United States of America (USA)

The United States has a national interest in the South China Sea dispute, despite not being a resident power in the region, due to it being a major shipping lane and a source of natural resources.

The US also sees China's growing military presence in the region as a threat to its own dominance in the Asia-Pacific.<sup>56</sup>

The US has expressed its commitment to freedom of navigation in the South China Sea and has said that it would intervene militarily if necessary to protect the interests of the international community.<sup>57</sup> However, the US has not ratified the UNCLOS,<sup>58</sup> which would give it more legal authority to act in the region. China, on the other hand, has ratified the UNCLOS<sup>59</sup> but does not agree with all of its provisions.

Different interpretations of international law by the United States and China have made it difficult for them to resolve the dispute. The US views the dispute as a test of its commitment to freedom of navigation and its dominance in the Asia-Pacific. China views the dispute as a matter of sovereignty and national security. It is unclear how the US and China will resolve the South China Sea dispute.

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<sup>56</sup> (Debates 2007) [https://carnegieendowment.org/files/Sutter\\_paper.pdf](https://carnegieendowment.org/files/Sutter_paper.pdf)

<sup>57</sup> (POMPEO 2020) <https://2017-2021.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea/>

<sup>58</sup> (Wahal 2022) <https://www.cfr.org/blog/international-treaties-united-states-refuses-play-ball#:~:text=UN%20Convention%20on%20the%20Law%20of%20the%20Sea&text=The%20United%20States%20did%20not%20ratify%20UNCLOS%20because%20of%20fears,seas%20to%20the%20United%20Nations.>

<sup>59</sup> (Sea 1982) [https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=\\_en](https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en)

The US wants to hold China accountable in the region, so that it cannot use force against the other claimants in the region given its powerful position both militarily and economically. China might use force to evict the other claimants from the islands under their control.<sup>60</sup>

## India

India has been largely neutral in the South China Sea dispute, but it has taken a more measured stand in the wake of the UN tribunal's verdict. India has urged all parties to respect the UNCLOS and the international legal order, while also recognizing the legitimacy of the Permanent Court Arbitration (PCA).<sup>61</sup> However, India has also signed a joint statement with Russia and China that affirms the need for dialogue rather than legal recourse.<sup>62</sup>

China has interpreted India's stand as being in support of its position<sup>63</sup>, but India has made it clear that it is not taking sides. India is concerned about developments in the South China Sea because they may have a bearing on its Pacific trade and economic imperatives. "India also believes that the disputes in the Southeast Asian littorals are a litmus test for international maritime law."<sup>64</sup>

When it comes to China's rising underwater footprint in the Indian Ocean, India is extremely wary.<sup>65</sup> India is walking a tightrope in the South China Sea. It wants to maintain good relations

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<sup>60</sup> (SWAINE 2015) <https://carnegieendowment.org/2015/07/23/america-s-security-role-in-south-china-sea-pub-60826>

<sup>61</sup> (Ministry of external affairs 2016) <https://www.mea.gov.in/press-releases.htm?dtl/27019/statement+on+award+of+arbitral+tribunal+on+south+china+sea+under+annexure+vii+of+unclos>

<sup>62</sup> (Ministry of external affair 2016) <https://www.mea.gov.in/bilateral-documents.htm?dtl/26628/Joint+Communiqu+of+the+14th+Meeting+of+the+Foreign+Ministers+of+the+Russian+Federation+the+Republic+of+India+and+the+Peoples+Republic+of+China>

<sup>63</sup> (A. Singh 2023) <https://www.lowyinstitute.org/the-interpretor/despite-excitement-india-s-south-china-sea-policy-remains-unchanged>

<sup>64</sup> (SINGH 2016), SINGH, Cdr ABHIJIT. 2016. *Why India's South China Sea Stand Matters Read more at:* <http://www.indiandefencereview.com/why-indias-south-china-sea-stand-matters/>. AUGUST 24. Accessed AUGUST 9, 2023. <http://www.indiandefencereview.com/why-indias-south-china-sea-stand-matters/>

<sup>65</sup> (Panneerselvam 2022) <https://thediplomat.com/2022/12/chinas-emerging-subsurface-presence-in-the-indian-ocean/#:~:text=As%20China%20seeks%20to%20expand,greater%20security%20concern%20in%20India.>

with China, but it also wants to uphold international law and protect its own interests. It remains to be seen how India will balance these competing interests in the years to come.

## Association of Southeast Asian Nations (ASEAN)

The South China Sea is a strategically important region for the Association of Southeast Asian Nations (ASEAN). However, the region is also a source of tension between China and ASEAN countries. China has been asserting its claims to the entire South China Sea, which overlaps with the claims of several ASEAN countries.<sup>66</sup> The PRC has also built artificial islands in the South China Sea and deployed military forces there.<sup>67</sup> This has raised concerns among ASEAN countries about the PRC's intentions and the potential for conflict. The South China Sea dispute is a serious security threat to ASEAN countries. It has the potential to disrupt shipping and to damage the economies of ASEAN countries. It could also lead to armed conflict between the PRC and ASEAN countries. The ASEAN member nations tend to be very focused on their own interests and are not receiving the benefits of belonging to a supranational organisation.

ASEAN countries have taken steps to address the security concerns posed by the South China Sea dispute. They are calling for the peaceful resolution of the dispute and have worked to build a united front against the PRC.<sup>68</sup> However, the PRC has not been receptive to these efforts.

The ASEAN Maritime Forum Agreement is an important step in addressing the security concerns<sup>69</sup> posed by the South China Sea dispute. The agreement aims to strengthen cooperation on maritime security issues, and it reaffirms ASEAN's commitment to the United Nations Convention on the Law of the Sea (UNCLOS). The ASEAN Regional Forum (ARF) is another important forum for discussing the South China Sea issue. The ARF is a multilateral security forum that includes

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<sup>66</sup> (Simões 2022) <https://www.e-ir.info/2022/06/23/the-role-of-asean-in-the-south-china-sea-disputes/>

<sup>67</sup> (Guardian 2022) <https://www.theguardian.com/world/2022/mar/21/china-has-fully-militarized-three-islands-in-south-china-sea-us-admiral-says>

<sup>68</sup> (Simões 2022) <https://www.e-ir.info/2022/06/23/the-role-of-asean-in-the-south-china-sea-disputes/>

<sup>69</sup> (Secretariat n.d.) <https://asean.org/our-communities/asean-political-security-community/peaceful-secure-and-stable-region/maritime-cooperation/>

ASEAN countries, China, the United States, and other major powers. The ARF has been used to discuss ways to reduce tensions in the South China Sea and to promote cooperation on maritime security issues.<sup>70</sup>

The South China Sea dispute is a complex issue with no easy solution. However, the ASEAN nations are dedicated to a peaceful resolution to the conflict. The ASEAN Maritime Forum Agreement and the ARF are important steps in this process. However, one must always remember that it will not be easy for a business centric association to solve a law and order based political regional conflict.

## How to Prevent South China Sea from Losing its Freedom?

### Code of Conduct (CoC)

The South China Sea dispute is a complex and intractable issue. ASEAN has tried to resolve the dispute through cooperation and the establishment of a Code of Conduct (CoC) with China.<sup>71</sup> However, these efforts have been largely unsuccessful due to China's aggressive behaviour and its refusal to abide by international law.<sup>72</sup>

ASEAN needs to take a more assertive stance to the South China Sea dispute. It ought to collaborate with its allies to exert pressure on China to rescind its claims to the contested waters. To counter Chinese aggression, ASEAN should likewise build its own military capabilities. The CoC is a necessary step towards resolving the South China Sea dispute, but it is not enough.

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<sup>70</sup> (Foot 1998) <https://www.jstor.org/stable/2645501>

<sup>71</sup> (Simões 2022) <https://www.e-ir.info/2022/06/23/the-role-of-asean-in-the-south-china-sea-disputes/>

<sup>72</sup> Ibid

ASEAN needs to be prepared to take more drastic measures if China continues to flout international law.

Here are some specific steps that ASEAN can take:

- Build a stronger military alliance with the United States and other countries in the region.
- Impose economic sanctions on China.
- Take China to the international court.
- Deploy its own naval vessels to the South China Sea.

## FONOPS

China must hear from ASEAN unequivocally that its aggressive actions in the South China Sea will not be tolerated. Only by taking a strong stand can ASEAN hope to resolve this dispute and protect its interests in the region. However, ASEAN must look for a economic solution as this would definitely have an impact on each of the country's economy given that China is their key partner in the economic realm.

In response to China's increasing militarization of the region, the United States has been undertaking Freedom of Navigation operations (FONOPs) in the South China Sea. However, China has been critical of these operations, calling them "provocations."<sup>73</sup> The US argues that FONOPs are legal under international law and are necessary to uphold Freedom of Navigation in the South China Sea.<sup>74</sup> In contrast, China asserts that the United States violates its sovereignty by

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<sup>73</sup> (Odom 2015) <https://thediplomat.com/2015/10/why-us-fon-operations-in-the-south-china-sea-make-sense/>

<sup>74</sup> (Sruthi Sadhasivam 2023) <https://www.c3sindia.org/post/an-analysis-of-the-us-fonop-exercises-china-s-responses-in-the-south-china-sea-2020-23>

conducting FONOPs near its artificial islands.<sup>75</sup>The US and China are at an impasse over FONOPs in the South China Sea. It remains to be seen whether the two countries can find a peaceful resolution to this dispute.

## Conclusion

In conclusion, the South China Sea is a region of global strategic significance. It is a major shipping route and thought to contain significant reserves of oil and gas. The South China Sea dispute poses a serious security threat to the region, and has the potential to disrupt shipping and to damage the economies of many countries.

It is critical to preserve the freedom of navigation and overflight in the South China Sea. This is essential for ensuring the free flow of trade and for protecting the rights of all countries in the region. The South China Sea dispute should be resolved peacefully through dialogue and cooperation. All countries in the region should respect the United Nations Convention on the Law of the Sea (UNCLOS) and should refrain from unilateral actions that could escalate tensions and try to restore the lost stability of the region.

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<sup>75</sup> (news 2022) <https://www.benarnews.org/english/news/philippine/us-navy-ship-spratly-islands-11292022114928.html>

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