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GA4: Special Political and Decolonisation (SPECPOL)

# Research Report

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Topic 3: Identifying and resolving the territorial dispute over the South China Sea.



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## Introduction

The territorial dispute over the South China Sea has emerged as one of the most contentious geopolitical issues in the 21st century, involving competing claims over a resource-rich and strategically vital maritime region. The dispute involves several Southeast Asian nations – such as Vietnam, Philippines, and China – and external powers – such as the United States – with implications for international law, regional security, and global trade. For example, China’s assertion of a "Nine-Dash Line" to claim ownership and sovereignty over vast stretches of the sea has caused regional tension, raising concerns about international law, particularly the United Nations Convention on the Law of the Sea (UNCLOS), as well as the freedom of navigation.<sup>1</sup> Several territorial disputes over the South China Sea resorted to the use of military force, for example, when Chinese coast guards used water cannons to damage a Philippine vessel in Scarborough Shoal.<sup>2</sup>

This research report aims to provide an in-depth analysis of the territorial disputes in the South China Sea, outline the positions of key stakeholders, and propose potential solutions to resolve the issue while upholding international law and promoting regional stability. SPECPOL has the responsibility to advance its mission to promote international peace, human rights, and multilateral cooperation, which are essential in addressing the persistent impacts of territorial disputes.

## Definition of Key Terms

**South China Sea:** A marginal sea in the Western Pacific Ocean bordered by Southeast Asian countries, including China, the Philippines, Vietnam, Malaysia, and Brunei.

**Nine-Dash Line:** A demarcation line used by China to outline its claimed historical rights over most of the South China Sea.

**Territorial dispute:** A disagreement between two or more parties over the ownership and control

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<sup>1</sup> cf. South China Morning Post. (2023, December 21). What is Beijing’s ‘nine-dash line’ in the South China Sea, and what does it mean?. <https://www.scmp.com/news/china/diplomacy/article/3275865/what-beijings-9-dash-line-south-china-sea-and-what-does-it-mean>

<sup>2</sup> cf. Regan, H., & Niu, T. (2024, April 30). China uses water cannon to damage Philippine ship in South China Sea. CNN. <https://edition.cnn.com/2024/04/30/asia/china-water-cannon-damages-philippines-ship-intl-hnk-ml/index.html>

over a geographic area.

**Freedom of navigation:** A principle in international law in which all ships and vessels may navigate freely in international waters.

**Artificial islands:** Man-made structures built in the sea, or expanding the size of pre-existing reefs, for the purpose of militarisation.

**United Nations Convention on the Law of the Sea (UNCLOS):** An international treaty adopted in 1982 that establishes a legal framework for all uses of the oceans and their resources.<sup>3</sup>

**Exclusive economic zone (EEZ):** a maritime area extending 200 nautical miles off a country's coast, within which the country has exclusive jurisdiction of activities and resources.<sup>4</sup>

**Arbitration Ruling (2016):** A ruling by the Permanent Court of Arbitration in favor of the Philippines, invalidating China's claims based on the Nine-Dash Line.

**Freedom of Navigation Operations (FONOPs):** Naval operations conducted to assert navigation rights and challenge excessive maritime claims.

## Background Information

Since the mid-20th century, the South China Sea has become recognised as a crucially advantageous region, particularly for its abundant natural resources like oil and fish, as well as its geographic location as a strategic military corridor and economic trade route. Though this maritime region encompasses a large area of the Pacific Ocean, from Singapore to Taiwan, China has claimed sovereign control of the South China Sea by asserting its 'Nine-Dash Line', fueling major disagreements and disputes from other countries who claim rights to maritime activities, namely: Vietnam, Philippines, Indonesia, Malaysia, Taiwan, and Brunei.

China continues to argue that foreign militaries cannot conduct fact-finding missions within its exclusive economic zone (EEZ), however, this was rejected in July 2016 by the Permanent Court of Arbitration at The Hague, ruling on a claim by the Philippines under UNCLOS. Even though the Court ruled in favour of the Philippines, China continues to refuse the Court's authority, escalating the territorial dispute by constructing artificial islands and increasing military presence in the South China Sea. China's persistent claims have continuously been challenged by the United States, which regularly conducts military operations in the Sea.

Efforts to resolve this territorial dispute have included bilateral and multilateral negotiations, involving the Association of Southeast Asian Nations (ASEAN), however progress has become stagnant, and relations remain tense. A recent development to strengthen diplomatic ties was

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<sup>3</sup> cf. International Maritime Organisation. (n.d.). United Nations Convention on the Law of the Sea (UNCLOS). Retrieved from

<https://www.imo.org/en/ourwork/legal/pages/unitednationsconventiononthelawofthesea.aspx#:~:text=The%20Unit ed%20Nations%20Convention%20on,the%20oceans%20and%20their%20resources>

<sup>4</sup> cf. National Oceanic and Atmospheric Administration. (n.d.). What is the exclusive economic zone?. Retrieved from

<https://oceanexplorer.noaa.gov/facts/useez.html#:~:text=An%20%E2%80%9Cexclusive%20economic%20zone%2 C%E2%80%9D,both%20living%20and%20nonliving%20resources>

between the US and the Philippines, shortly after the new Philippine president took office. With this new relationship, the Philippines is granted base access, joint exercise training, and weapon transfers with the United States, all of which are measures that challenge China's assertive dominance over the South China Sea.<sup>5</sup>

The call to address these territorial disputes is not only critical for achieving regional peace, but also necessary to maintain the value and integrity of international law. By encouraging and fostering international communication, the global community can ensure regional stability in the South China Sea, and that the interests of all actors and stakeholders are balanced.

### Major Countries and Organisations Involved

**China** – As the country with the strongest military force in the region, China's assertiveness over the South China Sea includes the establishment of the Nine-Dash Line, building artificial islands, and overall increasing its coast guard presence, instigating disagreements with other southeast Asian nations.

**Association of Southeast Asian Nations (ASEAN)** – The political and economic union between Brunei Darussalam, Myanmar, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam.<sup>6</sup> Member-states, along with China, are currently negotiating on the Code of Conduct in the South China Sea (COC) which aims to establish a legal framework for maintaining peace in the region, however progress has been slow.

**Philippines:** Asserted its claims through international arbitration, which resulted in the 2016 ruling invalidating China's Nine-Dash Line.

**Vietnam:** Strongly contests China's claims and has reported incidents of harassment in its EEZ.

**Malaysia and Brunei:** Assert their EEZs based on UNCLOS but have adopted a less confrontational approach.

**United States:** Does not claim territory but conducts FONOPs to challenge China's claims and ensure free navigation.

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<sup>5</sup> cf. Council on Foreign Relations. (n.d.). Territorial disputes in the South China Sea. Retrieved from <https://www.cfr.org/global-conflict-tracker/conflict/territorial-disputes-south-china-sea#:~:text=China's%20sweeping%20claims%20of%20sovereignty,Philippines%2C%20Taiwan%2C%20and%20Vietnam>

<sup>6</sup> cf. Association of Southeast Asian Nations. (n.d.). Member states. Retrieved from <https://asean.org/member-states/>

## Relevant UN Resolutions

### 1. United Nations Convention on the Law of the Sea (UNCLOS) (1982):

"States have the obligation to protect and preserve the marine environment" and "resolve disputes by peaceful means as set forth in Article 279."

### 2. UN General Assembly Resolution 2349 (2017):

"Encourages all Member States to intensify their efforts to resolve maritime disputes through dialogue and in conformity with international law, including UNCLOS."

### 3. Security Council Resolution 598 (1987):

Although not specific to the South China Sea, the resolution emphasises the importance of "mediation and arbitration to peacefully resolve territorial and maritime conflicts."

## Previous Attempts to Solve the Issue

### **Declaration on the Conduct of Parties in the South China Sea (2002):**

- ASEAN and China agreed to exercise self-restraint and resolve disputes peacefully. However, the declaration lacked enforcement mechanisms, limiting its effectiveness.
- Despite this, it provided a framework for dialogue and initiated negotiations for a Code of Conduct (CoC).

### **Permanent Court of Arbitration Ruling (2016):**

- China's Nine-Dash Line claims invalid under UNCLOS. However, China rejected the ruling and continued its activities, including island-building.
- Over 30 incidents of maritime harassment were reported in the Philippines' EEZ following the ruling (Zhou, 2021).

### **US Freedom of Navigation Operations (FONOPs):**

- Conducted annually, challenging China's claims and reinforcing UNCLOS principles.
- Between 2017 and 2022, the US Navy conducted over 20 operations, often leading to diplomatic protests from China (US Department of State, 2023).

### **Bilateral and Multilateral Talks:**

- Dialogues, such as ASEAN-China discussions, have occurred frequently but achieved limited substantive outcomes.
- Example: The ASEAN-China Maritime Cooperation Fund provided \$10 million for capacity-building initiatives but did not resolve territorial disputes.

## Possible Solutions

- **Implement a Legally Binding Code of Conduct (CoC):**

Resolving the South China Sea dispute requires a balanced approach. A legally binding Code of Conduct (CoC) between ASEAN and China should include enforceable provisions to reduce maritime harassment, similar to successful agreements in other regions.

- **Joint Development Agreements (JDAs):**

Joint development agreements (JDAs) can reduce hostilities and unlock economic potential, as seen in the Timor Sea Treaty, which generated \$5 billion over two decades.<sup>7</sup>

- **Demilitarisation of Disputed Territories:**

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<sup>7</sup> cf. Ann Wigglesworth. Activism, aid, and sovereign borders. Retrieved from <https://www.laohamutuk.org/Oil/Boundary/2016/WigglesworthOLO24Mar2016.pdf>

Demilitarising disputed territories through mutual military withdrawals could decrease tensions, aligning with World Bank findings that fully democratic countries face a 60% lower risk of conflict compared to the most autocratic ones.<sup>8</sup>

- **Arbitration and Mediation:**

Arbitration and mediation based on international law can address less contentious issues, with neutral bodies like the UN or ASEAN facilitating discussions.

- **Strengthen Regional Maritime Governance:**

Strengthening regional maritime governance with a South China Sea Maritime Authority would ensure resource management and conflict resolution.

- **Leverage Economic Incentives:**

Economic incentives, such as trade agreements conditioned on UNCLOS compliance, can align national interests with global norms, promoting peaceful resolutions.

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<sup>8</sup> cf. World Bank. (2003). *Breaking the conflict trap: Civil war and development policy* (World Bank Policy Research Report). Retrieved from <https://documents1.worldbank.org/curated/zh/504671468762020790/pdf/28137.pdf>

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