



China Primer: South China Sea Disputes

Overview

Multiple Asian governments assert sovereignty over rocks, reefs, and other geographic features in the heavily trafficked South China Sea (SCS), with the People’s Republic of China (PRC or China) arguably making the most assertive claims. The United States makes no territorial claim in the SCS and takes no position on sovereignty over any of the geographic features in the SCS, but U.S. officials have urged that disputes be settled without coercion and on the basis of international law. Separate from the sovereignty disputes, the governments of the United States, China, and other countries disagree over what rights international law grants foreign militaries to fly, sail, and operate in a country’s territorial sea or Exclusive Economic Zone (EEZ). The last several Congresses have examined China’s efforts to use coercion and intimidation to increase its influence in the SCS and have passed legislation aimed at improving the ability of the United States and its partners to protect their interests, including freedom of navigation and overflight.

The SCS is one of the world’s most heavily trafficked waterways. An estimated \$3.4 trillion in ship-borne commerce transits the sea each year, including energy supplies to U.S. treaty allies Japan and South Korea. According to the U.S. Energy Information Administration, the SCS contains about 11 billion barrels of oil rated as “proved” or “probable” reserves—a level similar to the amount of proved oil reserves in Mexico—and 190 trillion cubic feet of natural gas. The SCS also contains significant fish stocks, coral, and other undersea resources.

Ongoing Disputes

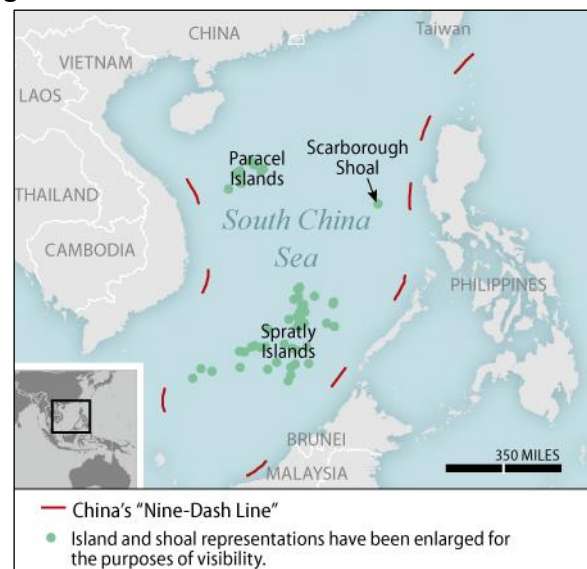
Disputes over Sovereignty

PRC officials assert “indisputable sovereignty over these islands [of the SCS] and their adjacent waters” without defining “adjacent waters.” The PRC government depicts its claims with a “nine-dash line” (see **Figure 1**) that encompasses approximately 62% of the SCS, according to the U.S. Department of State. (The estimate is based on the International Hydrographic Organization’s definition of the SCS’s geographic limits—a definition cited by the State Department that includes waters well to the south and west of the nine-dash line, extending toward the southern part of the Malay Peninsula.) The PRC has never explained definitively what the dashed line signifies.

In the northern part of the SCS, China, Taiwan, and Vietnam contest sovereignty of the Paracel Islands; China has occupied them since 1974. The PRC and Taiwan also claim Pratas Island, which Taiwan controls. In the southern part of the sea, China, Taiwan, and Vietnam each claim all of the approximately 200 Spratly Islands, while Brunei, Malaysia, and the Philippines, a U.S. treaty ally, claim

some of them. Vietnam occupies the most land features in the island chain; Taiwan occupies the largest. In the eastern part of the sea, China, Taiwan, and the Philippines claim Scarborough Shoal; China has controlled it since 2012. China’s “nine-dash line” and Taiwan’s similar “eleven-dash line” overlap with the theoretical 200-nautical-mile (nm) EEZs that five Southeast Asian countries—Brunei, Indonesia, Malaysia, the Philippines, and Vietnam—could claim from their mainland coasts under the 1994 United Nations Convention on the Law of the Sea (UNCLOS).

Figure 1. The South China Sea



Source: CRS graphic.

Dispute over Freedom of the Seas

A dispute over how to interpret UNCLOS underlies U.S.-China tensions over U.S. military operations in and over the SCS and other waters off China’s coast. The United States and most other countries interpret UNCLOS as giving coastal states the right to regulate economic activities within their EEZs, but not the right to regulate navigation and overflight through the EEZ, including by military ships and aircraft. China, Vietnam, and some other countries hold the minority view that UNCLOS allows them to regulate both economic activity and foreign militaries’ navigation and overflight through their EEZs.

The U.S. Navy routinely operates in the SCS and the Taiwan Strait, including transits of the Taiwan Strait and Freedom of Navigation Operations (FONOPs) near the Spratly and Paracel islands to challenge maritime claims that the United States considers to be excessive. U.S. Air Force and Navy aircraft fly surveillance and reconnaissance missions in international airspace above the waters of the SCS, including airspace that is close to (but outside of) China’s airspace. China regularly conducts military

activities in the SCS, and objects strenuously to U.S. military activities there. PRC officials often say that U.S. military operations in the SCS undermine regional stability.

China and the other SCS claimants (except Taiwan, which is not a member of the U.N.) are parties to UNCLOS. The United States is not a party, but has long had a policy of abiding by UNCLOS provisions relating to territorial waters, the EEZ, and navigational rights. UNCLOS allows state parties to claim 12-nm territorial seas and 200-nm EEZs around their coastlines and “naturally formed” land features that can “sustain human habitation.” Naturally formed land features that remain above water at high tide, but which are not habitable, are entitled to 12-nm territorial seas, but they are not entitled to 200-nm EEZs.

Flashpoints

Dangerous Encounters at Sea

The U.S. and other governments have accused PRC military and non-military ships and aircraft of conducting unsafe maneuvers in and over the SCS that put other regional actors at risk. The U.S. Department of Defense (DOD) reported a “sharp increase in unsafe and unprofessional behavior” by PRC military ships and aircraft in 2021-2022. U.S. officials argue that some of these behaviors were “inconsistent with” bilateral and multilateral agreements regarding air and maritime safety to which China is party.

Tensions between China and Other Claimants

For several decades, tensions in the South China Sea have periodically flared between China and other claimants (the PRC and Vietnamese navies engaged in armed combat over some of the islands in the 1970s and 1980s, for example).

In the past decade, tensions have been greatest between China and the Philippines. In 2013—the year after China gained de facto control of Scarborough Shoal following a confrontation between Chinese and Philippine ships—the Philippines sought arbitration under UNCLOS over PRC actions in the SCS. In 2016, an UNCLOS arbitral tribunal ruled (among other things) that China’s nine-dash line claim had “no legal basis” and that China violated the Philippines’ sovereign rights by interfering with Philippine vessels, damaging the maritime environment, and engaging in reclamation work on a feature in the Philippines’ EEZ. The United States has urged China and the Philippines to abide by the ruling, which under UNCLOS is binding on both parties. China declared the ruling “null and void.”

In August 2023, China Coast Guard and maritime militia vessels fired a water cannon and took other actions to obstruct a Philippine Coast Guard escort mission to resupply a marine detachment stationed at a grounded Philippine Navy vessel at Second Thomas Shoal, a Philippine outpost in the Spratly Islands. PRC military and coast guard vessels have conducted similar activities during resupply missions on several occasions since 2014. In February 2023, a PRC coast guard vessel targeted a Philippine coast guard vessel with a military-grade laser, reportedly temporarily blinding some crew members.

Renewed tensions could implicate the United States. In 2023, new Bilateral Defense Guidelines strengthened U.S. security commitments under the U.S.-Philippines Mutual Defense Treaty, stating that armed third-party attacks against Philippine armed forces, including coast guard, aircraft, or public vessels “anywhere” in the SCS would invoke U.S. mutual security commitments under the treaty.

China’s Artificial Islands

Between 2013 and 2015, China undertook extensive land reclamation (i.e., island-building operations) in the SCS’ Spratly Island chain. According to DOD, the reclamation created around five square miles of artificial landmasses on the seven disputed sites that China controls. China built military infrastructure on and deployed advanced anti-ship and anti-aircraft missile systems and other military equipment to the outposts. Although other claimants have carried out reclamation and construction work at SCS sites that they occupy, the scale of China’s reclamation work and militarization has greatly exceeded that of other claimants. A 2022 DOD report on China’s military stated that these outposts “allow China to maintain a more flexible and persistent military and paramilitary presence in the area,” which “improves China’s ability to detect and challenge activities by rival claimants or third parties and widens the range of response options available to Beijing.”

Regional Cooperation

China and the 10-member Association of Southeast Asian Nations (ASEAN) have been negotiating a code of conduct for parties in the SCS since 2002. Some observers say that a binding code is unlikely, and allege that China has prolonged the negotiations to buy time to carry out actions aimed at further strengthening its position in the SCS.

The U.S. government seeks to enhance allies’ and partners’ maritime domain awareness in the South China Sea. In 2022, the Quadrilateral Security Dialogue—a grouping of the United States, Japan, Australia, and India known as the “Quad”—announced an effort to improve maritime domain awareness throughout the Indo-Pacific, including the SCS. The U.S. Navy conducts patrols and exercises in the SCS with regional partners, including Australia, Canada, India, Japan, and the Philippines.

Select Legislation

Under a security assistance program currently known as the Indo-Pacific Maritime Security Initiative, authorized by Congress in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (P.L. 114-92) and modified in subsequent NDAs, the United States has sought to improve the ability of regional countries to enhance maritime domain awareness and patrol their EEZs. The NDAA for FY2021 (P.L. 116-283) established a Pacific Deterrence Initiative (PDI) to strengthen U.S. defense posture in the Indo-Pacific region, addressing issues such as those in the SCS. Congress extended and expanded the PDI in subsequent NDAs. The House- and Senate-passed bill for an FY2024 NDAA (H.R. 2670) would further extend and expand the PDI.

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