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*“Observe calmly; secure our position; cope with affairs calmly; hide our capacities and bide our time; be good at maintaining a low profile; and never claim leadership”<sup>1</sup>.*

## *Past, Present and Future of Geopolitics in the South China Sea*

### **Abstract**

In a globalised world where 90% of trade is carried out by sea, coastal states are aware of the importance and economic value that the exploitation of maritime resources has on a country's GDP. Tensions to acquire exclusive exploitation rights in the Exclusive Economic Zone (EEZ) and Continental Shelf generate continuous disagreements. The South China Sea, is one of the most open maritime uptight spaces in the world, where tensions continue to increase due to the richness of the seabed and the enormous density of maritime traffic that navigates through these waters. The economic importance of these routes and the existing natural resources have made the South China Sea basin one of the tensest geopolitical scenarios these days. The clashes between countries reach the point of colliding in the name of this geographical area. The People's Republic of China calls it the South Sea, Vietnam the East Sea and the Philippines the West Philippine Sea. These etymolo-

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<sup>1</sup> Famous quote from the translation of Deng Xiaoping's 24 character statement in 1990. DENG X. Beijing: People's Publishing House, 1993, p.321.

gical differences reflect the different legal claims that each country faces. This space is a maritime border that marks sovereignty, guarantees transit through its waters and grants the right to exploit underground resources. This study tries to illustrate the geopolitical tensions in the area, analysing the actors involved, the evolution of litigation and the possible consequences that the latest movements in China will have in the near future.

### **Key words**

China, South China Sea, Sea, Litigation, Geopolitics, EEZ, Expansionism, maritime limit, sovereignty, A2/AD.

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## Introduction

The People's Republic of China, as a coastal nation, is heavily dependent on maritime transport, as well as on the exploitation of its natural resources and on its foreign trade – through which it exports a huge amount of manufactured goods. For this reason, the race for the right to exploit subsoil natural resources has become one of the priorities on which its geopolitical strategy in the Asia-Pacific is focused.

The great opportunities that the exploitable resources on the seabed would provide make the region one of the sea basins with the greatest tensions between states, especially accentuated since the end of 2016, when China began to move away from Deng Xiaoping's discreet policy to “Observe calmly; secure our position; cope with affairs calmly; hide our capacities and bide our time; be good at maintaining a low profile; and never claim leadership”.

The exploitation of these resources is one of the cornerstones around which all conflicts revolve and, given the geographic immensity of the South China Sea, the existence of millions of islands and reefs of emerged land and the coexistence of numerous littoral states, the region is a difficult area to control, favouring threats and illegal exploitation of resources, as well as territorial disputes.

Before addressing the diplomatic conflict in the South China Sea, it is worth clarifying a series of maritime law concepts that will allow us to approach the adjoining claims in this maritime region from a theoretical point of view. In Classical Maritime Law,<sup>2</sup> maritime spaces were divided into internal waters and territorial sea, under the virtually full sovereignty of the coastal state. On the high seas, the principle of freedom of use applied to all states. But the increase in commercial activities and the growing exploitation of the natural resources of this environment made it necessary to develop a new legislative framework to ensure the exploitation of resources over a wider area. Thus, the 1982 United Nations Convention on the Law of the Sea (UNCLOS),<sup>3</sup> ratified by China on 7 June 1996,<sup>4</sup> creates and regulates archipelagic waters, recognises the exclusive right to exploit, conserve and administer the natural resources of the Exclusive Economic Zone (EEZ) up to 200 nautical miles, which may be extended to 350 miles (Continental Shelf) in accordance with the procedure set out in Article 76, which requires “the submission of charts and relevant information, including geodetic data, permanently describing the outer limit of its continental shelf” to the Secretary-General of the United Nations.

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<sup>2</sup> The Treaties governing the law of the sea prior to the 1982 United Nations Convention on the Law of the Sea are referred to as Classical Maritime Law.

<sup>3</sup> UNITED NATIONS, *United Nations Convention on the Law of the Sea*. 10 December 1982. Montego Bay (Jamaica).

<sup>4</sup> UNITED NATIONS, *Law of the Sea Bulletin No. 83*. 2014. New York.

The boundaries of the maritime spaces shown in Illustration 1 mark the geographical border on which the legal and legal differences in each of these spaces are established. The delimitation of maritime (and air) spaces is of vital importance for naval activities, as it determines the degree of control exercised by the coastal state over resources, merchant traffic and foreign warships and aircraft operating in those areas.

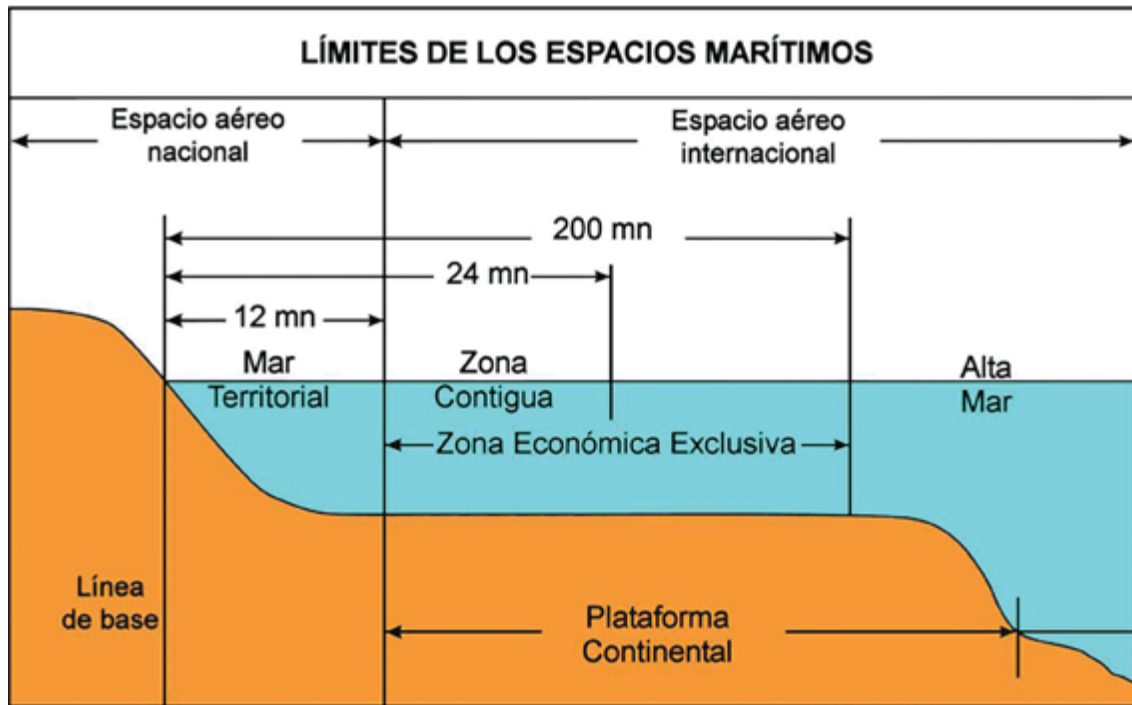


Illustration 28 Maritime Spaces Division. Source: Ministry of Defence, "Manual on the Law of the Sea".

Given the many islands in the South China Sea, it should be noted that the Archipelagic States have a special legal regime, as set out in the Articles of Part IV of the Convention. These States may draw their archipelagic straight baselines joining the outermost points of the islands as well as the outermost emerging reefs, provided that within these lines the islands are included, and the inner area of the straight baselines is between 1:1 and 1:9 of the proportional ratio of land area to sea area. In addition, the length of these lines must not exceed 100 nautical miles (NM), with an exemption of up to 3%. As in the case of bays, these lines should be drawn in such a way as not to exclude another State from exiting. Once these lines have been drawn, they should be recorded on nautical charts and deposited with the Secretary-General of the United Nations for ratification.

The waters contained within the straight baselines shall be the sovereignty of the Archipelagic State. But unlike in inland waters, all vessels will have the right of innocent passage<sup>5</sup>. However, "Archipelagic States may, without discrimination

<sup>5</sup> According to Article 17 of the Convention, "ships of all States, whether coastal or landlocked, enjoy the right of innocent passage through the territorial sea". Right of passage means navigation through the territorial sea for the purpose of passing through the territorial sea without entering internal waters or calling at a port, or for the purpose of proceeding to internal waters or port facilities, provided that passage is uninterrupted.

in law or in fact between foreign vessels, temporarily suspend the innocent passage of foreign vessels in certain areas of their archipelagic waters, if such suspension is indispensable for the protection of their security. Such suspension shall only take effect after being published in due form". During passage through the archipelagic waterways, the right of navigation and overflight is granted exclusively for the purpose of uninterrupted and rapid transit. And coastal states may designate traffic separation schemes (TDS) to delimit navigable channels and ensure safe navigation in their waters.

The Exclusive Economic Zone (EEZ) may extend over a maximum area of 200 nautical miles from the baselines. Sovereign rights are granted in this zone for the purposes of exploration and exploitation, conservation and management of the natural resources, both living and non-living, of the waters overlying the seabed and of the seabed and subsoil. The State has the right to establish and place artificial islands, naval installations and structures, conduct marine research or natural resource exploration<sup>6</sup>. The EEZ is governed by international law and all naval air units have freedom of navigation and overflight in the EEZ.

In accordance with Article 60, where artificial islands or infrastructures are established, the State may establish a security perimeter (less than 500 metres) to ensure the safety of navigation, which shall be duly notified. However, these may never be built when they affect the use of sea lanes.

## Disputes in the China Sea

The South China Sea is located in East and Southeast Asia, extending over 4 million square kilometres, and has a long history of diplomatic conflicts, legal claims and international disagreements.

These conflicts have been caused by three determining factors. Firstly, the presence of China, which has coastlines in both Seas, a destabilising and expansionist country, given its aggressive behaviour, including arming numerous islands in the region, claiming sovereignty beyond the Continental Shelf and pursuing a predatory economic policy that wears down neighbouring countries. Secondly, the peculiar legal status of the island of Taiwan – not recognised as a sovereign state by any Asian country. And finally, the multitude of islands, islets, reefs, sandbanks – and the recently constructed artificial islands in the region – where hydrocarbon deposits could be located. Due to these factors, and the lack of agreement on the delimitation of the waters, there have been numerous incidents and escalating tensions between the riparian states. Open litigation claims sovereignty and the right to exploit underwater resources, exposing unilateral claims from multiple perspectives and justifications.

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6 UNITED NATIONS. *United Nations Convention on the Law of the Sea*. Part V Exclusive Economic Zone. Article 55 Specific legal regime of the EEZ.



Illustration 29 South China Sea. Source: U.S Energy Information Administration (EIA)

Numerous smaller islands are located in the waters of the South China Sea where critical natural resources such as raw materials, gas and oil are believed to exist. None of these countries recognises the sovereignty of Taiwan, which is considered an *international ghost*,<sup>7</sup> adds another difficulty to the claims. Despite the Republic of China's maritime claims to the South China Sea under the rights granted by the 1982 Convention, these are unfounded because, despite its practical independence, Taiwan is legally a province of the People's Republic of China and therefore has no recognised water rights, with the People's Republic of China having sovereignty over

<sup>7</sup> Daniel L. BYMAN and Charles KING, *The Phantom Menace*, The New York Times, 15/08/2011.

its waters. If it were allowed to define its maritime boundaries, it would implicitly recognise its sovereignty and thus its independence and legitimacy (which has never happened).

### *Disputes in the East China Sea*

At the height of the tensions in the East Sea are disagreements over the Senkaku Islands, a small archipelago administered by Japan but claimed by Taiwan, while China makes its own (and thus Taiwan's) historical claims. Fossil fuels are suspected in the waters surrounding the archipelago<sup>8</sup>. And according to maritime law, the sovereign state shall have the exclusive right to exploit its natural resources<sup>9</sup>. This is the purpose of the litigation on the three states<sup>10</sup>. Since 2008, the naval presence of military vessels from China, Taiwan and the US has intensified,<sup>11</sup> and in recent years Australia, France and the UK have participated in exercises and operations in the region.

Japan and South Korea are engaged in a similar dispute over the Liancourt Rocks (*Dodko* Islands in Korean and *Takeshima* Islands in Japanese) in the Sea of Japan, halfway between the two countries, which are among the disputed islands<sup>12</sup>. The uninhabitable rocks can only be visited in summer. Although the Japanese Ministry of Foreign Affairs declares on its website the undisputed sovereignty of Takeshima “indisputably an inherent part of the territory of Japan, in light of historical facts and based on international law”,<sup>13</sup> there is a permanent South Korean military detachment on the eastern island<sup>14</sup>.

Again, Taiwan's legal status is a key issue in the region. After the Chinese civil war in 1949, the defeated side fled and established a settlement on the island of Taiwan, instituting a military government of the Republic of China (ROC) under Chiang Kai-shek, who declared that his administration represented the whole of China and

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8 PALAZUELOS, Enrique, *El petróleo y el gas en la geoestrategia mundial*, Akal, p. 168, Madrid, 2008.

9 CONVEMAR. Anexo III. Disposiciones básicas relativas a la prospección, la exploración y explotación.

10 AKAL, *Anuario económico geopolítico mundial, El estado del Mundo 2005*. La decouverte, p. 275.

11 Robert S. ROSS & Oystein Tunsjo, *Strategic Adjustment and the Rise of China. Power and Politics in the East Asia*, Oslo 2014. Publisher: Norwegian Defence University College.

12 CONVEMAR. PART VIII. Article 121: *Rocks are those geological formations that are not suitable for sustaining human habitation or economic life of their own. For this reason, they will not have an exclusive economic zone or continental shelf, but they will have a territorial sea and a contiguous zone.*

13 Ministry of Foreign Affairs of Japan, Japan's Consistent Position on the Territorial Sovereignty over Takeshima. Available at: <https://www.mofa.go.jp/region/asia-paci/takeshima/index.html>

14 GENOVA, Alexandra, *Two nations disputed these small islands for 300 years*, National Geographic, 14/11/2018.

that he intended to retake the whole territory again<sup>15</sup>. Since then, China has never recognised its legitimacy, but claims sovereignty by exerting strong international pressure on those countries that recognise the island regime (such as Belize) or have bilateral trade relations with Taiwan, such as the recent threats to France over the sale of military ships to renew the Republic of China's fleet<sup>16</sup>. While it is true that until the 1970s, the US recognised the Republic of China as a legitimate government, in 1971, during the presidency of Richard Nixon, US National Security Advisor Henry Kissinger made a secret visit to Beijing, marking a change of course in international relations with the People's Republic of China. Faced with the problem of the existence of "one China with two governments, two Chinas with two governments and the independence of Taiwan", the latter was ruled out, declaring the People's Republic of China as an ally and potential economic partner of the United States,<sup>17</sup> to which it recognised its sovereignty, acknowledging that the conflict over the island of Taiwan was a matter of national integrity<sup>18</sup>.

Since the 1970s, China has exerted economic pressures against those states that recognised Taiwan's independence – since Beijing claims that Taiwan is a province of the People's Republic of China – and because of these coercions, Taiwan is a de facto government and a country that is virtually unrecognised internationally, as today only 15 states (none of them Asian) recognise its sovereignty. Furthermore, according to UN resolution 275 Taiwan was expelled from the General Council,<sup>19</sup> recognising the People's Republic of China as the only legitimate representative of China in the UN – and one of the five permanent members of the UN Security Council with veto power. Thus, despite its practical independence, the island of Taiwan is not legally recognised as a nation and is internationally vetoed by China.

To put pressure on states in the region, the PRC has imposed a red line in all its trade agreements on the recognition of Taiwan's sovereignty, so that those that recognise the island's sovereignty will see their relations with Beijing severed. For this reason, only 15 countries – mainly in the Caribbean – recognise Taiwan as a sovereign

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15 LATORRE PARADA, Juan Guillermo, *La actuación de la república de china (Taiwán) como estado de facto en el sistema internacional, periodo 1971 – 2011*, Bogotá, 2013.

16 REUTERS, *Focus on COVID-19 battle, France tells China after Taiwan warning*, 13/05/2020. Available at: <https://www.reuters.com/article/us-china-france-taiwan/focus-on-covid-19-battle-france-tells-china-after-taiwan-warning-idUSKBN22PtET>

17 KISSINGER, Henry, *White House Years: The First Volume of His Classic Memoir*, 1971. 1979, New York. Publisher: Little Brown & Company.

18 KISSINGER, Henry, *White House Years: "The U.S side declare: The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves"*

19 GENERAL ASSEMBLY OF THE UNITED NATIONS, *Resolution 2758: Restoration of the lawful rights of the People's Republic of China in the United Nations*, 1971. Session No. 26.

subject<sup>20</sup>. In the words of Taiwan's Foreign Minister, "China is trying to reduce Taiwan's presence in the international sphere and thus destroy its sovereignty"<sup>21</sup>.

### *Disputes in the South China Sea*

The greatest tensions are centred on conflicts in the South China Sea, not only because it is the largest, and encompasses the most coastal countries, but also because of the enormous amount of maritime traffic that transits these waters, the presence of numerous islands and rocks, the insecurity related to the increase in piracy incidents and inter-island conflicts.

The South China Sea is a tongue of water in the Pacific Ocean that stretches along the southeast coast of Asia from the Taiwan Strait south to the Malay Peninsula, occupied by Singapore<sup>22</sup>. At its southern end are the largest islands of the Sound. Borneo at its eastern end, separating it from the Pacific Ocean (to which it is connected by the Luzon Strait) and the southern tip of Taiwan (the Hengchun Peninsula), marks its northern boundary. This sea is characterised by a large number of islands, islets and rocks that are the subject of numerous sovereignty disputes.

Prominent among the disputes are claims over the sovereignty of the Spratly Islands, which are unilaterally claimed by Brunei, Taiwan, People's Republic of China, Philippines, Malaysia and Vietnam. While the UN has failed to come up with a firm response to the claims affecting these islands located between China, Taiwan, the Philippines, Malaysia, Brunei and Vietnam, many of these islands have been occupied and militarised<sup>23</sup>. Again, the existence of hydrocarbons gives rise to claims over their exploitation interests, most notably the conflicts between the PRC and Vietnam over the exploitation of resources in the Paracelsus Islands, which have led to incidents at sea. Being midway between these countries, they are a key point for maritime routes<sup>24</sup>.

Complaints arise for a variety of reasons. The People's Republic of China (PRC), Republic of China (Taiwan) and Vietnam claim the integrity of the archipelago on historical grounds. Malaysia, the Philippines and Brunei claim part of the islands because of their geographical proximity to their territories. In addition, the Philippines

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20 ALDAMA, Zigor, *Taiwán pierde el reconocimiento de dos países en una semana*. Diario Hoy, 21/09/2019.

21 JOSEPH WU, Minister for Foreign Affairs. 20/09/2019.

22 MACKINLAY, Alejandro, *Mar de China Meridional. Panorama Geopolítico de los Conflictos*, IIEE, 2012, p.p. 390-412.

23 LALINDE, Luis M., *Las islas Spratly: El conflicto que separa a China de los países del Sudeste Asiático*, 2019.

24 KANG BYEONG-TAAO, *Increasing Possibilities of Maritime Disputes in Northeast Asia*, Korea Focus, 2012.

and Malaysia emphasise their claim to those islands already under their effective control, with the Philippines exercising control over the Kalayaan Islands and Malaysia claiming part of the archipelago, under the name Kepulauan Spratly<sup>25</sup>. Finally, Brunei prioritises legal arguments given its limited military projection capacity. In November 2002, these states signed the *Declaration on the Conduct of Parties in the South China Sea*<sup>26</sup> de-escalating tensions and agreeing to respect the Laws of the Sea and establish a policy of cooperation and understanding.

In order of importance, the second conflict concerns the Paracelsus Islands, known by the Chinese as Xisha and by the Vietnamese as Hoang Sa and located north of the Spratlys. Oil and natural gas are also suspected to be present there<sup>27</sup>. They are currently occupied by the PRC, but Taiwan and Vietnam have begun the reclamation process. In the case of Vietnam, historical issues are raised since during the French occupation of Indochina and when there was an independent pre-colonial government, these islands were Vietnamese and not Chinese. This dispute has historical roots in the military conflict between China and Vietnam in 1974. In this war the Vietnamese fleet was defeated by Chinese naval forces. But, prior to the conflict, Vietnam exercised control over some islands in the Paracelsus archipelago<sup>28</sup>.

The next conflict revolves around MacClesfield Bank, a large region of reefs (about 80 MN) located east of the Paracelsus Islands. This bank is claimed in its entirety by China (as part of what it calls the “Zhongsha Islands”) and Taiwan and a small part by the Philippines, which controls the Scarborough bank, where there have been numerous disputes with China over the tendering of oil exploration to foreign oil companies, such as the dispute with the Indian firm ONGC<sup>29</sup>.

### *The South China Sea: A Geostrategic Board*

Although the conflicts have been listed very briefly, this introduction allows us to identify a common component to the tensions over the delimitation of waters in

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25 Ministry Of National Defence, Secretariat to the Cabinet Committee on the Law of the Sea Treaty, *The Kalayaan Islands*, 1982.

26 The Governments of the Member States of ASEAN and the Government of the People's Republic of China, *DECLARATION ON THE CONDUCT OF PARTIES IN THE SOUTH CHINA SEA*. Cambodia, 2002.

27 GLOBAL INVESTMENT CENTER, *South China Sea Oil and Natural Gas, Vietnam Mineral and Mining Sector. Investment and Business Guide*, 2010, p.p 40-49.

28 TOSHI, Yoshihara, *The 1974 Paracels Sea Battle: A Campaign Appraisal*, Naval War College Review: Vol. 69: No. 2, Article 6., 2016.

29 Jennifer D.P MORONEY, Angel RABASA, Bonny Lin JANAH BLANCK, *How Might India Respond in Southeast Asia to Provocations Elsewhere, Look East, Cross Black Waters. India's Interest in Southeast Asia*, Santa Monica, 2015, p.p 166-170. Publisher: Rand.

the South China Sea: national sovereignty over the waters and the exclusive exploitation of hydrocarbons, should China's proposed maritime boundaries be granted. This would give it a clear independence and reinforce its hegemony to the detriment of the other riparian countries.

The islands in the South China Sea offer great opportunities for the future and a high level of geostrategic projection for the state that acquires sovereign rights. In this line, the exploitation of natural resources would allow it to increase its independence from the Asian giant. In addition, the influx of merchant traffic and the international importance of the ports located in this region make it necessary to guarantee maritime routes. The high density of maritime traffic, the *choke points* or sea straits (very narrow navigable channels) such as the Straits of Malacca or Singapore, dotted with islands and islets, add a political factor to the claims.

In the last decade, the area has achieved enormous global relevance and 15 of the world's top 20 ports with the largest container capacity and throughput are located in the region<sup>30</sup>. Eight Chinese, two in Malaysia, one in Singapore, one in Taiwan and one in South Korea. From a trade perspective, the blue economy is the engine of the region and represents the fuel that has facilitated the dynamism of emerging nations. Territorial claims therefore conceal strong geo-economic interests.

The growing rise of Indonesia, Malaysia, Thailand and Vietnam as emerging countries and the enormous density of maritime traffic passing through these waters, together with the problem of piracy in the Strait of Malacca (Philippine and Indonesian waters), have increased tensions in recent years. If we look at the map of world maritime routes, we can see that the trade route through East Asia, Southeast Asia, the Indian Ocean and the Suez Canal accounts for a very high share of total maritime trade.

We find in this section a threat to global maritime trade. China's claims to the so-called *nine-dash line* demand sovereignty over 90% of the waters of the South China Sea, citing historical or geographical issues to gain sovereign rights and control over islets, reefs and rocks (some of which lie beyond 2,000 km of its coastline). According to UNCLOS, all ships have the right of innocent passage through archipelagic waters. However, according to Article 52, "Archipelagic States may, without discrimination in law or in fact between foreign ships, temporarily suspend the innocent passage of foreign ships in specified areas of their archipelagic waters, if such suspension is indispensable for the protection of their security. Such suspension shall only take effect after publication in due form"<sup>31</sup>. Therefore, the claims on the *nine-dash line* can be an-

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30 ICONTAINERS, *20 puertos más importantes del Mundo*, Accessed on 10/01/2021. Available at: <https://www.icontainers.com/es/puertos-mas-importantes-del-mundo/>

31 CONVEMAR. Article 52. Innocent Right of Way, p. 45.

alysed as a clear strategy of denial of the sea in what is known as A2/AD (*Anti-Access/Area Denial*) tactics on the part of China.



Illustration 30 South Sea crude oil routes. Source: U.S. Energy Information Administration (EIA)

## Open Disputes and Diplomatic Conflicts in the South China Sea

It is worth noting that the regional disputes began in 1969, when the Economic Commission for Asia and the Far East issued a report indicating the likelihood of energy resources on the seabed<sup>32</sup>. In February of that year, the International Court of Justice enunciated the principle of the natural prolongation of the North Sea Continental Shelf<sup>33</sup>. The publication of the report marks the beginning of a diplomatic struggle over the management of subsoil resources across the globe.

From this moment on, the riparian countries began to issue reports and letters claiming their sovereignty intentions. In addition, since the 1970s, there have been numerous military disputes over territorial control.

In November 2002, the member states of the Association of Southeast Asian Nations (ASEAN), including some of those that have disputed full or partial control over the Spratly Islands archipelago in the South China Sea, reached an agreement called the *Declaration on the Conduct of Parties in the South China Sea*<sup>34</sup>. An international

<sup>32</sup> UNITED NATIONS, *Economic commission for Asia*, 26/06/1969, Bangkok, Thailand.

<sup>33</sup> INTERNATIONAL COURT OF JUSTICE, *North Sea Continental Shelf Cases (Federal Republic of Germany and Denmark)*, 1969.

<sup>34</sup> ASSOCIATION OF SOUTHEAST ASIAN NATIONS, *Declaration on the Conduct of Parties in the South China Sea*, October 2012. Available at: [https://asean.org/?static\\_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2](https://asean.org/?static_post=declaration-on-the-conduct-of-parties-in-the-south-china-sea-2)



Table 1 shows the maritime boundary disputes in the region.

Disputed areas	Brunei	China	Indonesia	Malaysia	Philippines	Taiwan Island	Vietnam
Nine Dot Line	✓	✓	✓	✓	✓	✓	✓
Vietnamese coast		✓				✓	✓
Maritime area north of Borneo	✓	✓		✓	✓	✓	
South China Sea Islands		✓		✓	✓	✓	✓
Marine area north of the Natuna Islands		✓	✓			✓	
Sea Area West of Palawan and Luzon		✓			✓	✓	
Luzon Strait		✓			✓	✓	

Table 2 Areas in dispute

The PRC claims the entire area contained within what is known as the *nine-dash line* which encompasses 90% of the waters of the South China Sea. As an argument, Beijing maintains historical sovereignty rights going back more than 2000 years. For its part, the government of the island of Taiwan is of the same opinion. Philippines claims the Spratly Islands and the Masinloc (or Scarborough) sandbar. Vietnam disputes with China over the Spratly and Paracelsus archipelagos, claiming to have ruled them since the 17<sup>th</sup> century. Malaysia and Brunei claim the Spratly Islands as being within their EEZ.

### *History of the People's Republic of China's claims on the nine-dash line.*

The People's Republic of China has focused its maritime strategy on the struggle for hegemony and control of the sea, engaging in disputes with all nations bordering the South China Sea. The conflict over control of these waters began after the end of the World War and, in the absence of an international agreement establishing a division of the archipelagos, each nation has taken a unilateral stance based on historical justifications and principles of sovereignty or territorial control to defend its claim to its waters. While the PRC, Taiwan and Vietnam claim the whole of the archipelagos, the rest of the countries defend a partial and equidistant division.

The numerous claims in which the PRC finds itself are a reflection of the importance of the blue economy, given that its geo-economic interests are centred on maritime trade as the primary and fundamental means of exporting its products and due to the existence of raw materials necessary to sustain a power with an ever-increasing energy demand. In August 2017, Chinese Defence Minister Chang Wanquan emphasised the importance of maritime security, and foreshadowed a possible *people's war at*

sea to safeguard Chinese sovereignty, following the Hague Tribunal's ruling on China's historic claims in the region<sup>35</sup>.

The *nine-dash line* encompasses a series of conflict complexes around the Spratly Islands, the Paracelsus Islands, the Senkaku Islands, Macclesfield Bank and the lower Masiloc (or Scarborough). The countries involved are China, Brunei, Indonesia, Malaysia, the Philippines, Vietnam, plus the island of Formosa. The area under the *line* encompasses 90% of the waters of the South China Sea and covers the PRC's (and the RC's) claim to the waters in the South Sea. The *line* was first published in 1947, after Japan's defeat in World War II, and delineates the sea basin in an unbalanced proportion towards China. It was initially composed of 11 points, but was reduced to nine following the bilateral agreement with Vietnam on the delimitation of the maritime boundary in the Gulf of Tonkin<sup>36</sup>.

Illustration-5 reflects China's claim to the maritime boundaries proposed by each of the littoral states.

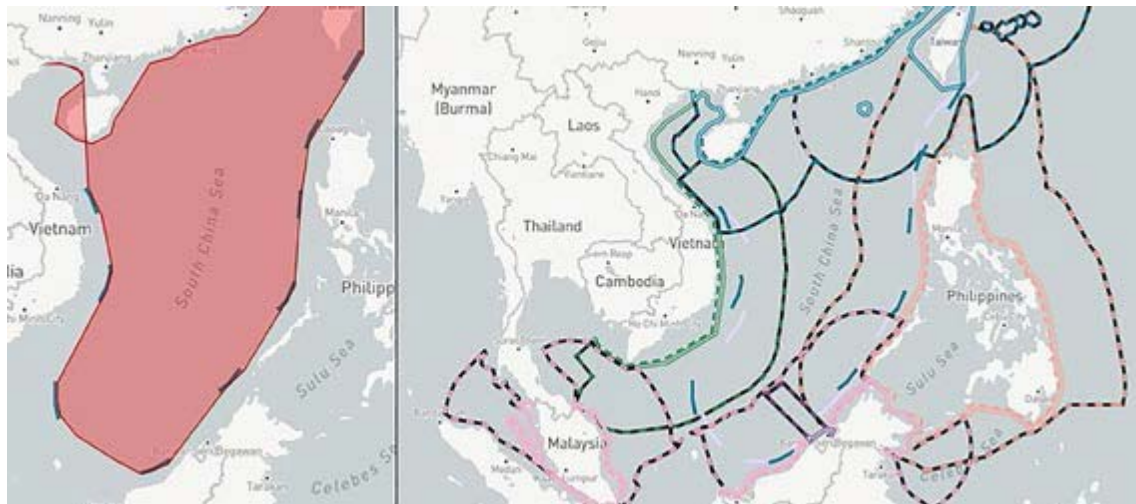


Illustration 32 Comparison of nine-dash line and disputed waters. Illustration adapted by the author. Source: Asia Maritime Transparency Initiative (<https://amti.csis.org/maritime-claims-map/>)

The President of the National Institute for South China Sea Studies, Dr Wu Shicun, argues that the *nine-dash line* claim is based on China's historical sovereignty over resources and fishing grounds since the time of the Three Kingdoms (220-265)<sup>37</sup> and expeditions in the Han (110 AD) and Ming (1400 AD) dynasties. However, in the

35 JOHNSON, Jesse, *China must prepare for 'people's war at sea,' defence chief says*, Japan Times, 03/08/2016, Available at: <https://www.japantimes.co.jp/news/2016/08/03/asia-pacific/china-must-prepare-peoples-war-sea-defense-chief-says/XtVIjDpKjIV>

36 ZHENG Ziyue & FU Chiao-chin, *Geography and Brief History of the Islands in the South China Sea*, Commercial Press, 1947.

37 Shicun WU and Keyuan ZOUR, *Arbitration Concerning the South China Sea*, Routledge 2017.

official reports submitted, China has failed to make the necessary case for sovereignty under Article 298 of the Convention.

This division claimed by China has been the source of numerous diplomatic conflicts, even leading to incidents at sea between (mainly Chinese and Vietnamese) state vessels. In the face of China's stance, ASEAN members<sup>38</sup> involved in the cause have joined forces to counter China's expansionist policy, citing the principles of the UN Charter and the conditions for establishing maritime boundaries in the 1982 Conventions.

In 1996, China ratified the Convention and submitted the geographical points of the baselines and maritime limits of the territorial sea (12 miles) and the continuous zone in the Paracelsus (Xisha Islands) and Senkaku Islands to the Secretary-General<sup>39</sup>. These maritime boundaries were published in the Bulletin of the Sea No. 32 and include the waters of China, Brunei, Indonesia, the Philippines, Vietnam and Malaysia<sup>40</sup>. As a result, there has been a rapid succession of diplomatic notes from the littoral states.

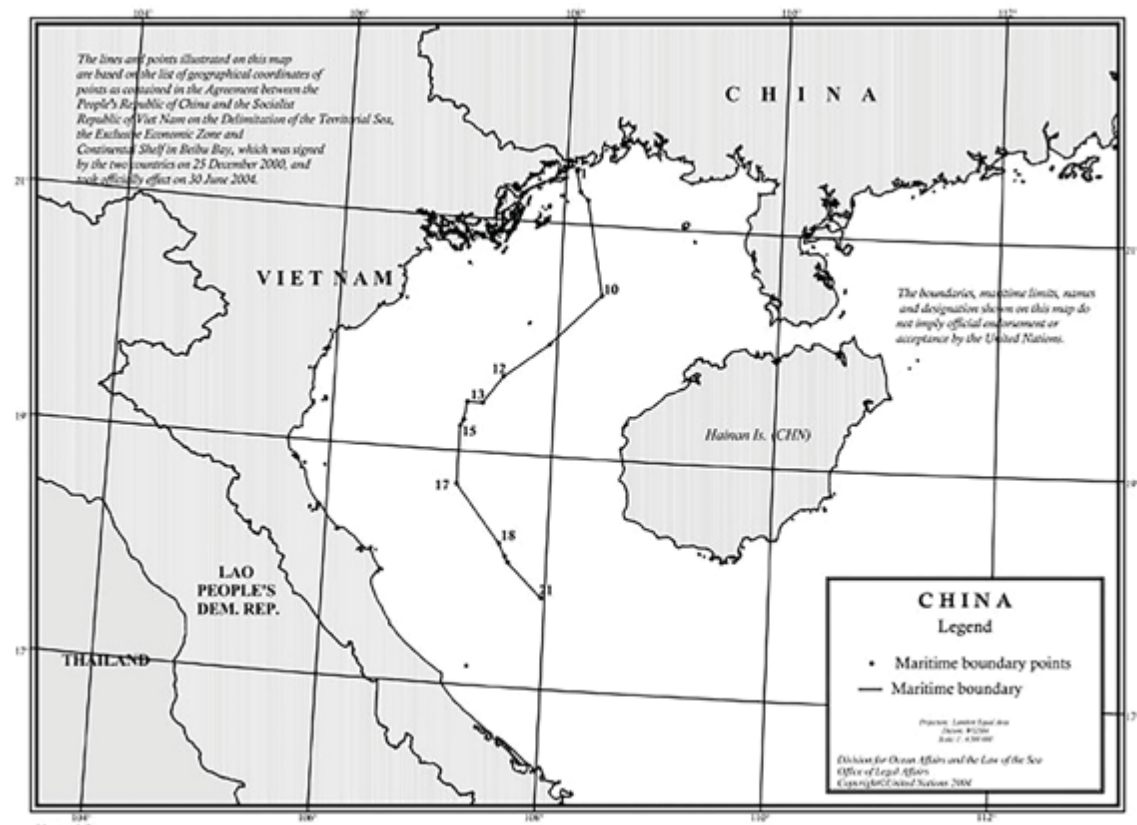


Illustration 33 Maritime boundary between China and Vietnam. Source: Law of the Sea Information Circular (LOSIC), 2004. p. 48.

38 ASEAN Members: Brunei, Cambodia, Indonesia, Laos, Malaysia, Burma/Myanmar, Philippines, Singapore, Thailand and Vietnam.

39 PEOPLE'S REPUBLIC OF CHINA, UNITED NATIONS, *Declaration of the Government of the People's Republic of China on the baselines of the territorial sea*, 15/05/1996. Available at: [https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CHN\\_1996\\_Declaration.pdf](https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/CHN_1996_Declaration.pdf)

40 DIVISION OF OCEANOGRAPHIC AND LAW OF THE SEA AFFAIRS, *Law of the Sea Bulletin Number 32*, 1996 p.p 38-40.

In September 2004, the PRC deposited the geographical coordinates of the delimitation of the territorial waters, the EEZ and the CP, following a bilateral agreement with the Republic of Vietnam<sup>41</sup> establishing the EEZ boundary by mutual agreement (Figure-6).

In 2012, China submitted a report on geomorphological and sub-seabed geological features for the extension of the Continental Shelf beyond 200 MN<sup>42</sup>. With this report, it sought to demonstrate that the South Sea basin is an extension of the Chinese mainland and would therefore be entitled to extend its EEZ to 350 miles. The document includes a geomorphological map and the geographical delimitation points of the extended EEZ.



Illustration 34 China Claim Vs Convention Maritime Boundary. Source: Peace Palace Library. Available at: <https://www.peacepalacelibrary.nl/south-china-sea-territorial-disputes-continued/>

Japan quickly submitted to the Secretary General a *note verbale* SC/12/372 in which it stated that the distance separating China and Japan is 400 MN and therefore the

41 UNITED NATIONS, *Convention on the Law of the Sea*, 27/09/2004, Available at: [https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/mzn\\_s/mzn51.pdf](https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/mzn_s/mzn51.pdf)

42 PEOPLE'S REPUBLIC OF CHINA, Submission by the People's Republic of China Concerning the Outer Limits of the Continental Shelf beyond 200 Nautical Miles in Part of the East China Sea, 2012. Available at: [https://www.un.org/Depts/los/clcs\\_new/submissions\\_files/chn63\\_12/executive%20summary\\_EN.pdf](https://www.un.org/Depts/los/clcs_new/submissions_files/chn63_12/executive%20summary_EN.pdf)

delimitation of the CP proposed by China after the report on geomorphological and geological characteristics should be referred to by mutual agreement according to Art. 83 of the Convention. It also presented that the sovereignty of the Senkaku Islands, under Japanese hegemony, was out of any debate because “there is no debate on the sovereignty of the Senkaku Islands” (under Japanese control)<sup>43</sup>.

On 10 September 2012, the government of China deposited nautical chart 03085 entitled “Chart of Straight Baselines of the Territorial Waters of the Diayu Dao Sea and Islands Affiliated to the Chinese government”<sup>44</sup>. The sending of this letter meant the establishment and dissemination of maritime boundaries in the Senkaku Archipelago, unilaterally.

In response to the deposition of nautical chart 03085, Japan submitted a diplomatic note (PM/12/303)<sup>45</sup> expressing its opposition to the delimitation of the territorial sea of the Senkaku Islands presented by the PRC, citing the lack of basis for this unilateral decision and Japan’s sovereignty over the islands.

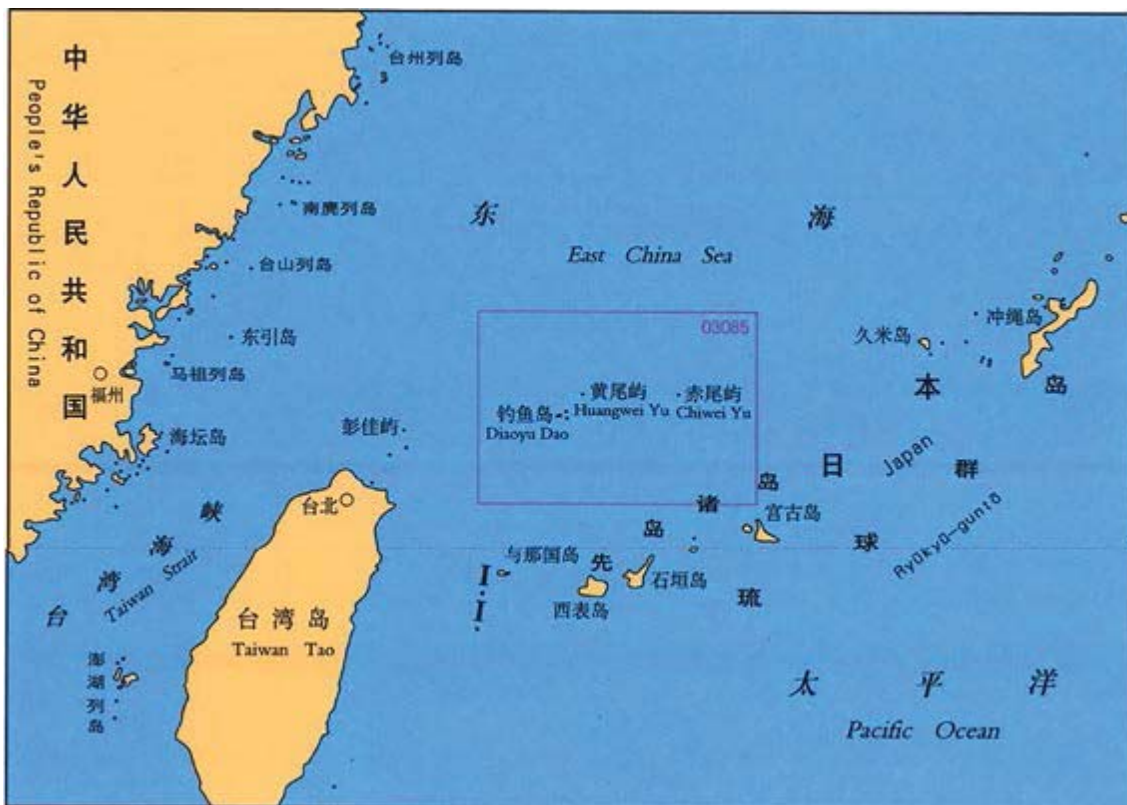


Illustration 8 Nautical Chart 03085. Available at: [https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDF-FILES/MAPS/chn\\_mzn89\\_2012\\_00220.jpg](https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDF-FILES/MAPS/chn_mzn89_2012_00220.jpg)

43 JAPAN, Marine Regions SC/12/372. 28/12/2012. Available at: [http://www.marineregions.org/documents/jpn\\_re\\_chn\\_28\\_12\\_2012.pdf](http://www.marineregions.org/documents/jpn_re_chn_28_12_2012.pdf)

44 UNITED NATIONS, *Circular communications from the Division for Ocean Affairs and the Law of the Sea Office of legal affairs*, 21/12/2012. New York

45 PERMANENT MISSION OF JAPAN TO THE UNITED NATIONS (PM/12/303). New York, 2012.

In 2013, the PRC submitted Note Verbale CML 001/2013 in which it argued that the Senkaku Islands have been Chinese territory since ancient times and that the Japanese occupation lacks legal grounds, so they belong to China. With this note, Beijing expressed its diplomatic opposition to Nippon's *note verbale*<sup>46</sup>.

The Paracelsus Islands are another hotspot in the South China Sea. Since 2014, Vietnam and China have engaged in numerous diplomatic clashes that have led to incidents at sea and sabotage operations on land<sup>47</sup>. These conflicts revolve around sovereignty over the Paracelsus Islands and the exploitation of subsoil natural resources.

On 07 May 2014, the government of Vietnam sent a *note verbale* to the Secretary General denouncing the illegal operations of the deep-water oil rig *HYSY981* in oil field 143 in Vietnam's EEZ and CP. The annex to the diplomatic note details the chronology of the detection and movements followed by the platform during its operations in the Vietnamese sovereign Paracelsus Islands, accompanied by auxiliary vessels and up to "27 protection vessels"<sup>48</sup>. The note verbale marked the beginning of an escalation of tensions with numerous collisions at sea between Chinese and Vietnamese state vessels.

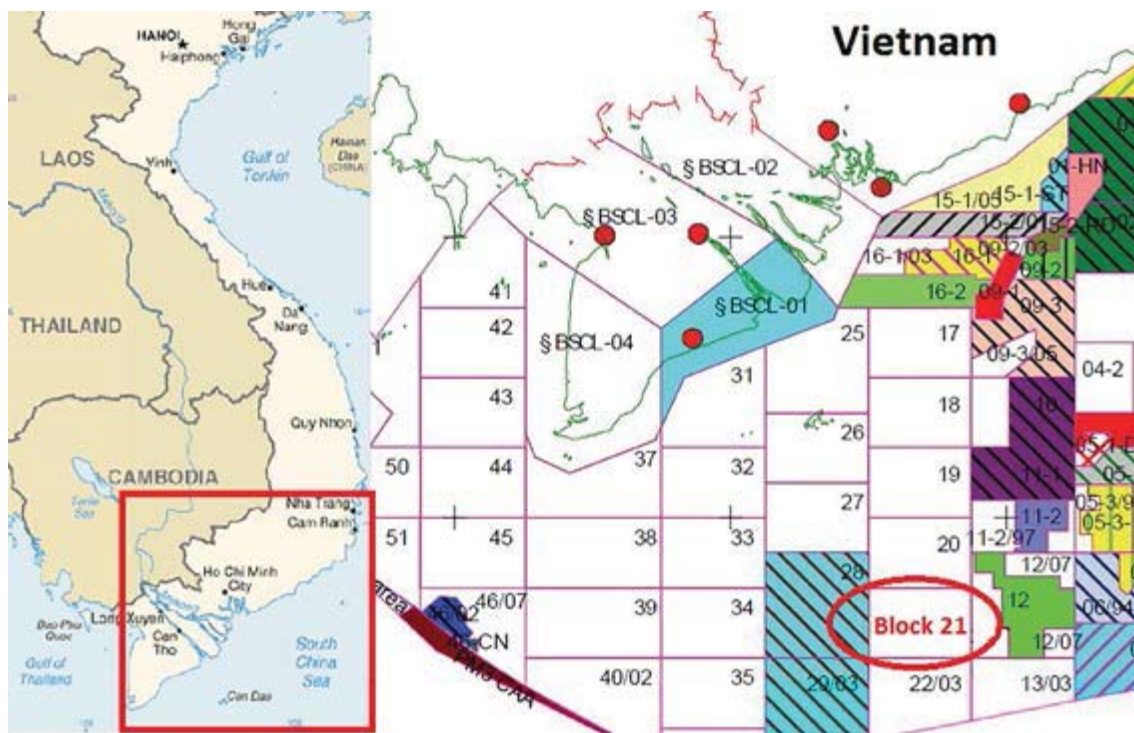


Illustration 35 - Oil and gas field blocks. Source: OffShore Engineering. <https://www.offshoreengineering.com/oil-and-gas/offshore-gas-field-development/project-block-21>

46 PEOPLE'S REPUBLIC OF CHINA, United Nations CML/001/2013, 07/01/2013, Available at: [https://www.un.org/Depts/los/clcs\\_new/submissions\\_files/chn63\\_12/chn\\_re\\_jpn07\\_01\\_2013e.pdf](https://www.un.org/Depts/los/clcs_new/submissions_files/chn63_12/chn_re_jpn07_01_2013e.pdf)

47 HAYTON, Bill, *The South China Sea: The Struggle for Power in Asia*, New Heaven and London, 2017. p.p 121-150.

48 TRUNG, Le Hoai, *Letter dated 7 May 2014 from the Permanent Representative of Vietnam to the United Nations addressed to the Secretary-General*, A/68/870. Available at: <https://undocs.org/Home/Mobile?FinalSymbol=A%2F68%2F870&Language=E&DeviceType=Tablet>

At a press conference on 16 May 2014, China's Foreign Minister stated that Vietnam had designated 57 oil and gas fields in disputed waters between the two states,<sup>49</sup> and that the PRC was therefore obliged to defend its interests.

On 22 May 2014, in a letter to the Secretary-General<sup>50</sup>, Beijing alleged that Vietnam attempted to disrupt the survey operation by sending up to 63 vessels that deliberately rammed Chinese Coast Guard vessels performing security duties around the platform. The letter alleges as many as 745 ship collisions and sabotage actions on land against Chinese government enterprises: "Some outlaws in Vietnam took the opportunity to attack Chinese companies in the country and committed serious violent crimes, looted and burned property, causing many casualties and economic loss". In its account of events, China blamed Vietnam for the incidents, alleging interference in national operations in the Paracel Islands, when the HYSY 981 was operating 17 NM off Zhong-jian Island and 150 miles off the Vietnamese coast (and thus in its EEZ).

On 6 June of the same year, Vietnam informed the Secretary-General that the oil rig *Haiyang Shiyou 981* had been transferred to the Vietnamese EEZ and CP. It thus expressed the "grave violation of Vietnam's sovereign rights and jurisdiction over its exclusive economic zone and continental shelf as defined in accordance with the 1982 United Nations Convention on the Law of the Sea"<sup>51</sup>. Hanoi also denounces the sinking of the Vietnamese fishing boat 90Na 90152 TS, with 10 fishermen on board, after being rammed by Chinese boats.

On 9 June the PRC issued a formal letter in which it defended that the *HYSY 981* platform was 133 miles off Paracelsus Island (Chinese sovereignty) and 156 miles off the Vietnamese coast, denouncing the continuous provocations by Vietnamese ships, which "cordoned off and rammed Chinese state vessels a total of 1,146 times"<sup>52</sup>. It also stated the historical sovereignty of the Paracelsus Islands (Xisha Islands for China) according to their discovery and the fact that, prior to 1974, no Vietnamese government had challenged China's sovereignty over the Xisha Islands, officially recognising the Paracelsus as part of China's territory since ancient times.

On 3 July, the Republic of Vietnam expressed its rejection of China's historical sovereignty over the Paracelsus Islands (Note Verbale A/68/942), pointing out the lack of substance in its proposition and stating that in the late 19th century when the ships

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49 CHUNYING, Hua, Foreign Ministry Spokesperson, *Regular Press Conference 16/05/2014*. Available at: [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1156893.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1156893.shtml)

50 WANG Min, *Letter dated 22 May 2014 from the Chargé d'affaires a.i. of the Permanent Mission of China to the United Nations addressed to the Secretary-General (A/68/887)*. Available at: <https://documents.un.org/prod/ods.nsf/home.xsp>

51 TRUNG, Le Hoai, *Letter dated 6 June 2014 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General, A/68/906*. Available at: <https://undocs.org/A/68/906>

52 WANG Min, *Letter dated 9 June 2014 from the Chargé d'affaires a.i. of the Permanent Mission of China to the United Nations addressed to the Secretary-General, A/68/907*. Available at: <https://undocs.org/A/68/907>

Bellona and Umeji Maru sank in the archipelago, they were plundered by Chinese fishermen. In the Note, Vietnam interprets China as trying to play down the issue by claiming that these were abandoned islands<sup>53</sup>. It argues that since Vietnam signed the protectorate treaty with France in 1874, the islands have been its sovereignty and its inhabitants have been its nationals, claiming that the PRC illegally seized the Paracel archipelago in 1946.

Moreover, Vietnam argues that prior to World War II, at the Cairo Conference in 1943, US President Franklin D. Roosevelt, British Prime Minister Winston Churchill and Chinese President Chiang Kai-shek issued a joint communiqué aimed at eliminating Japanese administration over the Asia-Pacific seized islands since World War I. The communiqué was signed by the US President in 1943 and the Chinese President in 1943. But this communiqué did not mention the Spratly Islands or Paracelsus.

Hanoi claims that the 1954 Geneva Conference for the Restoration of Peace in Indochina declared that “the parties concerned would respect the independence and territorial integrity of Vietnam, which included Hoang Sa and Truong Sa Archipelagos under the administration of French and Vietnamese forces”. Furthermore, it argues that Article I of the 1973 Paris Agreements clearly states that all countries must respect the independence and territorial integrity of Vietnam and that both archipelagos are under the control of the Vietnamese administration. Finally, he denounces that in January 1974, China used military force to occupy the Paracelsus Archipelago and the Vietnamese government asked the UN General Council for an urgent meeting on China’s use of force because “according to international law of territorial acquisition, the use of force and occupation of a territory cannot create a territorial title”.

On the same date, Vietnam’s Note Verbale A/68/943 expresses its concern over the escalation of tensions and denounces the prospecting of the Haiyang Shiyou 981 platform operating in the EEZ and Vietnamese CP. With these operations the Chinese government “infringes the principle of sovereignty and jurisdiction of the Convention and violates the bilateral agreement on non-aggravation and non-complication of the situation in the East Sea”<sup>54</sup>.

On 28 July 2014, China sent *Note Verbale A/68/956* in response to letters A/68/942 and A/68/943<sup>55</sup>. This note argues that the Xisha Islands (Paracel Islands) were *terra nullis*<sup>56</sup> until the 17<sup>th</sup> century, with China being their discoverer and first exploiter dur-

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53 TRUNG, Le Hoai, *Letter dated 3 July 2014 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General, A/68/942*. Available at: <https://undocs.org/A/68/942>

54 TRUNG, Le Hoai *Letter dated 3 July 2014 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General*. Available at: <https://undocs.org/A/68/943>

55 LIU, Jieyi, *Letter dated 24 July 2014 from the Permanent Representative of China to the United Nations addressed to the Secretary-General*. Available at: <https://undocs.org/A/68/956>

56 *Terra nullius* is a Latin expression meaning “no man’s land” and has historically been used to claim territory.

ing the Northern Song dynasty (960-1126), that although Vietnam began its colonial period at the end of the 19th century, on 22 August 1921 the French Minister of Foreign Affairs declared that “the impossibility of raising a claim to these islands is due to the fact that since 1909 the Chinese government has exercised its right of sovereignty”. In the same note China argues that according to the Cairo Declaration and the “Potsdam Proclamation and the Japanese Instrument of Surrender” issued during World War II, the Paracelsus Islands, occupied by Japan in 1939, were returned to China. In November 1946 China sent a fleet of ships to commemorate its reconquest and erected a monument, stationing troops ever since.

As can be seen, China objects to Hanoi’s demands on the grounds that the platform operates 17 miles from the baselines (thus in the territorial sea) and, despite continuous diplomatic notes, China repeatedly refuses to withdraw the platform and respect Vietnam’s waters.

The *nine-dashed line* also encompasses the sea area north of the island of Borneo, where Malaysia and Brunei dispute a portion of the sea beyond their shores and up to 200 MN.

Among the coordinates claimed by China are James Bank and Luconia Reef. These enclaves constitute the southernmost point of the line, some 50 miles from the island of Borneo. Both territories constitute one of the most contested claims, as the James Bank and Luconia Reef are submerged between 10 and 40 metres deep, and therefore do not generate sovereignty rights<sup>57</sup>. However, the Beijing government includes these sites in the southern boundary of the line and argues that in the 1930s the Land and Water Map Survey Committee enumerated and mapped Chinese territory, asserting Chinese sovereignty over the sites and defending its rights over James Bank and Luconia Reef based on their discovery.

On these submerged banks, China wants to gain exclusive exploitation rights because of the rich fishing grounds and the possible existence of hydrocarbons.

Between the Malaysian peninsula and the island of Borneo lie the Natuna Islands, an archipelago under Indonesian sovereignty. This region is known as the Marine Area north of the Natuna Islands.

Although the *nine-dashed line* does not include the Natuna Islands, the waters claimed by China enter the archipelago’s EEZ. As a result, the PRC’s claims have opened a dispute with Indonesia.

While the Chinese government recognises Indonesian sovereignty over the archipelago, its claims are that the area is a traditional fishing ground used by Chinese ships since ancient times.

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<sup>57</sup> HAYTON Bill, *How a non-existent island became China’s southernmost territory*, South China Morning Post, 09/02/2013. Available at: <https://www.scmp.com/comment/insight-opinion/article/1146151/how-non-existent-island-became-chinas-southernmost-territory?page=all>



Illustration 36 - Marine Area north of Borneo. Source: Google Maps

In a statement, Evan Kasmana, a researcher at the Centre for Strategy and International Studies in Jakarta, said that “*China is taking advantage of Indonesia’s weak maritime security policy*” to fish in its waters.

The main confrontation between China and the Philippines is governed by the Masinloc Shoal (Scarborough Shoal/Reef). The PRC calls it Huangyan Island while the Philippine government calls it Panatag Shoal. This reef is located 500 kilometres off Hong Kong and 230 kilometres off the Philippine coast.

According to the definition and rights granted by the United Nations Convention on the Law of the Sea, the lower Masinloc is a rock, as it is not habitable. Although the rocks under sovereignty do not confer Exclusive Economic Zone (EEZ) or Continental Shelf (CS) rights, China includes it in the *nine-dash line* as part of its extended EEZ.

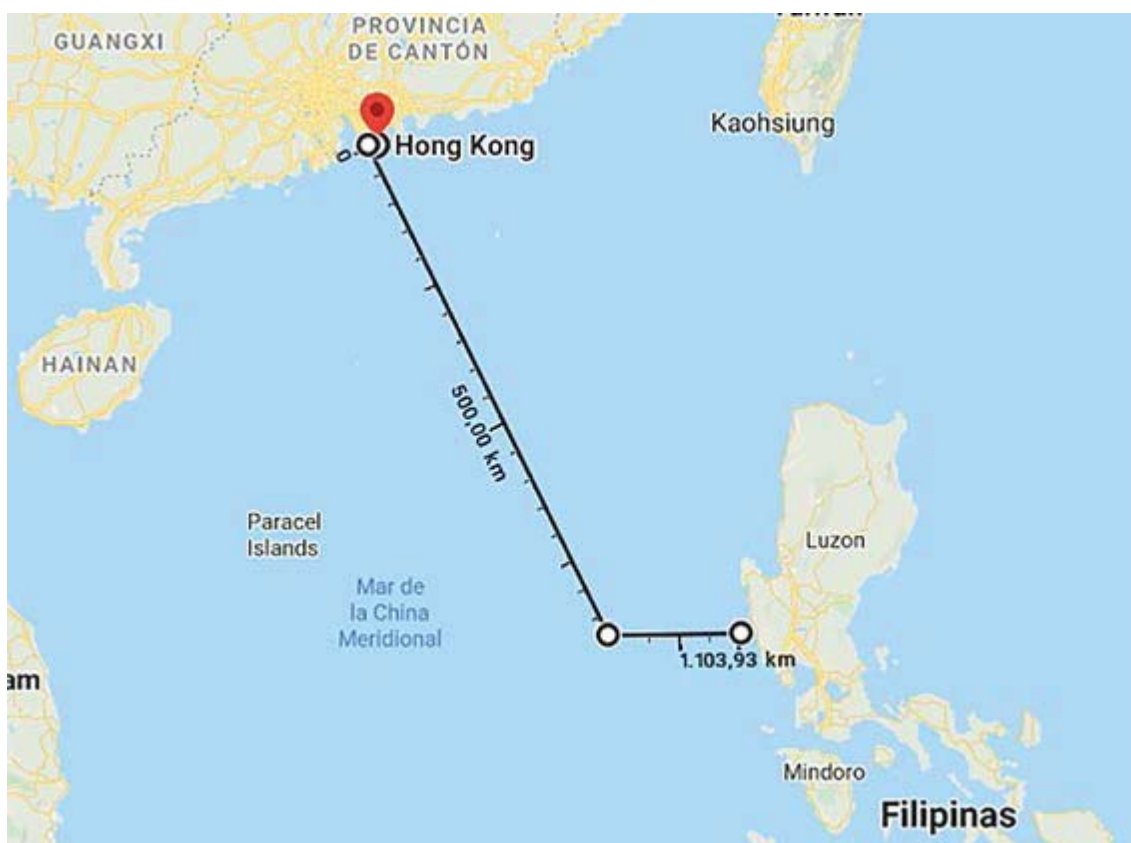


Illustration 37 - Masinloc's position vis-à-vis China and the Philippines. Source: Google Maps

China's claims focus on historical rights on the grounds that in 1922 China held sovereignty over the Zhongsha Islands, including the lower Masinloc. But in reality China has never exercised effective control or occupation of the reef.

On 22 January 2013, following the takeover of Masinloc Bank by Chinese vessels, the Philippine government submitted a complaint 013-0211 to the Permanent Court of Arbitration (PCA) in The Hague objecting to the *nine-dash line* claimed by Beijing, on the grounds that it violated the principles of equity and equidistance (of the Convention) and that it included waters 50 miles off the Philippine coast and entered the Philippine EEZ<sup>58</sup>.

On 12 July 2016, the International Tribunal issued its judgement in the case challenged by the Philippines and concerning historical claims and the *nine-dash line*. In the report it found that the historical rights claimed by China were invalidated upon ratification of the Convention, and that there was no legal basis under the Law of the Sea for the claim to the area below the *nine-dashed line*<sup>59</sup>. In the Philippines Maritime Arbitration Award, the PCA ruled that China's historical claims were invalid because this area was the high seas (outside the territorial sea) where any vessel could

58 JARDELEZA, Francis H., *Notification and Statement of Claim on West Philippine Sea*, No. 013-0211. Republic of the Philippines Department of Foreign Affairs, 22/01/2013.

59 PERMANENT COURT OF ARBITRATION, *PCA Case No. 2013-19 IN THE MATTER OF THE SOUTH CHINA SEA ARBITRATION*, 12/07/2016.

fish freely. Accordingly, the Tribunal concluded that, as between the Philippines and China, there was no basis for China to claim historical resource rights beyond the rights provided by the Convention (EEZ and CP up to 350MN).

The PCA's findings indicate that China failed to show due regard for the sovereign rights of the Philippines with respect to fisheries in its exclusive economic zone and is therefore in breach of its obligations under Article 58 (3) of the Convention<sup>60</sup>. However, the ruling has not calmed the waters, as China refuses to accept the PCA resolution. In a statement, the Ministry of Foreign Affairs of the People's Republic of China announced that the Chinese government rejected the PCA ruling on the grounds that the Philippines' claim had not followed the Convention's procedure regarding dispute settlement by the International Tribunal is applicable "only when two states fail to reach an agreement"<sup>61</sup>. And according to the Chinese Minister "the two states have not had any negotiations regarding arbitration".

Finally, the Philippines' arbitration appeal to the PCA also includes the sea area west of Palawan and the Luzon Strait, where China, the Philippines and the island of Taiwan have open disputes over the sovereignty of the waters that the PRC includes in the *nine-dash line*.

These waters are home to a large number of reefs and rocks among which rich fishing grounds are located. The PCA concluded that the land locations in these areas are rocks and reefs and therefore China's EEZ and CP claims are unfounded, as EEZs cannot be claimed on sovereign rocks.

## Why the South China Sea? Geopolitical and geo-economic interests in the region

Disputes over the sovereignty of the South China Sea are based on control of the sea and the natural resources in these waters. The claim containing the waters below the *nine-dash line* would give China the right to subsoil exploitation, island building and fishing beyond 200 MN and up to 1,600 MN south of the Chinese coast.

While the creation of the EEZ (up to a maximum of 200 miles) was agreed as a compromise solution to be established deliberately to strike a balance between littoral states

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<sup>60</sup> Article 58. Rights and duties of other States in the EEZ: "In exercising their rights and discharging their duties in the exclusive economic zone under this Convention, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations issued by the coastal State in accordance with the provisions of this Convention and other rules of international law to the extent that they are not inconsistent with this Part".

<sup>61</sup> MINISTRY OF FOREIGN AFFAIRS of the People's Republic of China, *Statement of the Ministry of Foreign Affairs of the People's Republic of China on Settling Disputes Between China and the Philippines in the South China Sea Through Bilateral Negotiation*. 08/06/2016. Available at: [https://www.fmprc.gov.cn/mfa\\_eng/wjdt\\_665385/2649\\_665393/t1370476.shtml](https://www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/t1370476.shtml)

while ensuring the protection of the sea and freedom of navigation and overflight for military purposes, from a geopolitical point of view, sovereignty over the waters of the *nine-dash line* would grant China military and economic supremacy in the South Sea, leaving other nations at a clear tactical disadvantage, relegating them to a lifelong energy dependence on the Asian giant, without respecting these fundamental principles. With this in mind, the PRC has been involved in numerous incidents of trying to gain control over islands and islets as well as establishing military bases along the Southern Basin.

Chinese expansionism in this part of the globe falls within the so-called “grey zone”<sup>62</sup> given the ambiguity of the foundations on which the PRC bases its claims and due to the combination of irregular actions that harmonise the use of conventional weapons, criminal behaviour and terrorist and sabotage operations. In this way, China is pursuing a hybrid approach to increase its power projection and resource exploitation, with financial and military aspirations.

### *Geopolitical interests*

Given its concern about foreign encroachment and the occupation of islands in the South Sea, the Committee for the Survey of Land and Water Maps was set up in the 1930s<sup>63</sup>. With the publication of the *nine-dash line*, it claims any jurisdiction that UNCLOS recognises the sovereign state over territories within its zone of responsibility.

The justification of the need to defend its sovereignty in these spaces has translated into the creation of a large defensive perimeter on which to establish military coastal installations for the defence of its territory throughout the China Sea. With this in mind, China has built numerous military facilities and coastal radars in various locations. These include the militarisation of the Spratly Islands, on which anti-ship and anti-aircraft cruise missile batteries have been built, equipped with the YJ-12B surface-to-ship missile (with a range of 295 NM) and long-range HQ-9B surface-to-air missiles<sup>64</sup>. With the establishment of these bases, China boasts a greater ability to locate, identify and monitor contacts, extending its influence throughout the Southern Basin under the deterrent power of a layered defensive shield that gives it a defence-in-depth capability.

It currently maintains seven military installations in the archipelago located on *Cuarteron, Fiery Cross, Gaven, Hughes, Johnson, Mischief and Subi* reefs<sup>65</sup>. On the Par-

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62 BAQUÉS, José, *Hacia una definición del concepto “Gray Zone”*, 04/04/2017. Research Paper 02/2017. IEEE. Available at: <http://www.ieee.es/contenido/noticias/2017/04/DIEEEINV02-2017.html>

63 Do THANH HAI, Leszek BUSZYNSKI, *The South China Sea: From a Regional Maritime Dispute to Geo-Strategic Competition*, 16/12/2019. Routledge.

64 REUTERS, *China installs cruise missiles on South China Sea outposts-CNBC report*. 03/05/2018.

65 ASIA MARITIME TRANSPARENCY, *China Island Tracker*. Available at: <https://amti.csis.org/island-tracker/china/>

acelsus Islands, it operates some 20 forward lookout posts and, since 2012, also controls the Masinloc Shoal (Scarborough Shoal), although it has not yet built military settlements<sup>66</sup>. In response to the PRC's militarisation, the other coastal nations (except Brunei) have placed their own detachments on islands or rocks under their effective control.

Since 2013, China's grey zone strategy has gone a step further, with major efforts to create artificial islands in the Spratlys and Paracelsus, under the expansionist strategy known as the "Great Sand Wall". With them, China has been able to increase its sovereignty and control over the disputed waters. This has aroused the misgivings of the other riparian nations, mainly Vietnam and the Philippines. Among the latest moves, in 2019, Manila announced that it intended to proceed with the construction

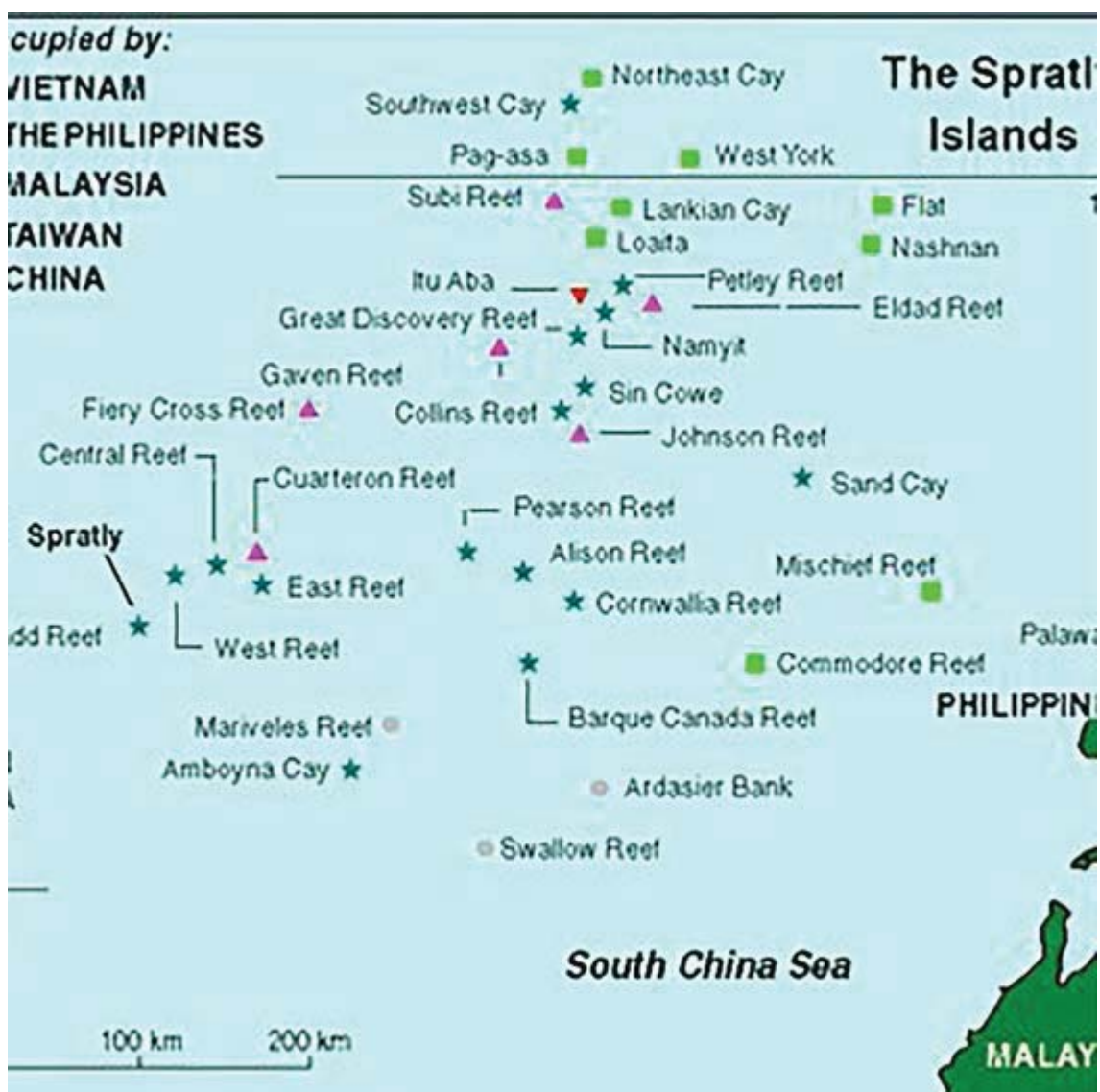


Illustration 38 Militarily occupied islands. Source: Víctor M. Mijares, "Posiciones militares de los beligerantes en las islas Spratly". 2006

66 JENNINGS, Ralph, *How China Could Gradually Assume Control Of Scarborough Shoal In The South China Sea*. Forbes, 29/12/2017.

of an airstrip on Thitu Island, the largest of the nine Philippine-controlled islands in the Spratly archipelago, where its main attraction is located<sup>67</sup>. But in response to these developments, the PRC has mobilised the so-called “maritime militia”,<sup>68</sup> in an attempt to abort new construction by other nations. And given its military capabilities – far superior to those of other coastal nations – and the strong commercial and hybrid strategies it imposes on those who criticise its moves, China’s island-building has not met with as strong an opposition as Beijing’s against its opponents. The following image shows the occupied islands and military establishments in the Spratly Islands.

This militarisation strategy can be approached from different geopolitical perspectives. On the one hand, the goal of elevating the PRC to the position of the world’s leading power. Secondly, the need to maintain its hegemony in Indo-Asia, ensuring economic growth and access to marine resources. And finally, the defence of its waters and the creation of a defensive bubble can be associated with the attempt to impose an A2/AD strategy effectively, based on defences in depth with long-range missiles located in military installations along the islands and the imposition of restricted zones in its waters.

With this A2/AD bubble China aims to gain control of the South China Sea in the coming years and make any external (mainly American) action in the region impossible. The progressive dominance of the archipelagos has allowed it to lead the esca-

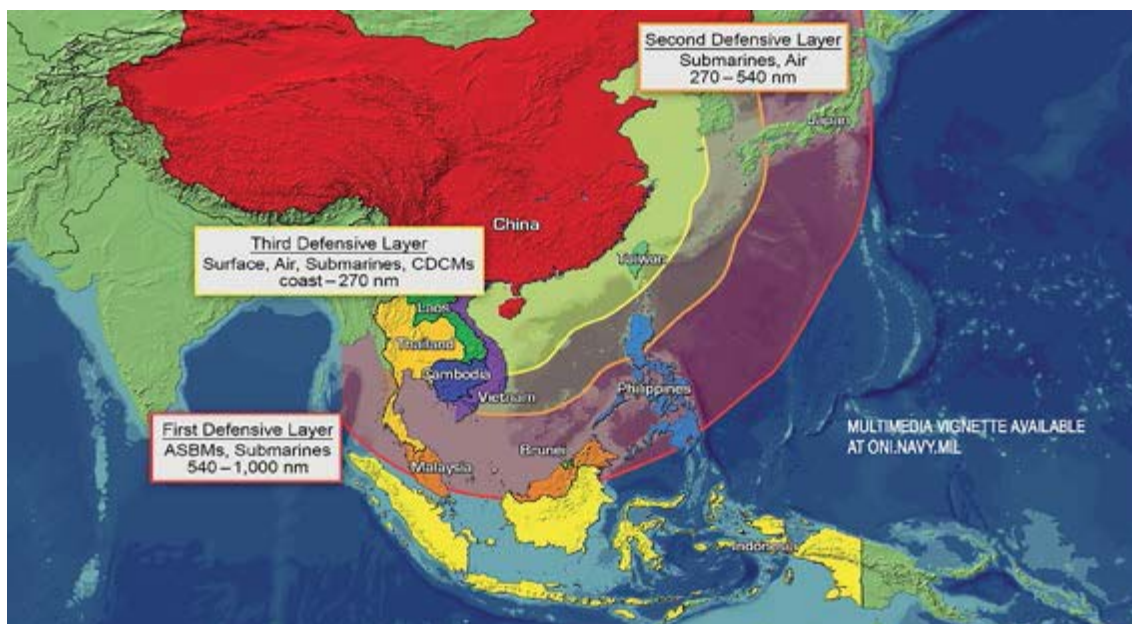


Illustration 39 China’s A2/AD bubble in the South China Sea and Pacific Ocean. Source: Missile Defense Advocacy Alliance (<https://missiledefenseadvocacy.org/missile-threat-and-proliferation/todays-missile-threat/china/china-anti-access-area-denial/>)

67 ASIA MARITIME TRANSPARENCY INITIATIVE, *Philippine constructions provokes a paramilitary response*. 06/02/2019. Available at: <https://amti.csis.org/under-pressure-philippine-construction-paramilitary-response/>

68 Term used by Andrew S. ERICKSON, in his report *China’s Third Sea Force, The People’s Armed Forces Maritime Militia: Tethered to the PLA*, referring to the employment of civilian vessels on military missions by the PLA in disputed areas.

lation of tensions in the Asia-Pacific without escalating into a military confrontation between conventional forces. In doing so, however, the PRC has jeopardised international freedom of navigation.

### *Geo-economic interests*

The control of the sea and the defence of national territory are at the heart of the struggle for regional resources associated with sovereignty rights. From an economic point of view, the South China Sea is one of the main routes for merchant traffic worldwide. Almost half of the world's oil tankers pass through the Strait of Malacca and the Strait of Malacca, with a throughput of 11 million barrels per day (4.3 million barrels less than in the Strait of Hormuz and 7.2 million barrels more than in the Suez Canal), making it the second busiest strait in the world<sup>69</sup>. Maritime trade has been growing steadily and, as a result, freedom of navigation has become of vital importance to ASEAN members and the international community.

But in addition to trade routes, the presence of hydrocarbons and minerals are at the heart of the geo-economic struggle. The U.S. Energy Information Administration estimates that the South China Sea holds “approximately 11 million barrels and 190 trillion cubic metres of gas” between known fields and areas identified as potential hydrocarbon sites<sup>70</sup>. Because we are in a zone of emerging powers, the struggle for these resources is a priority for the littoral states. The development and industrialisation of this region is leading to an increased demand for fossil fuels. States with domestic exploration will be much more competitive and independent than those without domestic exploration, which are doomed to import. This is where the tensions are most acute and difficult to resolve. Now that natural reserves are in decline, competition for imported supplies is already having an impact on the region<sup>71</sup>.

China's resource extraction and exploration operations are carried out by three national companies: *China National Offshore Oil Corporation* (CNOOC), *China Petroleum & Chemical Corporation* (SINOPEC) and *China National Petroleum Corporation* (CNPC). CNOOC is currently the leading company in offshore oil production, investing heavily in the development of new ocean techniques. According to its 2019 year-end annual report, following the discovery of 23 new fields and the installation of

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69 EIA, U.S. Energy Information Administration. 25/07/2017. Available at: [https://www.eia.gov/international/analysis/special-topics/World\\_Oil\\_Transit\\_Chokepoints](https://www.eia.gov/international/analysis/special-topics/World_Oil_Transit_Chokepoints)

70 U.S Energy Information Administration. 07/02/2013. Available at: [https://www.eia.gov/international/content/analysis/regions\\_of\\_interest/South\\_China\\_Sea/south\\_china\\_sea.pdf](https://www.eia.gov/international/content/analysis/regions_of_interest/South_China_Sea/south_china_sea.pdf)

71 KLARE, Michael T., *Guerras por los recursos. El futuro escenario del conflicto global*, 2003. Editorial Urano. pp 155-158.

30 structures for exploration,<sup>72</sup> the company achieved a 7 per cent increase in crude oil and a 5.2 per cent increase in natural gas over the 2018 period.

And finally, in the absence of consensus over the delimitation of maritime spaces, fishing and the management of fishing grounds has become another point of friction between the powers. The Jamaica Convention grants the coastal state exclusive exploitation rights to the resources in the EEZ and CP. It also includes the responsibility of the sovereign state to establish relevant fisheries legislation in order to ensure the sustainable exploitation of resources.

Through the *Joint Maritime Seismic Undertaking* (JMSU) initiative,<sup>73</sup> efforts have been made to improve cooperation and understanding between nations. In 2005, the leaders of the major oil companies of China, the Philippines, and Vietnam agreed to survey the seabed for hydrocarbons under a joint strategy that would unite efforts



Illustration 40 JMSU operating agreement. Source: International Crisis Group, “Stirring up the South China Sea (IV): Oil in Troubled Waters”, 2016.

72 CNOOC LIMITED. <https://www.cnoocld.com/attach/o/aa2dd9ad2oda47bc9ad119383e49d805.pdf>

73 SLINGG, Dalij, *Southeast Asian Affairs 2009*, Institute of Southeast Asian Studies, Singapore, 2009, p.p 46-52.

and promote peace in the region. However, the agreement was not renewed in 2008, following the Philippines' accusation of covert – and secret – actions led by Beijing. Since then, the situation has only worsened and there have been ongoing disputes over resources, resulting in the illegal occupation of numerous islands and a race to militarise them. Lack of understanding, militarisation of the area, oil exploration and illegal fishing have jeopardised the sustainability of the resources.

### *Merchant traffic route analysis*

The South China Sea is an enclosed sea with numerous islands and rocks. It is therefore advisable to analyse the peculiarities that maritime law grants to archipelagic states and the repercussions that the application of these rules may have on merchant traffic routes.

The delimitation of waters in Archipelagic States is governed by the particular rules of Part IV of the Convention. Its straight baselines are formed by joining the furthest points of the islands. The waters contained within the straight baselines are State sovereignty (internal waters) but with the difference that all vessels will have the right of innocent passage (uninterrupted transit). In addition, the sovereign state may designate DSTs to delimit navigable channels and ensure safe navigation in its waters.

Through the imposition of DST, the sovereign state could divert traffic of all vessels not flying its flag by limiting routes through navigable channels duly published<sup>74</sup> (A2/AD strategy?). And as a consequence, distances between ports could be increased, which would mean more money and expense in transport, prioritising exclusive routes for Chinese ships.

### **Internationalisation of Conflict**

The littoral states of China, Taiwan, Brunei, the Philippines, Malaysia and Vietnam are locked in diplomatic conflict over tensions and disputes over the exploitation of waters in this sea basin. China, as part of its expansionist strategy defined in the *white paper*,<sup>75</sup> has increased its naval presence in the spaces it considers under its sovereignty, building numerous artificial islands with the aim of extending its territorial waters, even going so far as to deny freedom of navigation in a large part of the South China Sea.

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74 CONVEMAR, Article 52 “Archipelagic States may, without discrimination in law or in fact among foreign ships, temporarily suspend the innocent passage of foreign ships in certain areas of their archipelagic waters, if such suspension is indispensable for the protection of their security. Such suspension shall only take effect after publication in due form”.

75 STATE COUNCIL of the People's Republic of China, *The Diversified Employment of China's Armed Forces*, 16/04/2013. Available at: Govt. White Papers -china.org.cn

China's rise and this "grey zone" strategy break with the strategic balance previously achieved. This has not gone unnoticed by the international community, prompting countries to engage in cooperative partnerships or freedom of navigation operations.

## Japan

Concerned by the PRC's expansionist policy, Japan has since 2013 shifted its foreign policy to seek regional support to curb Beijing's rise.

Through "defence cooperation and exchange" agreements, it maintains bilateral defence relations with the US, Australia, the Republic of Korea, India, the South China Sea countries (including China), the UK and France, among others. These pacts reinforce its security policy under a pro-active contribution to peace, averting the possibility of military confrontation through deterrence as the main strategy vis-à-vis the PRC.

However, bilateral relations to curb China's regional rise have shown limited effectiveness. The US presence in the Indo-Pacific region appears to be a necessity for Tokyo, as demonstrated in the 2004-2006 Defence Policy Review. The review of the agreement identified shared regional strategic objectives between the two powers. These include the peaceful resolution of the Taiwan situation and a series of global strategic objectives to strengthen the international standing of both countries.

The review also established a roadmap for improved cooperation and unit integration and agreed on the projection of US forces from bases in Japan and the development of a Ballistic Missile Defence (BMD) system to counter the threat from North Korea while curbing hostilities from China<sup>76</sup>. Japan's military progress has shifted towards acquiring offensive capabilities, moving away from the premise of a military for self-defence purposes only<sup>77</sup>.

## USA

In 2019 the US Department of Defence published the first Indo-Pacific Strategy<sup>78</sup> in which it defined the region as the priority theatre for the Department of Defence:

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76 U.S. DEPARTMENT OF DEFENSE, *The Guidelines for Japan-U.S. Defense Cooperation*, 27/04/2015.

77 Article 9 of the Japanese Constitution: "Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international dispute".

78 US Department of Defense, *Indo-Pacific Strategy Report*. 01/06/2019. Available at: <https://media.defense.gov/2019/Jul/01/2002152311/-1/-1/1/DEPARTMENT-OF-DEFENSE-INDO-PACIFIC-STRATEGY-REPORT-2019.PDF>

“The Indo-Pacific is the Department of Defense’s priority theatre”. As objectives, the Strategy lists the preparation of forces to counter regional adversaries, the promotion of bilateral engagements, the development of a regional force for regional peacekeeping and the development of a security architecture that respects international law.

Thus, the US Navy has reinforced its presence in the South China Sea with numerous FONOPS (*Freedom of Navigation Operations*) operations in the disputed areas and since July 2020 has conducted two exercises involving battle groups under the command of the aircraft carriers *USS Theodore Roosevelt* and *USS Nimitz Carrier*. The aim of these exercises and patrols is to curb the rise of the Asian giant while promoting future military agreements and guaranteeing the right of innocent passage. In this way, international exercises or manoeuvres with Japan, Australia, the UK, the Philippines, Vietnam and/or Malaysia have been encouraged. In this way, the US tries to counter PRC expansionism and its tactics in the “grey zone”.



Illustration 41 Requirements for defence in depth. Source: IISS, *Asia-Pacific Security*, 2019

The strategy also includes investment and development targets for 2020-2024, including the development of anti-surface, anti-submarine and BMD capabilities with the acquisition of ten new destroyers.

The US is thus signalling its intention to increase its presence in the Pacific and to increase military power and integration between regional forces in the disputed waters of the South China Sea. This policy shift has been welcomed by regional countries and external Allies such as Japan, Australia, India, the UK and France, which have decided to participate in operations to ensure freedom of navigation.

### *France*

France has toughened its stance against Xi Jinping's government's expansion in the South China Sea, bringing its position closer to that of the US.

Since 2019, it has participated in freedom of navigation operations with the deployment of the frigate *Vendémiaire*,<sup>79</sup> in a geostrategic move that reflects its concern about China's hybrid approach in the region. French Defence Minister Florence Parly described France's participation in FONOPS operations as a "step towards ensuring the prosperity of European trade routes that are vital to the world"<sup>80</sup>.

The latest episode in the escalation of tensions between France and China took place in March 2020, when Paris agreed to sell arms to Taiwan for the renewal of ships acquired in 1991. Beijing quickly issued a statement criticising the deal and urging France to cancel the arms sale because it had not been authorised by Beijing:

Zhao Lijian: "Our position is consistent and clear: we firmly oppose other countries selling arms to the Taiwan region or conducting military exchange with it. We have expressed grave concerns to the French side. Once again we urge the French side to earnestly abide by the one-China principle and withdraw its arms sales plan to avoid more damage to China-France relations".

### *United Kingdom*

The UK has been concerned about the situation in the South China Sea, conducting FONOPS operations since 2018 with the deployment of the amphibious assault ship HMS *Albion*.

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79 Phil STEWART, Idrees ALI, *In rare move, French warship passes through Taiwan Strait*. Reuters, 25/04/2019. Available at: <https://www.reuters.com/article/us-taiwan-france-warship-china-exclusive-idUSKCNrS1oQ7>

80 PARLY, Florence, French Defence Minister, Third Plenary Session: *Asia's evolving security order and its challenges*, 2019. Available at: <https://www.youtube.com/watch?v=sjNIBuZwwcw>

While its naval priorities focus on the Atlantic and recently the Arctic, London has expressed its commitment to ensuring freedom of navigation and respect for the Convention's sovereignty rights in the South China Sea.

Gavin Williamson, Minister of Defence: "We have to make it clear that nations need to play by the rules, and there are consequences for not doing so".

It has recently moved to strengthen economic partnerships in Asia, including applying for ASEAN dialogue membership. And according to the Foreign Secretary's statement,<sup>81</sup> the UK is expected to increase its presence in the South China Sea.

### *India*

To preserve its state interests, India's navy has experienced exponential growth in technological development and in the number of units, positioning itself as a regional power in the Indian Ocean.

The increase in military spending and the development of a competent navy is related to its economic progress, China's rise and its concern over the deployment of PLA units in the Indian Ocean. Furthermore, the development of the "Silk Road" and the growth of Chinese port facilities along its major shipping lanes has raised concerns for the world power, leading it to actively participate in regional operations and engage in exercises with the US, Japan and Australia in the disputed areas of the South China Sea. India has thus taken a strategic step to curb the PRC's aspirations to defend its own geo-economic interests in the Indian Ocean.

### *Russia*

In the face of NATO's exclusion of China and Russia, the two nations have developed a harmonious stance, cooperating and working together to balance US-Japanese dominance in the Far East. However, the good relations between Russia and China have not calmed Beijing's reaction, which has expressed its rejection of prospecting operations carried out by Russian companies in the region.

The potential of South China Sea resources is also an opportunity for Russian energy companies. In October 2019, the President of the Philippines met with Rosneft to finalise a deal to exploit natural gas in Philippine waters (in dispute with China)<sup>82</sup>.

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<sup>81</sup> RAAB, Dominic, UK Foreign Secretary: "*the move was part of the UK's "tilt" towards the Indo-Pacific region post-Brexit*".

<sup>82</sup> RANADA, Pia, *Duterte meets with CEO of Russian oil firm Rosneft*, Rappler, 03/10/2019. Available at: <https://www.rappler.com/nation/duterte-meets-ceo-russian-oil-firm-rosneft>

The company is also active in Vietnam's EEZ exploration blocks, to which it has had access thanks to the close cooperation between Russia and Vietnam since the end of the Cold War<sup>83</sup>. To date, however, Russia has been unwilling to meddle in the South China Sea disputes, seeking to maintain the *status quo* in its cooperative relations with China and defending its neutrality in the face of regional disputes. In addition, President Putin publicly expressed his solidarity with China in the wake of the Philippines Judgement: "We are solidarizing with and supporting China's stance on the problem – the non-recognition of the court ruling (the Permanent Court of Arbitration in The Hague)"<sup>84</sup>.

Despite the fact that Russia is profiting handsomely from its national companies' – mainly *Rosneft* – exploration in Vietnamese waters, the meagre support for the PRC's cause in the South China Sea can be approached from two different perspectives: economic and political. From an economic point of view, China is the largest importer of Russian natural gas. In 2019 the two countries agreed to export 30 billion cubic metres of gas per year for three decades,<sup>85</sup> after the construction of new pipelines, making it a preferred partner for the Kremlin. In addition, following the annexation of Crimea in 2014, the EU and the US have imposed numerous economic sanctions on Moscow's exports. For this reason, the Kremlin has found it necessary to pivot eastwards and strengthen diplomatic ties with China. On the other hand, the improvement of relations between Russia and China is understood as a need to match forces with the Western bloc, so that both countries join forces as the best deterrence strategy.

## Conclusions. Past, Present and Future of Geopolitics in the South China Sea

In a globalised world, the political, economic and environmental importance of the maritime domain has acquired a fundamental status for the development and sustainability of coastal nations. In geographical areas where the waters of several countries converge, maritime boundary disputes are the order of the day, especially because of the economic impact that exploitation rights have on the GDP of coastal states.

### *Geopolitical Developments in the South China Sea*

The analysis revolved around the *nine-dash line* that frames the largest and most complex of the sovereignty disputes and includes the waters off the Spratly Islands,

83 MURRAY, Bennett, *Russia's Awkward Dance with Vietnam*, Foreign Policy Research Institute, 2019.

84 PUTIN, *Russia is staying out of South China Sea Dispute*, Russia News Agent 2016.

85 KANTCHEV, Georgi, *China and Russia Are Partners-and Now Have a \$55 Billion Pipeline to Prove It*, The Wall Street Journal, 2019.

the Paracelsus Islands, the Senkaku Islands, Macclesfield Bank and the lower Masiloc (or Scarborough). These marine spaces are disputed by China, Brunei, Indonesia, Malaysia, the Philippines, Vietnam, as well as the island of Formosa. The objective was to determine the PRC's justifications for its claim and to analyse its diplomacy in the face of the geopolitical weaknesses of nations with adjoining maritime spaces in the region.

The conclusion reached is that as the People's Republic of China has grown as a global actor and gained ascendancy on the geopolitical chessboard, it has demonstrated aggressive diplomacy. A clear example of this is the bellicose assertion of sovereignty in the South China Sea in order to increase the country's political and economic clout in South Asia, involving numerous incidents at sea, some of which have resulted in the sinking of ships and the death of people at sea. If we add to this the fact that the South China Sea is an area of emerging powers, the struggle for these resources is a priority for the coastal states, given that the development and industrialisation of this region will lead to an increase in the demand for fossil fuels.

On the other hand, the PRC's nationalist drift, which prioritises its own interests over those of its partners, has not only broken with Deng Xiaoping's discreet diplomacy abroad, but has also demonstrated a lack of transparency and respect for international laws and regional agreements – most notably the *Declaration on the Conduct of Parties in the South China Sea* – resulting in increased tensions and regional militarisation.

The South China Sea is a good example of the PRC's expansionist aspirations and its attempt to acquire regional hegemony without respect for international law. Despite China's ratification of the Jamaica Convention in 1996, the claim to the *nine-dash line* –which encompasses 90 per cent of the waters of the South China Sea – demonstrates the Beijing government's double standards on international agreements. Moreover, the South China Sea case has called into question the ability of these agreements to curb regional tensions and abuses by the most powerful state. Sovereignty of the claimed waters and territories below the line are justified on the basis of historical rights that are very difficult to sustain and overlap with the EEZ of Vietnam, the Philippines, Malaysia, Brunei, Japan and Indonesia. While it is true that the PCA ruling demonstrated the invalidity of these arguments, China's refusal to accept this ruling demonstrates the weakness of international law in dealing with violators and shows the unreliability of Beijing, which only seems to accept the Convention's rules in one sense.

In short, given the lack of consensus on maritime boundary delimitation and the inability to reach agreement among nations given the PRC's excessive demands, the geopolitical situation in the region is not expected to improve substantially in the short or medium term, forcing an international response to the increased threats to maritime trade and global maritime security posed by regional incidents and the PRC's A2/AD strategies.

### *Regional Militarisation and Internalisation of the Conflict*

Behind the militarisation of the archipelagos lie commercial and sovereignty defence interests that could ensure China's hegemony in the Asia-Pacific region, in a strategy aimed at slowing down the regional advance of other countries while strengthening China's international rise as a global economic and military power.

The progressive increase in China's defence budget and the development of its navy (*PLA Navy*), both in terms of number of units and military capabilities, is on the verge of making it the leading military power, overtaking the US for the first time in the last century. While it is true that the *PLA Navy* has already outnumbered the *US Navy* (300 to 287), the US destroyers still have far superior weapons power and warfare capabilities. But Chinese technology is beginning to overshadow American technology, and in the 2030s up to forty 7,000-tonne Type 052C/D/E destroyers and some twenty 12,000-tonne Type 055/A destroyers are expected to enter service, closing the gap on the *US Navy's Arleigh Burke* destroyers.

The militarisation of islands and archipelagos and the development of long-range defence systems appear to be associated with a deterrence and A2/AD strategy to progressively eradicate the *US Navy's* presence in the region. This, in turn, reinforces China's hegemony and its ability to control the sea throughout the region. Similarly, the granting of sovereignty in the area below the *nine-dash line* would allow it to temporarily suspend the right of innocent passage of foreign vessels or to establish exclusion zones as a way of prohibiting navigation in certain areas. But undoubtedly, archipelagic militarisation and the creation of a defensive bubble with defence-in-depth systems with long-range missiles has allowed it to erect a large deterrent perimeter across the region, on which the greatest concerns hinge.

The US has expressed concern about the construction of the defensive bubble erected over the islands, basing its arguments for the justification of its involvement in a regional conflict on the US-Japan Security Treaty, which would require the US to provide assistance to Japan in the event of a Chinese attack on the islands. Similarly, Washington has expressed growing concern over China's regional rise, focusing its efforts in the Pacific to curb its expansion and ensure regional peace and stability.

And finally, China's hegemony in the area below the line can be associated with its expansionist policy and the dark intention behind the camouflaged claim to certain geographical areas, which affect the main trade routes supplying Europe. This encompasses a number of maritime security threats with a major impact on trade routes, as control of the South Sea would give the PRC the rights to impose Traffic Separation Schemes as a strategy to divert maritime trade away from vessels not flying its flag by limiting routes through navigable channels (duly published), which would extend the courses of vessels not flying its flag. All these risks have led to the involvement of various nations in the region, mainly in FONOPS operations, as a way of showing their concern about the conflict and their willingness to guarantee freedom of navigation and trade routes.

Some of the biggest obstacles to conflict resolution are the difficulty of reaching diplomatic agreements with the PRC, the unilateral drift of its foreign strategy and increased trade pressures on anyone who questions its policies. If one assesses the regional agreements reached over the last decade and the inability to resolve the conflict between riparian countries –or after the PCA ruling– one can conclude that in the coming years the involvement of international organisations such as the EU or NATO cannot be ruled out in defence of global interests and as the only way to channel the conflict in the search for a solution that respects the terms of the Jamaica Convention and global interests.

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