

**Forum:** The International Court of Justice

**Issue:** Assessing the Legality of China's Maritime Claims and Sovereignty over the South China Sea (Philippines vs. China)

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## **Introduction**

The growth, development, and modernization of society at large can be boiled down to one common causality: the expansion and globalization of trade routes. As trade expanded beyond intra-national borders to an international scale, innovation and economic prosperity came with it. However, in the modern 21st century, international trade has evolved into a topic of major conflict and geopolitical controversy. Few examples bear this as well as the political tensions and instability present within the South China Sea.

The South China Sea is a vital maritime region rich in resources and strategic trade routes, having become a focal point of international tension, particularly between the People's Republic of China and the the state of the Philippines. Assessing the legality of China's maritime claims and sovereignty over the South China Sea, specifically in the context of the ongoing dispute between the Philippines and China, becomes a daunting considerate task. Centering around China's assertion of its "nine-dash line" claim and encompassing a significant portion of the South China Sea, the Philippines' challenge to this claim based on international law is rooted in the United Nations Convention on the Law of the Sea (UNCLOS). However the ability and willingness of China to disobey these demands, and exploit the unclarified legalities within the region, has led to the tension we see today.

In 2013, the Philippines initiated arbitration proceedings against China under UNCLOS, seeking clarification on the legality of China's claims and actions in the region. The arbitral tribunal's ruling in July 2016, which favored the Philippines, declared that China's claims based on the nine-dash line had no legal basis under international law. Despite this ruling, China has refused to recognize the tribunal's decision, leading to ongoing tensions and confrontations in the region.

The implications of these findings and the responses from both nations are crucial in observing the effect of real-time legalities and the broader impact on regional stability within international maritime law. The

synaptic geopolitical effects, legal claims, and general political controversy make this case crucial in foreboding the movement of commerce, commodities, and goods and services within the international supply chain; and prove to be a key instance of how the thirst for political sovereignty and control in an overbearing manner can often lead a falt within a region's political integrity.

### Definition of Key Terms

#### South China Sea

A strategically vital maritime region rich in natural resources and traversed by some of the world's busiest shipping lanes. Located between Southeast Asia, China, and the Pacific Ocean, the South China Sea has become a centre of geopolitical conflict, particularly due to overlapping territorial claims and competing interests in resource exploitation and security. There is major dispute over the sovereignty of the region, as although the PRC obtains a large majority, the territory they cover overlaps with the free zones of Malaysia, Indonesia, amongst other ASEAN nations.

#### Nine-Dash Line

A demarcation line used by China to outline its claim to a large portion of the South China Sea, stretching up to 2,000 kilometers from the Chinese mainland. The nine-dash line overlaps the exclusive economic zones (EEZs) of several Southeast Asian countries, including the Philippines, Vietnam, and Malaysia. Although rooted in historical claims, this line has been widely challenged by other countries and was deemed to have no legal basis under international law by the **Permanent Court of Arbitration** in 2016.

#### United Nations Convention on the Law of the Sea (UNCLOS)

An international treaty established in 1982, UNCLOS provides a framework for maritime governance, defining the rights and responsibilities of states in their use of the world's oceans. It sets guidelines on various aspects, including navigation, resource management, and environmental conservation. In the South China Sea dispute, UNCLOS is central to the legal arguments concerning sovereignty and maritime entitlements, particularly regarding the exclusive economic zones (EEZ) and continental shelves.

#### Exclusive Economic Zone (EEZ)

This refers to the sea zone extending up to 200 nautical miles from a country's coastline, within which the state has exclusive rights to explore and exploit marine resources, including fishing, drilling, and mining. Under UNCLOS, the EEZ is internationally recognized as part of a country's sovereign rights, though it does not imply full sovereignty over the area. The Philippines' EEZ overlaps with China's claimed

nine-dash line, a key point in the legal dispute and a key point of contention in establishing the issue at hand.

### **Permanent Court of Arbitration (PCA)**

An intergovernmental organization established in 1899 to facilitate arbitration and other forms of dispute resolution between states. In 2016, the PCA issued a landmark ruling on the South China Sea dispute between China and the Philippines, concluding that China's claims based on the nine-dash line had no legal basis under UNCLOS. Although legally binding, China has rejected the PCA's ruling and continues to assert its claims.

### **Innocent Passage**

UNCLOS provides the passage of foreign vessels—military or commercial—through an EEZ or 12-nautical mile territorial sea. The 'Innocent Passage' is a term commonly referenced in international maritime laws and discusses the ability of a marine vessel to pass through a territorial sea in situations of distress or dire needs. If a ship engages in activity that threatens the security of the coastal state, the passage is no longer considered innocent. All three of the US FONOPS have been innocent passages. Some US defense analysts argue that by not engaging in other activities, the US warships gave credibility to the zones around the reefs China claims.

### **Key Issues**

#### **Territorial Sovereignty and Maritime Claims:**

The fundamental dispute in the South China Sea centers on overlapping territorial claims, particularly China's expansive "nine-dash line" encompassing nearly 90% of the strategic waterway. This claim directly conflicts with the maritime entitlements of Vietnam, the Philippines, Malaysia, Brunei, and Taiwan, creating a complex web of competing sovereignty assertions. **The 2016 ruling by the Permanent Court of Arbitration invalidated China's historical claims**, but Beijing's continued rejection of this verdict has created a significant challenge to the international legal order. This legal ambiguity has profound implications for resource exploitation and economic development in the region. Coastal states are unable to fully develop their exclusive economic zones due to frequent confrontations and harassment of their fishing vessels and energy exploration activities. The situation has created an environment of uncertainty that deters international investment in offshore energy projects and sustainable fishing practices.

The ongoing territorial disputes have also led to increased militarization of maritime features, with China constructing artificial islands and military installations on disputed reefs and shoals. This has

fundamentally altered the strategic balance in the region and created new flashpoints for potential conflict, as demonstrated by recent confrontations between Chinese and Philippine vessels near Second Thomas Shoal.

#### **Maritime Trade and Freedom of Navigation:**

The South China Sea serves as a vital pathway for the transportation of global commerce, with approximately one-third of global maritime trade transiting through these waters annually. China's assertive actions, including the establishment of military installations and the declaration of air defense identification zones, pose major challenges to the principle of freedom of navigation. This thereby prompted an increased naval presence from external powers, particularly the United States, which conducts regular freedom of navigation operations. The disruption of traditional shipping routes and fishing grounds has led to substantial economic impacts on regional economies. Local fishing communities face increasing restrictions on their traditional fishing areas, while international shipping companies must consider alternative routes that increase costs and transit times. The situation has created additional operating expenses for maritime industries and raised insurance premiums for vessels operating in the region. Moreover, localized individuals operating within the sea's jurisdiction, face immense pressures and coercion from China to mobilize trade outwards; resulting in a loss in domestic economic prosperity. These tensions have sparked a regional arms race, with Southeast Asian nations significantly increasing their maritime defense capabilities in response to China's military presence. This military buildup, while intended as a deterrent, raises the risk of miscalculation and accidental confrontation in a volatile region.

#### **Regional Security and Military Presence within the ASEAN:**

The South China Sea dispute has exposed significant divisions within ASEAN, challenging the organization's effectiveness in managing regional security issues. China's bilateral approach to negotiations, coupled with its economic influence over smaller ASEAN states, has undermined efforts to present a unified regional response to maritime disputes. The inability to reach consensus on a binding Code of Conduct, despite decades of negotiations, highlights the limitations of current diplomatic frameworks.

The dispute has created a complex web of diplomatic relationships, where countries must balance their economic ties with China against their security interests and sovereignty claims. This has led to varying approaches among ASEAN members, with some adopting more confrontational stances while others prefer accommodation with Beijing. Such diplomatic fragmentation has weakened ASEAN's collective bargaining position and its ability to influence China's behavior in the region.

Moreover, the intensifying great power competition between the United States and China has turned the South China Sea into a theater for broader geopolitical rivalry. Regional states find themselves increasingly pressured to take sides, potentially undermining ASEAN's principle of neutrality and its role as the primary forum for regional security dialogue.

### **Impact on Bilateral Relations:**

The deteriorating situation in the South China Sea has fundamentally transformed bilateral relationships between China and its Southeast Asian neighbors / general member states; most notably the Philippines playing a large role in this multifaceted relationship. Under President Ferdinand Marcos Jr.'s administration, Manila has adopted an increasingly assertive stance against Chinese maritime activities, marking a significant departure from the previous administration's China-friendly approach. This shift has created ripple effects across diplomatic, economic, and security dimensions of Sino-Philippine relations, with both nations engaging in increasingly confrontational rhetoric and actions over disputed features like Scarborough Shoal and Second Thomas Shoal. This realignment has created significant economic consequences for both nations. China's economic coercion tactics, including restrictions on Philippine agricultural imports and the suspension of tourism groups, demonstrate Beijing's willingness to use economic leverage as a tool of maritime diplomacy. However, these actions have prompted the Philippines to diversify its economic partnerships and strengthen ties with alternative partners, particularly the United States and Japan, reducing its economic dependency on China. This economic diversification strategy, while potentially beneficial in the long term, has created short-term disruptions in trade relationships and investment flows. The heightened tensions have also catalyzed a broader restructuring of regional security architecture. The Philippines has significantly expanded its security cooperation with the United States, including the enhancement of the Enhanced Defense Cooperation Agreement (EDCA) and increased joint military exercises. This strengthened U.S.-Philippine alliance has introduced new dynamics into the regional security landscape, potentially triggering a cycle of action and reaction that could further militarize the South China Sea dispute. The development of new military facilities and the increased frequency of joint patrols have raised concerns about the potential for miscalculation and unintended escalation between rival forces operating in close proximity.

### **Major Parties Involved and Their Views**

#### **China:**

China's assertion of sovereignty over approximately 90% of the South China Sea through its "**nine-dash line**" claim represents one of the most expansive maritime claims in modern history. This position stems

from China's interpretation of historical records dating back to the Ming and Qing dynasties, particularly emphasizing the 1947 map that first established the eleven-dash line (later reduced to nine). Beijing has demonstrated its commitment to this claim through extensive land reclamation efforts, having created over 3,200 acres of artificial islands since 2013, with significant militarization including the deployment of anti-ship cruise missiles and long-range surface-to-air missiles on features like Fiery Cross Reef, Subi Reef, and Mischief Reef. China through its historical roots continues to coerce individuals within the region.

China's rejection of the 2016 Permanent Court of Arbitration ruling stems from its interpretation of **Article 298 of UNCLOS**, which allows states to opt out of compulsory dispute resolution mechanisms. Despite being a signatory to UNCLOS since 1996, China argues that historical rights supersede the convention's provisions, particularly regarding the establishment of Exclusive Economic Zones. This stance has led to numerous confrontations, including the 2012 Scarborough Shoal standoff and the 2021 Whitsun Reef incident, where over 200 Chinese maritime militia vessels were documented within the Philippine EEZ.

### Philippines:

The Philippines stands at the forefront of resistance to Chinese maritime expansion, with its exclusive economic zone encompassing significant portions of the disputed water, particularly around the Spratly Islands and the Scarborough Shoal. The Philippine government has sought to uphold its sovereignty and protect its maritime resources against Chinese encroachments. Under President Ferdinand Marcos Jr.'s administration, Manila has markedly shifted from its predecessor's China-friendly approach, strengthening its maritime presence and international partnerships. This assertive stance is exemplified by the 2023 **Enhanced Defense Cooperation Agreement (EDCA)** expansion, granting U.S. forces access to four additional military bases, bringing the total to nine strategic locations.

The Philippines' position is firmly grounded in the landmark 2016 Permanent Court of Arbitration victory, which invalidated China's nine-dash line claims. Since 2022, the country has documented over 200 diplomatic protests against Chinese activities, while simultaneously enhancing its maritime capabilities through a military modernization program costing nearly 300 billion pesos. The Philippine Coast Guard has also adopted a more transparent approach, regularly publicizing Chinese maritime militia activities and establishing a sophisticated vessel monitoring system covering the West Philippine Sea after following the 2016 arbitration ruling. The Philippines has emphasised the importance of international law and the need for adherence to the tribunal's decision, which favoured its claims. The current

administration under President Ferdinand Marcos Jr. has taken a firmer stance against Chinese aggression compared to previous administrations.

#### United States:

The United States, while not a territorial claimant, has established itself as a pivotal force in the South China Sea dispute through its role as the primary challenger to Chinese maritime expansionism. As the guarantor of regional security through its hub-and-spoke alliance system, the U.S. has significantly increased its military presence since 2020, conducting an average of 12-15 Freedom of Navigation Operations (FONOPs) annually. The U.S. Indo-Pacific Command has maintained a continuous presence through its Carrier Strike Groups, with the USS Ronald Reagan and USS Carl Vinson conducting joint exercises with regional allies over 30 times in 2023 alone.

America's strategic approach is anchored in the **2018 Asia Reassurance Initiative Act (ARIA)**, which authorized \$1.5 billion annually for enhanced security cooperation with regional allies. This commitment has materialized through significant military aid packages, including the 2023 approval of \$500 million in military financing to the Philippines and the transfer of advanced maritime surveillance systems to Vietnam under the Maritime Security Initiative. The U.S. has also strengthened its regional presence through the expansion of base access agreements, most notably the 2023 Enhanced Defense Cooperation Agreement (EDCA) with the Philippines, which increased U.S. military access points from five to nine strategic locations. This enacts further ties between the United States and Philippines through militarization.

The Biden administration has further institutionalized American commitment through the establishment of the **AUKUS partnership in 2021**, which includes provisions for enhanced maritime domain awareness in the South China Sea. This trilateral security pact has been complemented by the revival of the Quadrilateral Security Dialogue (Quad), which has conducted six major naval exercises in the region since 2022. Despite not being a signatory to UNCLOS, the U.S. has consistently emphasized its commitment to the treaty's principles, particularly regarding freedom of navigation and the peaceful resolution of maritime disputes. This position was formally codified in the 2023 State Department paper "Limits in the Seas No. 150," which comprehensively rejected China's maritime claims as inconsistent with international law.

#### Socialist Republic of Vietnam:

Vietnam's stance in the South China Sea dispute is particularly complex, encompassing claims to both the Paracel and Spratly archipelagos based on historical administration and continental shelf extensions under

**UNCLOS Article 76.** Since the 1974 Battle of the Paracel Islands, which resulted in China's occupation of the entire archipelago, Vietnam has significantly enhanced its maritime capabilities, including the acquisition of six Kilo-class submarines from Russia and the development of facilities on 27 features in the Spratly Islands. The country's approach combines military modernization with diplomatic engagement, evidenced by its strategic partnership agreements with 17 nations since 2001. Vietnam has been particularly active in utilizing ASEAN frameworks, having submitted multiple diplomatic notes to the UN Secretary-General between 2019-2023 challenging China's maritime claims. Recent developments include Vietnam's 2023 defense white paper, which allocates 3.1% of GDP to military expenditure, with a significant portion directed toward maritime capability enhancement.

#### **United Nations International Tribunal for the Law of the Sea (ITLOS):**

ITLOS emerged and presented itself as a crucial arbitrator in South China Sea disputes, though its effectiveness has been challenged by China's non-participation. Beyond the landmark 2016 Philippines v. China case, ITLOS has issued 19 advisory opinions on maritime jurisdiction and boundary delimitation between 2019-2024, significantly influencing the interpretation of maritime law in contested waters by allowing the provision of the tribunal's jurisdiction, established **under UNCLOS Articles 286 and 288**, providing a fundamental framework for resolving maritime dispute

The tribunal's role extends to monitoring compliance with UNCLOS provisions regarding marine environmental protection, particularly Article 192's obligation to protect and preserve the marine environment. ITLOS has processed over 40 requests for provisional measures since its establishment, with 30% relating to South China Sea disputes, demonstrating its central role in regional maritime governance.

#### **Asia Maritime Transparency Initiative (AMTI):**

As a leading non-governmental organization, AMTI has revolutionized monitoring of South China Sea developments through advanced satellite imagery analysis and data collection. Their work has documented over 70 major incidents between claimant states in 2023 alone while maintaining a comprehensive database of military installations and maritime militia activities. AMTI's evidence has been cited in 64% of UN Security Council briefings on the South China Sea between 2022-2024, significantly influencing international understanding of regional developments. The body plays a critical role in monitoring data within the region and generally has a central role in allowing analytical decisions to be developed and policies to be established within the space.



## Dubai International Academy Model United Nations 2025

The organization's "**Maritime Claims Map**" project has become the definitive reference for policymakers and researchers, providing detailed analysis of overlapping claims and military developments. AMTI's research has been instrumental in identifying patterns of gray zone operations, documenting over 1,000 instances of Chinese maritime militia activities in 2023, and tracking the environmental impact of artificial island construction through advanced remote sensing technology.

### Development of Issue/Timeline

Date	Event	Outcome
<b>November 1, 1947</b>	China publishes its first "Nine-Dash Line" map	China published a map outlining its claims over the majority of the South China Sea, including areas overlapping with claims by the Philippines, Vietnam, Malaysia, Brunei, and Taiwan. The "nine-dash line" was initially a "11-dash line" drawn by the Kuomintang government. These claims were loosely based on historical maps but lacked precise geographic coordinates, creating ambiguity. This unilateral assertion sowed the seeds for future disputes. It was met with skepticism internationally, as the modern principle of maritime rights under UNCLOS (developed later) emphasized legal and geographical justifications over historical claims.
<b>February 8, 1974</b>	China seizes the Paracel Islands from South Vietnam	After a naval battle between Chinese and South Vietnamese forces, China took full control of the Paracel Islands. This was a critical turning point as it marked China's first significant military assertion of its claims. The battle resulted in over 50 South Vietnamese casualties and sparked protests from the international community. The Paracel Islands remain under Chinese control today, and this event established a pattern of military assertiveness that would characterize future disputes in the region. This action underscored China's willingness to use force, complicating diplomatic negotiations for decades.

<p><b>February 5, 1992</b></p>	<p>China passes the "Law on the Territorial Sea and the Contiguous Zone"</p>	<p>China's National People's Congress passed a law claiming sovereignty over the <b>Paracel and Spratly Islands</b>, as well as other areas in the South China Sea. This law formalized China's maritime claims and further intensified disputes with other claimants. ASEAN nations expressed concern, viewing it as a threat to regional peace. China's decision to unilaterally pass such a law highlighted the absence of a consensus-based mechanism for dispute resolution in the region. This action also predated UNCLOS' widespread adoption, emphasizing China's preference for historical claims over internationally agreed maritime law.</p>
<p><b>February 6, 1995</b></p>	<p>China occupies Mischief Reef</p>	<p>Chinese forces occupied Mischief Reef, a low-tide elevation within the Philippines' <b>Exclusive Economic Zone (EEZ)</b>. This led to protests from Manila and regional condemnation. Mischief Reef is part of the Spratly Islands, which are also claimed by Vietnam, Malaysia, and Brunei. China's occupation marked a significant escalation in its actions in the South China Sea, transitioning from rhetorical claims to physical control. This event highlighted the inadequacies of regional frameworks like ASEAN in deterring unilateral actions and underscored the need for a rules-based approach. China's subsequent construction of military facilities on the reef further exacerbated tensions and established a precedent for future island-building campaigns.</p>
<p><b>May 7, 2009</b></p>	<p>China asserts claims in a note verbale to the UN</p>	<p>China submitted a note verbale to the United Nations, attaching the nine-dash line map and asserting "indisputable sovereignty" over the South China Sea. This claim was based on "historical rights" but was widely criticized for lacking legal basis under UNCLOS, which China had ratified in 1996. Vietnam and Malaysia submitted counterclaims, leading to a diplomatic standoff. The move signaled China's intent to formalize its historical claims on the global stage. It also marked the beginning of a more assertive phase in China's foreign policy under President Hu Jintao, focusing on consolidating territorial claims despite international pushback.</p>

<p><b>January 22, 2013</b></p>	<p>Philippines initiates arbitration under <b>UNCLOS</b></p>	<p>The Philippines filed a case at the <b>Permanent Court of Arbitration (PCA)</b>, challenging China's claims and actions in the South China Sea. The Philippines sought clarification on China's legal basis for the nine-dash line and contested China's interference in its EEZ activities, including fishing and oil exploration. The arbitration marked a significant use of legal avenues to resolve maritime disputes, highlighting the limitations of military and diplomatic responses. China refused to participate, arguing that the court lacked jurisdiction. This case set a precedent for international law's role in addressing maritime disputes, emphasizing the importance of legal frameworks in countering unilateral assertions.</p>
<p><b>July 12, 2016</b></p>	<p><b>The Hague</b> tribunal rules in favor of the Philippines</p>	<p>The PCA ruled that China's claims based on the nine-dash line had no legal basis under UNCLOS. The tribunal also found that China had violated the Philippines' sovereign rights in its EEZ by interfering with fishing activities and causing ecological damage through large-scale land reclamation. Despite the ruling, <b>China rejected it outright, calling it "null and void,"</b> and continued its activities in the region. This landmark decision clarified international law on maritime rights but revealed the challenges of enforcing such rulings. It also galvanized regional states to push for a rules-based order but underscored the limitations of international law without enforcement.</p>
<p><b>November 20, 2018</b></p>	<p>U.S. conducts "Freedom of Navigation Operations" (<b>FONOPs</b>)</p>	<p>The United States intensified its FONOPs in the South China Sea, challenging China's excessive maritime claims. These operations, conducted by U.S. Navy vessels, aimed to assert the principle of freedom of navigation under international law. In one instance, the <b>USS Decatur came within 12 nautical miles of Chinese-occupied Gaven Reef.</b> China's military responded aggressively, accusing the U.S. of provocations. FONOPs underscored the U.S. commitment to upholding a free and open Indo-Pacific, but they also risked escalating military tensions. These operations highlighted the</p>

		strategic importance of the South China Sea as a global trade route, with over \$3.4 trillion in trade passing through the region annually.
<b>August 5, 2023</b>	Philippine supply ships harassed by Chinese Coast Guard	Chinese vessels used water cannons against Philippine ships delivering supplies to <b>BRP Sierra Madre</b> , a grounded naval ship in the Second Thomas Shoal. This marked a significant escalation in China's assertive tactics. The Philippines condemned the act as a violation of its sovereignty, while the U.S. reaffirmed its defense commitments under the <b>Mutual Defense Treaty</b> . This incident underscored China's willingness to use aggressive measures to enforce its claims, prompting renewed calls for international support for the Philippines. It also raised concerns about potential military clashes in the region, highlighting the fragility of the status quo and the ongoing risks of miscalculation.

[Previous Attempts to Solve the Issue](#)

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

The ASEAN-China Declaration on the Conduct of Parties (DOC) was a landmark agreement aimed at maintaining peace and stability in the South China Sea. Signed in Phnom Penh by China and the 10 ASEAN member states, the DOC outlined principles such as peaceful dispute resolution, freedom of navigation, and self-restraint in activities that could escalate tensions. Initially celebrated as a diplomatic milestone, the non-binding nature of the DOC soon became a major limitation, with multiple parties, particularly China, violating its terms. By 2015, China's extensive militarization and artificial island-building activities, such as deploying military equipment on Woody Island, had rendered the agreement largely ineffective. These actions not only heightened tensions among ASEAN nations but also drew criticism from global powers like the United States.

This declaration prevented conflicts from escalating by fostering dialogue and cooperation and creating favorable conditions for the peaceful resolution of disputes. It further promoted mutual trust and confidence among parties and encouraged cooperation in areas such as maritime navigation, environmental protection, search-and-rescue operations, and combating piracy.

The legal assessment of China's maritime claims in the South China Sea reveals significant discrepancies with international law, particularly UNCLOS. The 2016 arbitration ruling strongly favored the Philippines' position, highlighting the lack of legal foundation for China's extensive claims based on "historical rights." However, China's continued assertion of sovereignty and its non-participation in the arbitration process has created ongoing tensions in the region, challenging the effectiveness of international legal mechanisms in resolving such disputes.

#### 2016 Arbitration Case (Philippines vs. China):

The Philippines initiated a case against China in **2013**, seeking clarity under the **Permanent Court of Arbitration (PCA)** regarding maritime claims in the South China Sea. The tribunal's **2016 ruling** invalidated China's nine-dash line claims, affirming the Philippines' rights over its exclusive economic zone (EEZ). Although hailed as a legal triumph for the Philippines and smaller claimant states, the ruling's impact was undermined by China's outright rejection and continued assertive actions in the region. The lack of enforcement mechanisms under international law left the decision unenforced, but it bolstered global support for the rule of law and increased diplomatic pressure on China. This ruling deepened divisions between China and ASEAN while reinforcing the United States' freedom of navigation operations in the area. Despite the case's symbolic significance, China's persistence in militarizing disputed territories highlighted the limitations of international arbitration in compelling major powers to comply.

#### Code of Conduct Negotiations (Ongoing Since 2002):

Efforts to establish a binding **Code of Conduct (COC)** between ASEAN and China have been underway since 2002. Intended to address the shortcomings of the DOC, the COC seeks to create enforceable guidelines for activities in the South China Sea. However, progress has been slow, with major disagreements over enforcement and the inclusion of non-signatories, such as the United States. China's preference for bilateral negotiations with individual ASEAN nations has further complicated collective bargaining efforts. While the COC could theoretically enhance regional stability, the prolonged negotiations and lack of tangible outcomes have eroded trust in ASEAN-led mechanisms. Critics argue that China's delay tactics undermine the agreement's potential to reduce tensions, leaving the region vulnerable to further militarization and unilateral actions.

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

The United States has intensified **Freedom of Navigation Operations (FONOPs)** in the South China Sea, challenging excessive maritime claims and asserting the principle of free navigation. These operations, conducted regularly since 2016, have demonstrated U.S. resolve in countering China's actions,

particularly its militarization of artificial islands. While FONOPs underscore a commitment to international norms, they have also fueled tensions, with Chinese vessels frequently confronting U.S. warships. The operations have drawn support from allies such as Australia and Japan, contributing to a more coordinated regional response. However, they risk escalating military confrontations, as evidenced by incidents like the **2018 near-collision** between U.S. and Chinese naval vessels. FONOPs highlight both the determination of the U.S. to uphold maritime law and the challenges of deterring unilateral actions in contested waters.

### **ASEAN Initiatives:**

The Association of Southeast Asian Nations (ASEAN) has attempted to mediate the disputes through various frameworks, including the Declaration on the Conduct of Parties in the South China Sea (DOC) signed in 2002. However, the implementation of the DOC has been inconsistent, and efforts to establish a binding Code of Conduct (COC) have faced challenges due to differing interests among member states and China's assertive stance. In some instances, the Philippines and China have engaged in bilateral agreements to manage tensions, such as agreements on fishing rights and joint exploration of resources in disputed areas. However, these agreements have often been undermined by incidents of aggression and non-compliance from either side.

### **Possible Solutions**

#### **International Arbitration and Legal Frameworks**

##### **Utilization of UNCLOS**

Employing UNCLOS more efficiently to tackle the challenge of evaluating the legitimacy of China's maritime claims in the South China Sea would require a comprehensive strategy. This policy would focus on enhancing the enforcement mechanisms of UNCLOS, fostering greater international backing for its provisions, and advocating for uniform interpretation of its articles. It is significant because UNCLOS establishes the main legal structure for maritime conflicts, providing a uniform set of regulations for delineating maritime areas and addressing disagreements. To improve its efficiency, nations could aim to create a stronger compliance monitoring framework within UNCLOS, possibly featuring routine assessments of state actions and more defined repercussions for breaches. Moreover, diplomatic initiatives aimed at fostering agreement among UNCLOS signatories regarding the interpretation of crucial provisions could assist in mitigating selective or broad interpretations of the convention. To ensure enforcement, the global community might explore creating a unified approach to

address non-compliance, including economic or diplomatic actions against nations that consistently contravene UNCLOS decisions. Although obstacles persist, especially due to China's dismissal of the 2016 arbitration decision, a renewed emphasis on UNCLOS might enhance pressure on China to conform its claims to international law, promote greater regional stability, and offer a stronger legal foundation for addressing maritime conflicts in the South China Sea.

### **Reinforcement of the 2016 Arbitration Ruling**

Strengthening the 2016 Arbitration Decision might be an effective approach to tackle China's maritime assertions in the South China Sea. This strategy would entail coordinated diplomatic actions to secure wider global backing for the ruling, along with economic and political pressure on China to adhere. It is very significant as the decision annulled China's "nine-dash line" assertion and specified the status of different maritime features, establishing a legal basis for contesting China's broad claims. To uphold this policy, a coalition of countries might impose specific sanctions on parties engaged in China's South China Sea actions, while also enhancing freedom of navigation operations to reinforce the rights confirmed by the ruling. The Philippines, as the main party in the case, could adopt a bolder approach in utilizing the ruling diplomatically, countering its earlier minimization of the win. Although China has so far dismissed the ruling, ongoing international pressure and possible economic repercussions of non-compliance may gradually sway Beijing's decision-making. Nonetheless, the success of this strategy might be constrained by China's ongoing land reclamation and militarization activities, along with its economic power in the area. However, upholding the ruling might bolster the international rules-based system and possibly result in a more stable and lawful maritime atmosphere in the South China Sea.

### **Bilateral and Multilateral Negotiations**

#### **Engagement in Diplomatic Talks**

Participation in diplomatic discussions has surfaced as a hopeful strategy to tackle the South China Sea conflict between China and the Philippines. This policy involves routine bilateral discussions, like the current negotiations in Xiamen and the planned meeting between vice ministers. It is significant because it offers a means for direct dialogue, which may reduce tensions and promote mutual understanding. This method might aid in resolving the problem by enabling both sides to voice their worries, identify shared interests, and negotiate agreements without engaging in military conflict. For effective enforcement, both countries need to engage in ongoing dialogue, uphold agreements made in discussions and include international mediators when required. The recent pact between China and the Philippines to "uphold the provisional agreement transparently and genuinely" illustrates the possible

success of this method. Nonetheless, the effectiveness of diplomatic efforts relies on the readiness of both sides to compromise and comply with international law. Despite ongoing challenges, including China's persistent assertiveness in the region, diplomatic discussions provide a peaceful way to handle disputes and possibly achieve a long-term resolution to the intricate South China Sea situation.

### Regional Cooperation

Regional collaboration surfaces as a hopeful resolution to tackle the South China Sea conflict involving China and the Philippines. This strategy would entail reinforcing multilateral structures in ASEAN, promoting collaborative maritime patrols, and improving information exchange among the claimant nations. It is especially significant because it can showcase a cohesive stance against China's assertive maneuvers, possibly dissuading additional intrusions. The policy might encompass coordinated diplomatic initiatives, shared resource exploration pacts, and mutual security agreements. For effective enforcement, ASEAN members need to address their differences, agree on a unified position, and create binding mechanisms for resolving disputes. The success of regional collaboration is clear in recent happenings, like enhanced coordination among the Philippines, Malaysia, and Vietnam in reaction to Chinese provocations. Nonetheless, obstacles persist, such as the varied interests of ASEAN members and China's inclination towards bilateral discussions. Despite these challenges, regional collaboration presents a hopeful route for addressing tensions, safeguarding mutual maritime interests, and possibly paving the way for a more stable and rule-oriented framework in the South China Sea.

### Track Two Initiatives & NGOs

Establishing a "Track Two Tribunal" involving NGOs could facilitate dialogue and provide a platform for presenting evidence and legal arguments from all claimants. This tribunal could help assess the legality of claims based on historical and legal precedents without the pressure of state-to-state negotiations. Additionally, these Non-Governmental Organizations (NGOs) can have an important role in resolving the South China Sea conflict involving China and the Philippines. This methodology would include NGOs performing autonomous research, increasing public awareness, and promoting discussions among involved parties. It is significant because NGOs can offer unbiased assessments and encourage local backing for a peaceful solution. Organizations like the South China Sea Probing Initiative have provided important insights, including documentation of military interactions in the area<sup>5</sup>. For maximum effectiveness, NGOs must work alongside academic institutions, interact with local communities, and uphold neutrality when conveying accurate information. Executing this would necessitate financial resources, entry to the area, and collaboration from governmental bodies. While organizations like Atin



It to have faced criticism for possibly heightening tensions, others, like the Honourable NGO, have suggested positive solutions, such as encouraging parties to stop escalatory actions and adhere to a binding Code of Conduct. The impact of NGO participation can differ, yet their ability to shape public perception, offer different viewpoints, and advocate for environmental conservation in contested regions might lead to a more complete strategy for addressing the South China Sea conflict.

### **Increased International Involvement**

#### **Support from External Powers**

Assistance from foreign powers has become an important tactic for dealing with China's maritime assertions in the South China Sea. This strategy requires the proactive involvement of non-claimant nations, especially the United States, Japan, Australia, and India, in assisting the Philippines and other Southeast Asian countries in countering China's broad claims. The strategy involves diplomatic support, military collaboration, and economic assistance to offset China's influence in the area. It is significant as it gives smaller countries such as the Philippines the essential leverage to counter China's assertiveness. The participation of outside forces might assist in addressing the problem by discouraging additional Chinese growth, upholding international regulations, and ensuring freedom of navigation in the contested waters. For effective implementation, this strategy necessitates ongoing diplomatic collaboration, combined military drills, and economic projects among allied countries. The United States has shown its dedication to this strategy through its Indo-Pacific Command and agreements such as the Mutual Defense Treaty with the Philippines. The establishment of the 'Quad' alliance involving the US, Japan, Australia, and India further illustrates this approach. Although the efficacy of external assistance has increased pressure on China, it also poses a risk of heightening tensions and possibly undermining regional security. However, the participation of outside powers continues to be a vital element in influencing the geopolitical dynamics of the South China Sea conflict.

#### **International Monitoring**

Establishing an international monitoring mechanism to oversee activities in the South China Sea could help ensure compliance with international law and reduce tensions between claimants. Such global oversight may serve as an essential approach to tackling the South China Sea conflict between China and the Philippines. This method would require setting up an unbiased, multilateral monitoring system to supervise activities in the disputed waters. This policy would involve the use of international observers, satellite images, and sophisticated surveillance technologies to monitor maritime activities, land reclamation projects, and military operations. It is significant as it would offer clear, unbiased information regarding the actions of all participants, possibly discouraging hostile behavior and encouraging

accountability. To implement this policy, a group of countries, potentially under UN guidance, must come to a consensus on the monitoring system, obtain financing, and guarantee equitable access to the collected data. The impact of global oversight could be considerable, as it would establish an evidence foundation for diplomatic discussions, aid adherence to international regulations, and possibly lessen the chances of errors that could trigger conflict. Nonetheless, its success largely hinges on China and other claimant states' readiness to collaborate with monitoring efforts and honor the findings, which could be difficult due to China's historical aversion to outside involvement in what it regards as its sovereign matters.

### Public Awareness and Education

Increasing awareness as a means to tackle China's maritime claims in the South China Sea would necessitate an extensive public diplomacy initiative. This method involves utilizing media, scholarly studies, and global discussions to inform international audiences about the legal and historical dimensions of the conflict. It is significant since enhanced global comprehension can create diplomatic pressure on China and attract backing for the Philippines' stance. The approach could aid in addressing the problem by revealing China's "gray zone" actions, promoting global unity, and possibly swaying China's conduct because of reputational risks. For effective implementation, the Philippines might broaden its "assertive transparency" initiative, partner with think tanks and academic institutions to generate research on the dispute, and proactively participate in international conferences and media platforms. Vietnam's recent actions to highlight Chinese hostility towards its fishermen illustrate the possible success of this strategy. Although simply raising awareness may not settle the conflict, it can greatly influence global perceptions, which could result in heightened diplomatic and economic pressure on China to adhere to international law.

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Appendix



**Figure 1:** Visual representation of the Nine-Dash line enunciating between The People's Republic of China, The Philippines, and other major archipelagos within the vicinity.