

## Confrontation vs. Cooperation: Contention in the South China Sea

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Over the past decade the People's Republic of China (PRC) has continued to expand its influence as a world power through its military and economic force. One area of much contention is the South China Sea where the PRC has been involved in ongoing territorial disputes. The Chinese government has long held a vested interest in the South China Sea due to its abundant resources, strategic location, and historical significance. The South China Sea contains vital trade routes, is home to lucrative fisheries as well as oil and gas reserves. These factors have contributed to the ongoing dispute between China and other countries in the South China Sea. Since 2014, the PRC has acted aggressively in the region going so far as to claim as much as five-million square kilometers of the South China Sea as its own territory, while also creating a considerable number of artificial islands that they have now outfitted with military installations. The current situation has implications for global trade and the Chinese government's actions have drawn criticism from the international community, especially those Asian countries bordering the sea.

### Historical Context

In order to fully understand this conflict, it is important to consider the historical context. The PRC's interest in the South China Sea is longstanding and as early as 1969 a report published by the UN Economic Commission for Asia and the Far East found that there were substantial energy deposits in the seabed between Taiwan and Japan. The report provided the first credible findings of hydrocarbon resources and ignited interest in the region. Although it has not

previously disputed Japan's claim to the islands, China asserted its own sovereignty over them in May 1970, after Japan, South Korea, and Taiwan held talks on joint energy exploration in the East China Sea (China's Maritime Disputes).

In 1992 China passed the "Law on the Territorial Sea and the Contiguous Zone" in which it laid claim to the entire South China Sea. This claim was based on a putative "historical right" dating from the Xia dynasty (ca. 1700 BCE). The law employs more generous methods of territorial determination that would not necessarily be recognized and justified by the United Nations Convention on the Law of the Sea (UNCLOS). This particular move was regarded by many as a bid by China's government to obtain greater maritime security for itself and has continued to obstruct the United States and Soviet Union's efforts to secure freedom of navigation for warships in the region.

After years of dispute over gas fields in the East China Sea, Japan and the PRC signed a Joint Energy Development Agreement in 2008 that stated that both countries would explore four fields jointly, halt development in contested waters, and collaborate on joint surveys and investment. While the accord was hailed as a major step toward maritime cooperation on energy resources, a year later the PRC soon began to develop unilaterally the Tianwaitian/Kashi oil field. This stirred protest from Japan so that in 2010 it threatened to bring the Chinese government before the International Tribunal for the Law of the Sea if it began producing from the Chunxiao/Shirakaba field. Despite the milestone agreement, little has been done since then to increase joint resource development (China's Maritime Disputes).

In a 2010 speech at an Asian regional security meeting in Hanoi U.S. Secretary of State Hillary Clinton reiterated Washington's neutrality on contention over sovereignty in the South China Sea but affirmed U.S. interests in the maintenance of "open access to Asia's maritime

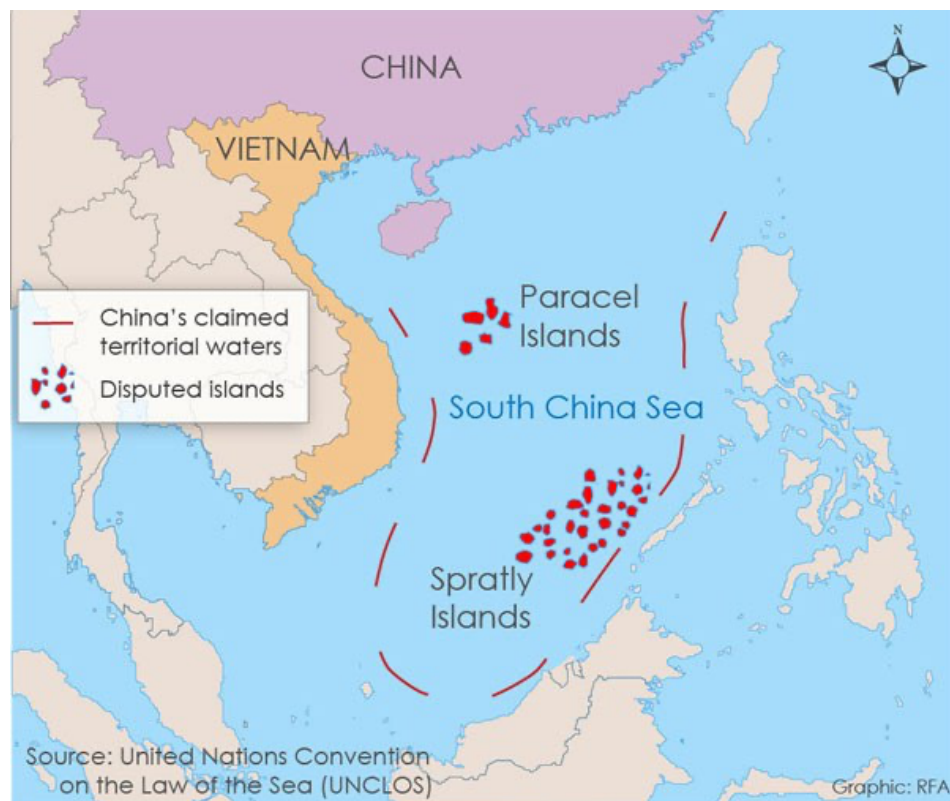
commons.” which had insisted on its rights to the islands and a bilateral approach to resolving disputes. This occurred during a time when military-to-military talks between Beijing and Washington were suspended, and China stated that they would not tolerate outside interference. Clinton’s comments are viewed as an expansion of U.S. involvement in the disputes and seen as an attempt to internationalize the conflict in hopes of a resolution.

In 2013, China’s Ministry of Defense announced the creation of an East China Sea Air Defense Identification Zone that required all non-commercial air traffic to submit flight plans prior to entering the area, which covers most of the East China Sea and includes the contested Senkaku/Diaoyu Islands (China’s Maritime Disputes). The PRC then announced it could take military action against aircraft flying near the islands, elevating the territorial dispute to airspace. Then U.S. Secretary of State John Kerry immediately issued a statement urging China’s government to “exercise caution and restraint,” while then U.S. Secretary of Defense Chuck Hagel reaffirmed Washington’s longstanding policy that the U.S.-Japan Mutual Defense Treaty covered the disputed Islands. China and Japan summoned each other’s ambassadors to lodge official complaints, while South Korea, the United States, and Japan all responded by sending military aircraft on patrols over the East China Sea.

### PRC Viewpoint and Aggressive Action

The Chinese government believes its sovereignty over the South China Sea is based on its long history of control and its maritime rights backed by international law. The nine-dash line (Figure 1) is a demarcation line used by the PRC to assert its territorial claims in the South China Sea. It has asserted the right to the natural resources within this region, resources whose possession is contested by other countries including Vietnam, the Philippines and Malaysia. The nine-dash line

was created by the Chinese government in the 1940s and was then updated in 2009 to include the Paracel and Spratly Islands. The exact coordinates of the line have never been officially declared and its legal standing is disputed by other countries. The Chinese government has argued that the nine-dash line is supported by historical evidence, and that it should be recognized as the basis of China's legitimate maritime claims in the region and allows for China to operate.



**Figure 1:** The nine-dash line

In addition to legislation and political disputes, the PRC has created its own territory in the South China Sea by constructing artificial islands in the region by using dredging ships to push the sea floor on top of shallows of rocks and reefs. These “islands” span almost 3,200 acres of new land and were previously not considered territory under international law. Although several Asian countries have claims over the South China Sea, PRC authorities argue that the

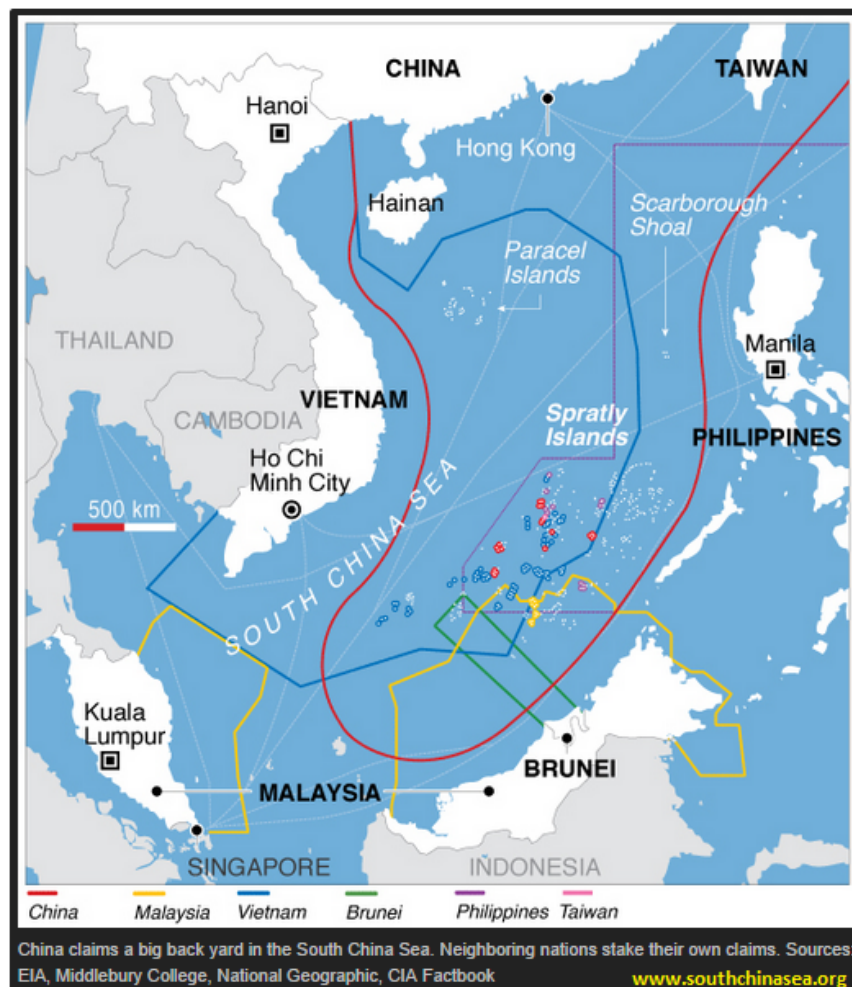
islands are their territory and so it is justified in utilizing these islands to further their influence in the region. What has caused much alarm in the international community is that China has fully militarized at least three of several islands (Figure 2). These islands are armed with anti-ship and anti-aircraft missile systems, laser and jamming equipment and fighter jets, expanding China's military capabilities in the region. In a July 2016 the United Nations Convention on the Law of the Seas Tribunal definitively concluded that the PRC had no right to claim ownership over the region outlined by the Nine-dash line. The tribunal also ruled that the Chinese government had violated international law in constructing these islands consequently leading to outrage from the surrounding countries.



**Figure 2:** Chinese structures and buildings at the man-made island on Mischief Reef at the Spratly group of islands in the South China Sea (The Guardian)

Many countries around the world have expressed anger and concern over China's activities in the South China Sea. China has established military outposts, constructed artificial

islands, and conducted naval maneuvers in the area, which is also claimed by other countries, including Japan, Vietnam and the Philippines. These countries have accused China of violating international law and ignoring the rights of other nations. They have also accused China of militarizing the area, increasing tensions in the region, and endangering the lives of fishermen and other civilians. The international community has called on China to cease its provocative actions in the South China Sea and to respect the sovereignty of other nations in the area which is being violated by the Nine-dash line (Figure 3).



**Figure 3:** Claimed regions of the South China Sea

## Japan's Reaction

Japan has been critical of China's activities in the South China Sea, particularly its island-building and military presence in disputed areas. Japan has encouraged China to abide by international law and peacefully resolve disputes through dialogue and negotiations. Japan has also voiced its opposition to unilateral actions that increase tensions in the South China Sea and has called for the peaceful and effective implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC). The DOC is a document signed in 2002 by the Association of Southeast Asian Nations (ASEAN) and the PRC that outlines how both countries will exercise self-restraint in the South China Sea and promote mutual trust and understanding. The agreement also serves as a platform for dialogue and cooperation on maritime issues in the region, including the delimitation of maritime boundaries, the preservation of the marine environment, and the promotion of peace and stability in the South China Sea (Declaration).

Although the DOC serves as a basis for further negotiations between the two parties and has been widely praised as a step in the right direction towards a peaceful resolution, the PRC has not abided by the agreement and has continued to militarize these islands. The building of these artificial islands has had a devastating impact on the environment and directly violated the DOC's principle of self-restraint in the conduct of activities. Additionally, the PRC navy has conducted military exercises in the region to increase its presence—another violation of the DOC's principle of refraining from action of a nature that would complicate or escalate disputes. China's actions have been widely condemned by the international community and have been seen as a threat to regional stability. In response, Japan has helped other countries in the region

to strengthen their maritime domain awareness and strengthen the capacity of their coast guard forces for the purpose of ensuring peace and stability in the South China Seas.

### Vietnam's Reaction

Vietnam has expressed increasing concern over PRC activities in the region. China's aggressive militarization of the region has led to a breakdown in regional stability, with Vietnam urging all sides to exercise restraint. Vietnam has accused China of infringing on its sovereignty and territorial integrity, as well as violating international law. The PRC's increasing presence in the South China Sea has been met with strong opposition from Vietnam, which has sought to rally regional support in its attempt to counter illegitimate encroachment. Vietnam has also sought to increase its own naval capabilities in the region to protect its interests, further exacerbating tensions with China.

Vietnam is pursuing a long-term solution to the dispute through peaceful means in accordance with international law, especially the 1982 UN Convention on the Law of the Sea. Vietnam's main challenge is to protect its national sovereignty and economic and strategic interests in the South China Sea in the face of China's frequent intrusions into Vietnamese waters and its harassment of ships looking for oil and gas. The two countries engaged in a standoff in 2014, which led to deadly anti-China riots in Vietnamese cities, when the PRC erected an oil rig in Vietnam's exclusive economic zone. In 2017, Beijing reportedly threatened to attack Hanoi's outposts in the Spratly Islands if it did not stop drilling in an area on Vietnam's continental shelf that overlaps with PRC's expansive but ill-defined claims. Vietnam both engages China for its own economic development and to maintain peace and stability in bilateral relations and in the South China Sea while at the same time balancing against the China threat.



Vietnam's multi-pronged approach to China entails upgrading its military and law enforcement capabilities, preparing for legal battles, using Association of Southeast Asian Nations (ASEAN) mechanisms to rein in Beijing's ambitions, and to deepen strategic cooperation with the U.S. and other major powers. All these tactics are necessary in order to help Vietnam deal with China effectively and only combined can these tactics offer some strategic leverage. Vietnam and other claimant states should accelerate negotiations to reduce the scope of their disputes, promote cooperation in less sensitive areas to build mutual confidence, and bring their claims into conformity with international law in order to promptly resolve this conflict.

### The Philippines' Reaction

The Philippines have strongly opposed PRC activities in the South China Sea, including the construction of artificial islands and military installations, and illegal fishing practices. On May 23, 2011, Former Philippine President Benigno Aquino III warned the visiting Chinese Defense Minister Liang Guanglie of a possible arms race in the region if tensions worsened over disputes in the South China Sea. The Philippines complained that Chinese patrol boats had harassed a Philippine oil exploration vessel in disputed waters near the Spratlys, and subsequently filed a formal protest at the International Tribunal for the Law of the Sea (ITLOS). On 22 January 2013, the Republic of the Philippines instituted arbitral proceedings against China in the Permanent Court of Arbitration (PCA). Philippine Justice Antonio T. Carpio stated that the case is solely a maritime dispute and not territorial in nature. The Philippines sought clarification from the tribunal as to whether China's Nine-dash line can negate the Philippines' Exclusive Economic Zone as guaranteed under the United Nations Convention on the Law of the Sea (UNCLOS), of

which China is a signatory. Clarification of whether China can use these shallow rock and reefs low-tide elevations, such as the Mischief Reef and the Subi Reef within the Philippines waters have also been included in the case. According to a PCA press release on July 12, 2016 “[The] Tribunal concluded that, as between the Philippines and China, there was no legal basis for China to claim historic rights to resources, in excess of the rights provided for by the Convention, within the sea areas falling within the ‘line’” (Mastro). The Philippines have taken their grievances to the international court, bringing a case against China in the Permanent Court of Arbitration (Declaration, 262). The court ruled in favor of the Philippines finding that China had violated the Philippines’ sovereign rights in the region but despite the ruling, China has continued to assert its presence in the area, leading to tensions between the two countries. The Philippines have continued to call for a peaceful resolution to the conflict and have sought the assistance of their regional partners to help ensure a peaceful resolution to the dispute.

### The United States’ Response

The United States has been critical of China’s actions in the South China Sea, citing their aggressive behavior and disregard for international law, especially regarding the creation of these militarized islands. It has continued to challenge the PRC’s excessive maritime claims in the region, specifically regarding freedom of navigation and overflight operations, and has called on China to halt its militarization of the area. The United States has also provided support to regional states in the form of diplomacy and military assistance, as well as conducting military exercises with regional partners on a regular basis. Lastly, it has urged China’s government to

abide by international law and the UN Convention on the Law of the Sea while also working with regional partners to ensure that all parties act in accord with international law.

US Indo-Pacific commander Admiral John C Aquilino (Figure 4) said the PRC's persistent hostile actions were in stark contrast to the Chinese president Xi Jinping's past assurances that Beijing would not transform the artificial islands in contested waters into military bases. Aquilino stated, "They have advanced all their capabilities and that buildup of weaponization is destabilizing to the region." There were no immediate comments from Chinese officials and Beijing maintains its military profile is purely defensive and arranged to protect what it says are its sovereign rights (Lendon).



**Figure 4:** Admiral John C Aquilino (left), commander of the US Indo-Pacific Command, looks over images of militarized islands on board a US P-8A Poseidon

Recently, the United States sent a navy reconnaissance aircraft over these disputed “islands” and during the patrol, the P-8A Poseidon plane was repeatedly warned by Chinese callers that it illegally entered what they said was the PRC’s territory and ordered the plane to move away. One of the radio messages stated, “China has sovereignty over the Spratly islands, as well as surrounding maritime areas. Stay away immediately to avoid misjudgment” (Lendon). The US navy plane dismissed the multiple warnings and continued defiantly with its reconnaissance. The US pilot radioed back, “I am a sovereign immune United States naval aircraft conducting lawful military activities beyond the national airspace of any coastal state” and “Exercising these rights is guaranteed by international law and I am operating with due regard to the rights and duties of all states.” As the P-8A Poseidon flew over, some of these islands appeared to have multi-story buildings, warehouses, hangars, seaports, runways and radars as well as nearly 40 anchored vessels. Aquilino said the construction of missile arsenals, aircraft hangars, radar systems and other military facilities have been completed but it remained to be seen if China would pursue the construction of military infrastructure in other areas. He believes the function of those islands is to expand the offensive capability of the PRC beyond their continental shores and increase their air offensive capabilities. As a result, any military and civilian plane flying over the disputed waterway are within range of the missile systems installed on these islands, islands that threaten all nations who operate in the vicinity, and which will lead to increased military activity by all parties in the region.

To gain sovereignty over the South China Sea, China has passed legislation, built militarized islands, and acted in a hostile manner to those traveling through these international waters. The United States has responded by continuing reconnaissance and has sent warships through the region and although it has no claim in the area, the US Navy continues to patrol in

order to promote free navigation in international waterway and airspace. As of this writing the PRC routinely objects to any action by the US military and continues to seek further control over the region.

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