



Agenda: Resolution of the South China Sea
Dispute with special emphasis on
International Trade

Letter from the Executive Board

Greetings delegates!

This year, the largest committee at SMUN shall be the UNGA SPECPOL (United Nations General Assembly Special Political and Decolonization Committee). Being the fourth committee of the UNGA, the SPECPOL is tasked with the eminent task of a comprehensive review of the questions of peacekeeping operations as well as a review of special political missions. The mandate of the UNGA is wide ranging and involves a high degree of representation from all member states of the United Nations. The agenda of the committee is 'Resolution of the South China Sea Dispute with special emphasis on International Trade'. During the course of the committee, we wish to address the 'Nine Dash Line' and the territorial conflicts between nations such as China, Philippines, Vietnam, Taiwan, Brunei, Indonesia and Malaysia. Success in a large committee like General Assemblies depends on a delegate's ability to differentiate him/herself from the crowd and that is one of the most important skills in a delegate's diplomatic arsenal.

Whether you are a first timer or a veteran at MUN's, this committee's versatility provides opportunities for everyone to learn and grow. The UNGA SPECPOL lies at the heart of the United Nations and I hope delegates will put in the efforts to do full justice to this prestigious committee.

Until October,
Hriday Kabir
Navya Mehrotra
Siddharth Bhatnagar
Executive Board - UNGA SPECPOL

Introduction to the Committee

The United Nations General Assembly Fourth Committee, also known as the Special Political and Decolonization Committee, addresses a diverse array of topics encompassing five decolonization-related agenda items, the impacts of atomic radiation, issues related to information, a thorough examination of peacekeeping operations, a review of special political missions, the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), Israeli Practices, settlement activities impacting the rights of the Palestinian people and other Arabs in occupied territories, and international collaboration in the peaceful exploration of outer space.

At the time of its formation (in 1993), the primary purpose of the committee was decolonisation. In 1990, the United Nations established 1990-2000 as the "International Decade for the Eradication of Colonialism." This held significant significance, especially given that during the establishment of the United Nations, 750 million individuals resided in colonised regions. Since 1945, more than 80 former colonies have gained independence. Presently, largely due to the efforts of the Fourth Committee, this figure has significantly decreased to around two million people residing in colonised areas—a situation that SPECPOL is steadfastly committed to addressing.

Background:

The South China Sea dispute is a long-standing and ongoing maritime sovereignty dispute involving China, Taiwan and the ASEAN states of Brunei, Malaysia, the Philippines, and Vietnam. Tensions over the region's waters have fluctuated since the Cold War period, with instances of conflict linked to a variety of factors, including surging economic growth and corresponding military modernization in China, enhanced competition for maritime resources, China's status as a rising power, increased great power rivalry with the US, and the consolidation of power under China's current President Xi Jinping. With increased tensions linked to 'renewed Chinese assertiveness', the South China Sea is 'on the way to becoming the most contested body of water in the world'.



China historically has considered all territory in the South China Sea to be under its control, despite competing claims with a number of Southeast Asian states. A law was passed to this effect in 1992, in which China asserted its claims to the South China Sea, as well as reserving the right to use force to enforce these claims. The disputed islands themselves are little more than rocky outcrops in the South China Sea, and are of relatively little land value. This is

a view supported by the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which has confirmed that many of the disputed features in the islands should be classified as rocks. Contested sovereignty claims are driven by hydrocarbons and minerals beneath the seabed, in addition to the strategic geographic position of the various islands that straddle vital sea-lanes and trade routes. China bases its claim to sovereignty on a map produced in 1949 '**indicating nine undefined, discontinued and dashed lines**'. China claims sovereignty over all features within this 'nine-dash line', despite questions over the legality of China's claim and the exact location of the line's coordinates.

China and the other involved nations has calculated that the South China Sea has the potential to yield 190 billion barrels of oil, which if true would place the region second behind Saudi Arabia in terms of oil reserves. It is also estimated that the South China Sea provides approximately 10 percent of the global catch, which is a significant source of protein for the region's population. The dispute has also increasingly 'become an issue of dissension between the US and China', with the former seeking to maintain a foothold in the region, while the latter increasingly seeks to exert its influence over the region. The South China Sea is also an important course for cargo boats, and over 270 ships use it every single day. Nations want to make their own canals in the sea to increase their profits. Due to its great

geopolitical importance and economic potential, the severity of these territorial disputes has worsened as claimants have pursued increasingly aggressive tactics to gain control of the land. These actions include the introduction of military forces in the area, the construction of artificial islands, the extraction of natural resources in areas publicly disputed by nations and/or private companies, as well as low-level harassment of rival claimant's economic and naval ships.

Competing Territorial Claims in the South China Sea:

The Nine-Dash Line

The largest and most problematic claim to the South China Sea is made by China, which claims about 80% of the sea through a U-shaped Nine-Dash Line. It derives these claims from historical accounts and maps first drawn in 1947 under the pre-Revolution Republic of China government. The Nine-Dash Line is problematic because it interferes with the exclusive economic zones (in which a state has sovereign rights to exclusively govern economic development) of several nations such as the Philippines and Vietnam. The claim is also problematic because it is ambiguous, in that China has not clarified whether it claims to control all the waters and seabed within the area, or just to the land features and the surrounding waters. This distinction is important because it has implications for the extent of China's claim to the South China Sea. The former interpretation suggests that China asserts exclusive maritime control over all waters within the Nine-Dash Line, under which they would have complete authority over all landmasses and natural resources. The latter interpretation is narrower in its scope, instead suggesting that China claims the landmasses within the Nine-Dash Line, as well as the waters and natural resources immediately surrounding those landmasses, but not exclusive maritime control over the region or its natural resources. Regardless, China has used the Nine-Dashed Line to justify the aggressive actions it has been taking to secure its claims in the region, such as the construction of military bases on artificially-built small islands. However, on July 12th, 2016, the Permanent Court of Arbitration in The Hague ruled that the Nine-Dashed Line could not be used by China to make its maritime claims in the South China Sea. Instead complying with the order, China refused to accept or recognize it, and did not halt its construction of artificial islands nor of military ready airstrips and bases on islands that it already controls.



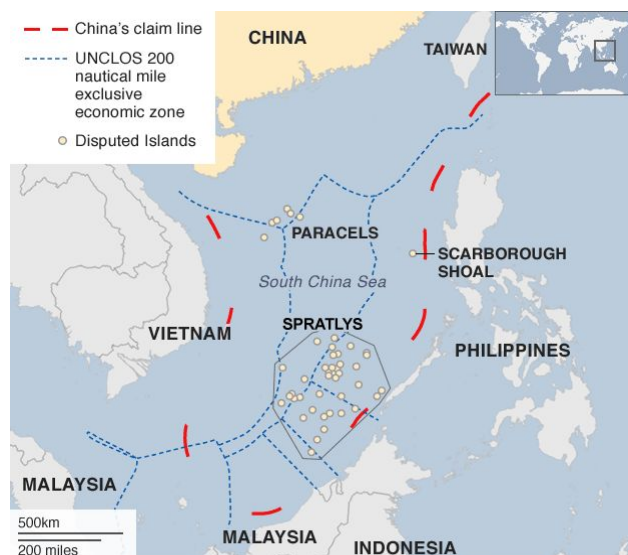
Fig: Nine Dash Line



Fig: Ten Dash Line

The conflict further worsened when China unveiled its 2023 standard map with a ten-dash line — an updated version of its nine-dash line used to make territorial claims in the South China Sea. The move sparked outrage among China’s neighbours, who saw it as an attempt to legitimise Chinese sovereign claims over portions of their exclusive economic zones. The nine-dash line already covered more than 90 percent of the South China Sea, but the new edition features an additional dash located east of Taiwan, seemingly extending China’s territorial claims in the region.

The Spratly Island Chain



There is no generally accepted definition of the Spratly Islands. Some consider them large rocks but some consider them as islands. The Spratly Island chain is a disputed archipelago in the South China Sea. The islands are claimed in totality by China, Taiwan, and Vietnam, and partially by Brunei, Malaysia, and the Philippines. The islands are almost completely uninhabitable, but control of the islands could give the claimant rights to an area that is potentially rich in oil and natural gas, as well as legitimacy in their claims of maritime borders. Each of the claimants

occupies at least one of the Spratly Islands with military forces, which increases the likelihood of military conflict in the region. Satellite images show that China, specifically, has begun to place weapons on the Spratly Islands, the images showing large anti-aircraft guns and missile defence systems; which could be used to establish further control over the islands as well as nearby islands and ocean. Vietnam has also been pursuing aggressive

actions to secure the Spratly Islands, and has emerged as the most viable challenger to China's claim. In late 2016, it was reported that Vietnam was beginning to build up a disputed reef on the southern tip of the Spratly chain, and that it had fortified several of the islands with weapons capable of hitting Chinese targets in the area. Furthermore, at the risk of angering China, Vietnam began oil drilling expeditions in a region southwest of the Spratly Islands in summer 2017. This region, known to Vietnam as Block 136/3, is also claimed by China, who had already leased the area's drilling rights to a different company. In response, China threatened to attack Vietnamese bases in the Spratly Islands if the drilling did not stop. Instead of risking the escalation of military conflict with a more powerful regional power, Vietnam suspended the project for the time being. In August 2023, tensions further escalated between the Philippines, where the Philippines claimed that the Chinese coast guard was firing water cannon at its vessels in the disputed South China Sea, describing it as illegal and dangerous.

The Scarborough Shoal

The Scarborough Shoal is a shoal located in the eastern part of the South China Sea, just 140 miles off the Coast of Manila, the Philippine capital. It is claimed by China, Taiwan, and the Philippines. The Scarborough Shoal is attractive to claimant nations in part because of its calm waters, which make it easy for fishermen to reach the abundance of fish in the surrounding area. It is also enticing to China specifically because establishment of control over the shoal would strengthen its claims in the South China Sea under the Nine-Dash Line. Additionally, since China already has military personnel stationed in the Spratly island chain, similar development of the Scarborough Shoal would allow it to exert de facto control of the region, since rival claimants do not have the military capability to deter China by themselves. Since the shoal is located within 200 miles of its coastline, it is considered by the Philippines to fall within its exclusive economic zone. For this reason, in April 2012, the Philippine Navy intercepted eight Chinese fishing vessels in the Scarborough Shoal to halt what it viewed as illegal fishing. However, before any arrests could occur, two Chinese maritime surveillance ships approached and began to protect the Chinese fishing vessels. After a tense standoff and two months of multilateral negotiations, the Philippines agreed to withdraw its remaining ships out of Scarborough Shoal, under the assumption that China would do the same. However, the Chinese vessels did not leave and instead established a blockade of the area, effectively preventing Philippine fishing boats from reaching the shoal. This blockade triggered legal action by the Philippine government, which appealed to the Permanent Court of Arbitration in The Hague in 2013, a move which infuriated Beijing and had the aforementioned result of having the Court delegitimize China's Nine-Dashed Line claim. Nonetheless, the Chinese Navy continued its blockade of the Scarborough Shoal for four years, until October 2016, when China started allowing Filipino fisherman to access the area following a visit to China by then newly-elected Philippine President Rodrigo Duterte. While this gesture, along with Duterte's friendlier attitude towards China, may signal a warming of relations between Manila and Beijing, the Scarborough Shoal situation remains unresolved and there has been no formal agreement reached between the two countries.

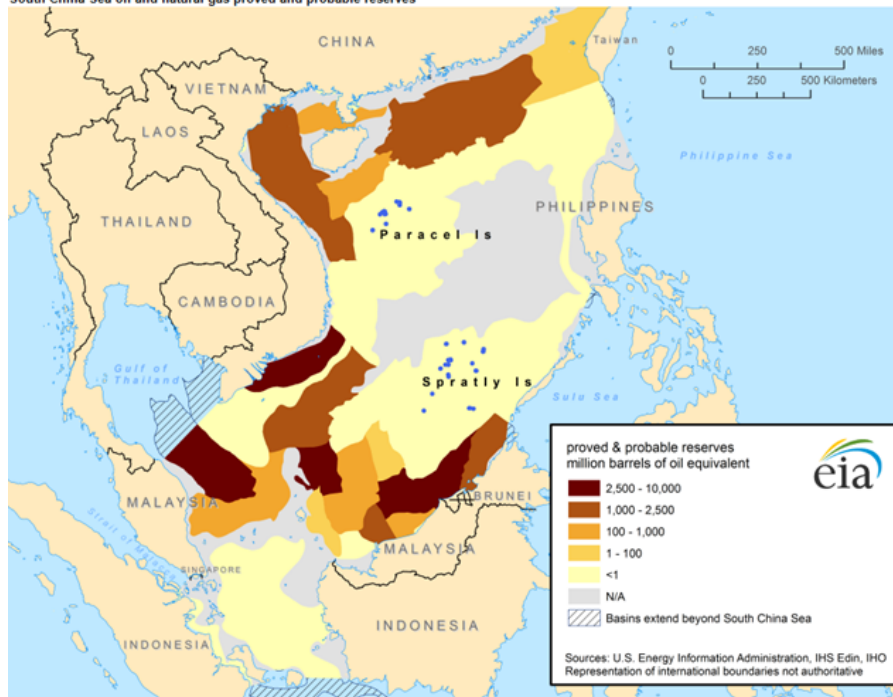
The Paracel Island Chain

The Paracel Island Chain is an island chain in the northern part of the South China Sea, and is claimed in totality by China, Taiwan, and Vietnam. Today, they are under the control of China, since China forcibly seized the islands from what was formerly the Republic of Vietnam (South Vietnam) in 1974. In May of 2014, China took further measures to legitimise their control of the islands. On May 2nd, China's state-owned oil company, the China National Overseas Oil Corporation (CNOOC), moved in a large exploratory oil rig in waters less than 20 miles from the Paracel Island Chains. It was reported that around 80 Chinese ships entered the area escorting the rig, and some used water cannons to disperse Vietnamese patrol boats.



Trade and Economic Significance

South China Sea oil and natural gas proved and probable reserves



Exclusive Economic Zone: The exclusive economic zone is an area beyond and adjacent to the territorial sea not extending beyond 200 nautical miles from the coast of the state in

question. Within this zone, nations have the right to extract and manage natural resources, including energy resources, conduct marine research and construct artificial islands.

1. Oil and Natural Gas Reserves

According to estimates by the United States Energy Information Agency, 11 billion barrels of oil and 190 trillion of natural gas reserves. Energy plays a key role in maintaining the economic growth experienced by South East Asian countries. Hence, the economic importance of these reserves will only increase in years to come. Numerous countries have started drilling in the South China Sea, including China, Indonesia, Vietnam, Malaysia and the Philippines. China's Lingshui 17-2 and Ledong 22-1 gas fields both fall within Vietnam's claimed zone as well as the Nine dash line. Indonesia's Tuna gas field falls within the nine-dash line. However, large reserves of oil and natural gas are still unexplored and hence it is not possible to identify exact figures.

China has proposed a joint exploration of oil and natural gas reserves in the South China Sea however no such deal has been agreed upon. Asia's robust economic growth boosts demand for energy in the region. The U.S. Energy Information Administration (EIA) projects total liquid fuels consumption in Asian countries outside the Organization for Economic Cooperation and Development (OECD) to rise at an annual growth rate of 2.6 percent, growing from around 20 percent of world consumption in 2008 to over 30 percent of world consumption by 2035. Similarly, non-OECD Asia natural gas consumption grows by 3.9 per cent annually, from 10 percent of world gas consumption in 2008 to 19 per cent by 2035. EIA expects China to account for 43 per cent of that growth.

As the demand for energy in the burgeoning economies of Southeast Asia rises and the trend of energy diversification continues, the energy resources in the South China Sea only become more and more valuable, making a conflict in the region more likely. China and the Association of Southeast Asian Nations (ASEAN) have been discussing the possibility of a South China Sea code of conduct (CoC) for over two decades. A CoC will not resolve the various overlapping territorial claims but instead intends to lay out some mutually agreed rules and norms that would prevent the South China Sea dispute from escalating.

The release of a draft negotiating text in August 2018 was an important step forward with some interesting policy implications. The United States is concerned about the provisions in the draft proposed by China that would restrict parties to the Code of Conduct from conducting joint exercises with external security partners and prevent oil and gas third-party companies. Most notably, Washington has expressed concern over draft provisions by China that would restrict parties to the CoC from conducting joint exercises with external security partners and prevent oil and gas companies from third-party states conducting exploration in disputed waters. However, the parties seem a long way from reaching a final agreement and much could still change.

2. Fisheries

An overlooked aspect of this conflict is the abundance of fishery resources in the South China Sea. The South China Sea is the source of 12% of global fishing catch. The individual sovereignty based approach in the claimant rich South China Seas is impeding management of this valuable resource. Increased scarcity and fishing nationalism poses the threat of clashes and conflict. Even without the major power dynamics and regional strategic overlay the legal issues are complex – involving questions of sovereignty: over territory, over maritime jurisdictions (EEZs, continental shelves and territorial seas) and the status of features and what sort of maritime zones they generate. There are also different claimants for different groups of features.

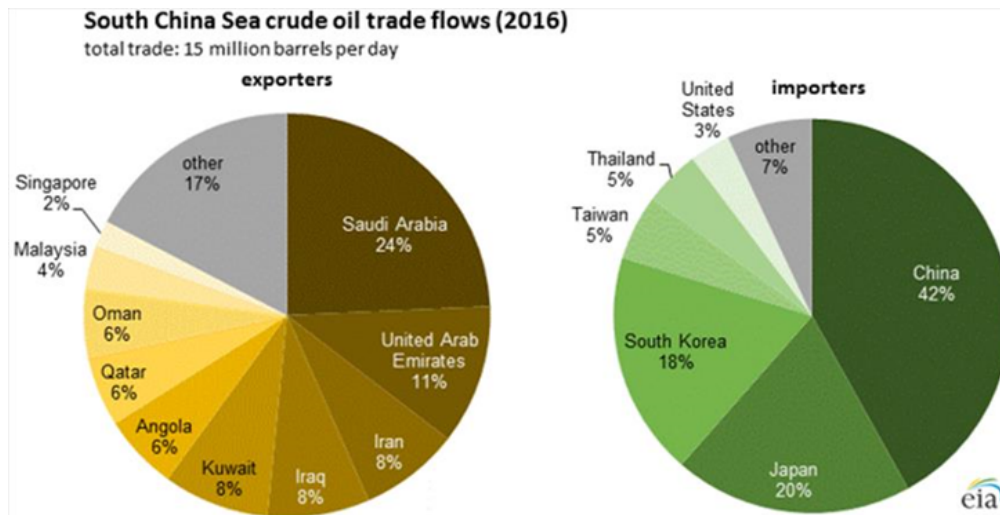
A tribunal has already ruled that China has violated UNCLOS's environmental obligations through its island building efforts. Experts have warned that complete control of South China Sea fisheries by China under the nine-dash line would destroy the fishing industry in the region, as well as the livelihood of millions.

3. Trade

According to most estimates, around \$5 Billion worth of trade passes through the South China Sea every year, although some research has shown a significantly lower figure of closer to \$3.5 Billion. 1/3rd of all global trade passes through the South China Sea, making it one of the most important trade routes in the world. Most trade passing through the South China Sea is to or from China, with South Korea and Singapore constituting other major players in the region.

While there are several major transit routes or sea lines of communication (SLOC) that offer entry into the South China Sea – the Sunda Strait and the Lombok Strait among them – the Strait of Malacca is by far the most widely used. It is the shortest and therefore most economical passageway between the Pacific and Indian Oceans. There are a variety of scenarios that could disrupt shipping traffic and endanger commercial vessels passing through the Strait of Malacca. A short-term peacetime disruption would force vessels to either wait until access is reestablished or consider using an alternate route, while a long-term disruption could have far-reaching consequences for the trillions of dollars of goods that transit the South China Sea each year.

The South China Sea is a major trade route for crude oil, and in 2016, more than 30% of global maritime crude oil trade, or about 15 million barrels per day (b/d), passed through the South China Sea.



As China wishes to expand its trade with the rest of the world through One Belt One Road, the Strait of Malacca and by extension the South China Sea and its resources play a significant role in its geopolitical and economic future. Escalation of the conflict will only serve to hurt all nations in the region but would be specifically harmful to nations dependent on International Markets such as Taiwan.

South China Sea Conflict Timeline:

- 1. 1947: China makes claims on the South China Sea:** During the era of the nationalist Kuomintang party, China delineated its territorial assertions in the South China Sea using an eleven-dash line on a map. This claim encompassed a significant portion of the region, including the Pratas Islands, the Macclesfield Bank, and the Parcel and Spratly Islands, territories that China regained from Japan post-World War II. In 1949, Communist leader Mao Zedong announced the establishment of the People's Republic of China (PRC). By 1953, the Chinese Communist Party (CCP)-led government altered the demarcation, excluding the Gulf of Tonkin and simplifying the boundary to nine dashes. Presently, China upholds the historical foundation of the nine-dash line as the basis for its territorial contentions in the South China Sea.
- 2. 1951: Treaty of San Francisco:** The Treaty of Peace, signed in San Francisco by the United States and 47 other nations, formally concludes World War II. Japan relinquishes its claims to Korea, Formosa (Taiwan), the Pescadores, and the Spratly Islands in the South China Sea. While the treaty doesn't explicitly mention the Senkaku/Diaoyu Islands, there is an implied understanding that Japan will administer them as part of Okinawa Prefecture. Japan is granted "residual sovereignty" over the Ryukyu Islands, with full sovereignty eventually transferring to Japan. In exchange, the United States is allowed to establish military bases on Okinawa. The question of

whether the Senkaku/Diaoyu Islands were considered part of Okinawa or ceded to Taiwan after the treaty remains a contentious issue in the ongoing sovereignty debate in the East China Sea.

3. **1960: US-Japan Security Treaty:** The United States and Japan sign the Treaty of Mutual Cooperation and Security, a renewable ten-year agreement. It states that an attack on territories under Japan's administration would necessitate joint action by both countries to address the shared threat. The treaty, similar to a 1951 pact with the Philippines, is consistently interpreted by the U.S. to include the Senkaku/Diaoyu Islands. However, the U.S. has not explicitly endorsed Japan's sovereignty claim over the islands. Many analysts view the U.S.-Japan treaty as a significant deterrent to any attempt to forcefully take over the islands.
4. **1969: UN finds high probability of oil in the east China Sea:** Following thorough geological surveys conducted in 1968 and 1969, a report from the UN Economic Commission for Asia and the Far East identifies "significant energy deposits" in the seabed between Taiwan and Japan, specifically in the waters near the Senkaku/Diaoyu Islands. This report, one of the earliest credible findings of hydrocarbon resources in the area, sparks renewed interest in the region. While China had not previously challenged Japan's claims to the islands, it asserted its own sovereignty over them in May 1970, notably after Japan, South Korea, and Taiwan discussed joint energy exploration in the East China Sea.
5. **1972: Japan and China normalise relations:** China and Japan officially restore diplomatic relations, marking the culmination of a gradual rebuilding of economic ties. China's reconsideration of domestic policies and a turn to Japan for assistance follow the failure of Mao's Great Leap Forward (1958–1962) and the subsequent mass starvation during the Cultural Revolution. The reconciliation between China and Japan aligns with the broader warming of relations between the United States and China. This shift in political allegiance from Taipei to Beijing plays a crucial role in the establishment of diplomatic ties between Japan and China. In the same year, Nixon, prioritising the normalisation of relations with the People's Republic of China (PRC), visited Beijing, establishing de facto relations following U.S. Secretary of State Henry Kissinger's visit in July 1971. The normalisation leads to a surge in trade between Japan and China, contributing to the de-escalation of the initial Senkaku/Diaoyu Islands disputes.
6. **1976: Philippines discovers oil fields:** Following an extensive exploration effort, the Philippines discovers the Nido oil field near Palawan Island, marking the first oil find in the Northwest Palawan Basin. This discovery occurs four years after the government passed the Oil Exploration and Development Act of 1972, establishing the legal framework for exploring and developing petroleum resources as part of Manila's push for energy independence. The Philippines' inaugural oil company, Philippine Cities Service, Inc., commences drilling in the Nido oil field and achieves

commercial production in 1979, yielding 8.8 million barrels that year. In 2012, the IMF observed that the Philippines' petroleum industry holds "significant potential" in the South China Sea, adjacent to the Northwest Palawan Basin.

7. **1979: Sino-Vietnamese War:** China engages in a brief yet intense war with Vietnam, responding to Vietnam's invasion and control of Cambodia in 1978, which brought an end to the rule of the communist Khmer Rouge, supported by China. This conflict represents the peak of tensions between Beijing and Hanoi, escalated by Vietnam establishing ties with the Soviet Union, a Cold War adversary of China, the previous November. Despite China assisting Vietnam in previous wars against France and the United States, the conflict ends with both sides claiming victory. However, China withdrew from Vietnam in less than a month, unable to force Vietnam to exit Cambodia. The short-lived conflict results in approximately thirty thousand casualties and initiates a series of border disputes between Beijing and Hanoi, reinforcing Vietnam's enduring distrust of China.
8. **1982: UNCLOS is formed:** After thirty years of negotiations, the third and final United Nations Conference on the Law of the Sea (UNCLOS) concludes with a resolution that outlines the rights and responsibilities of nations regarding the use of surrounding waters, focusing on exclusive economic zones and continental shelves. The resolution became effective on November 14, 1994, a year after Guyana became the sixtieth nation to sign the treaty. UNCLOS, however, does not address sovereignty issues in the South and East China Seas. Its ambiguous wording has hindered its effectiveness in serving as a credible legal framework for resolving territorial disputes. Although the United States acknowledges UNCLOS as customary international law, it has not yet ratified the treaty. Ratification would provide Washington with a stronger platform to advance its economic and strategic interests.
9. **1992: China passes law on territorial sea:** China enacts the Law on the Territorial Sea and the Contiguous Zone, asserting its claim over the entire South China Sea based on historical rights dating back to the Xia dynasty, which ruled from the twenty-first to the sixteenth centuries BCE. This law uses more expansive methods of territorial determination, which may not necessarily align with or be recognized by UNCLOS, signed a decade earlier. Some view this move as China's attempt to enhance its maritime security. Notably, during the UNCLOS negotiations, Beijing was one of the most active countries opposing the United States and Soviet Union's efforts to secure freedom of navigation for warships.
10. **1998: US-China Military Agreement:** China and the United States sign the Military Maritime Consultative Agreement, marking the first military agreement between them. This agreement is a confidence-building measure following a period of strained relations after the 1989 Tiananmen Square protests. In the mid-to-late 1990s, the Clinton administration focused on engaging with China on security matters as China's People's Liberation Army Navy (PLAN) transitioned to operating a blue-water fleet

beyond its coastal waters. The goal of the agreement is to encourage defence dialogue between naval forces and prevent misunderstandings. However, its effectiveness was questioned in April 2001 when a Chinese F-8 interceptor collided with a U.S. Navy surveillance aircraft over the South China Sea, resulting in the death of a Chinese pilot.

11. **2002: ASEAN-China Declaration on the Conduct of Parties in the South China Sea:** China and the ten ASEAN states reach an agreement in Phnom Penh on the ASEAN-China Declaration on the Conduct of Parties in the South China Sea. This code of conduct aims to reduce tensions and provides guidelines for resolving conflicts. The agreement follows six years of negotiations. China, which had initially insisted on one-on-one talks with claimants, now accepts a multilateral approach for the first time. While the declaration doesn't become a binding code of conduct, as the Philippines had wanted, it indicates China's acknowledgment that such an agreement could be beneficial by lowering the risk of conflict in the region, potentially involving the United States in the dispute.
12. **2008: China-Japan- Joint Energy Accord:** After a prolonged dispute over gas fields in the East China Sea, Japan and China sign a Joint Energy Development Agreement. This includes the potentially gas-rich Chunxiao/Shirakaba field. Both nations agree to jointly explore four fields, pause development in contested waters, and collaborate on surveys and investments. While initially seen as a significant step for maritime cooperation on energy resources, China independently started developing the Tianwaitian/Kashi field in 2009, causing Japan to protest. A year later, Japan threatened to take China to the International Tribunal for the Law of the Sea if China began production from the Chunxiao/Shirakaba field. Despite the agreement, there has been limited progress in increasing joint resource development since then.
13. **2009: Malaysia, Vietnam submit UN Claims:** Malaysia and Vietnam jointly submit a request to the UN Commission on the Limits of the Continental Shelf to extend their continental shelves beyond the standard two hundred nautical miles from their coastlines. This action renews tensions over maritime sovereignty in the South China Sea. China perceives this as a challenge to its territorial claims and opposes the submission, stating that it violates China's "indisputable sovereignty" over the islands in the South China Sea. Vietnam's claims are seen as part of an effort to bring the South China Sea issue to an international forum, starting with a conference in November 2009 in Hanoi.
14. **2011: New US Strategy towards South China Sea:** U.S. President Barack Obama delivers a significant speech to the Australian parliament, revealing a shift in strategic focus towards the Asia-Pacific, specifically the southern part. The Obama administration plans to deploy more troops and equipment to Australia and Singapore, assuring that defence spending cuts won't compromise commitments to the region. Ongoing negotiations on the Trans-Pacific Partnership (TPP), a vital free trade

agreement for increased U.S. economic ties in the Asia-Pacific, are announced. Notably, China is not included in the talks.

International Approaches to Solving Maritime Disputes

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

The United Nations Convention on the Law of the Sea (UNCLOS) went into force on November 14th, 1994, after the minimum threshold of sixty nations signed the treaty. It supposedly establishes the guidelines that nations are supposed to follow when in use of the world's oceans. It is also generally considered the primary means for making legitimate maritime territorial claims, and resolving competing maritime territorial disputes. Through each claimant state involved in these territorial disputes is party to UNCLOS, there remains disagreement over the correct interpretations of its provisions since many of them are insufficiently clear. Furthermore, UNCLOS, as a governing document, has several shortcomings. The first is that the United States, the world's largest naval power, is not party to the treaty. While the United States signed the Convention in 1984, it has yet to ratify the treaty. Many argue that having the United States ratify UNCLOS would give it greater legitimacy. Another concern is that UNCLOS does not have sufficient mechanisms for enforcement, since it mainly relies on individual nations to comply with its rules. Naturally, this presents several difficulties when nations make opposing claims to the same territory, either using their own interpretation of UNCLOS or disregarding it altogether, as China did when making its claim to the Scarborough Shoal. Another problem with UNCLOS is how nations interpret the definitions of certain terms that determine the amount of territory that can be claimed. Under UNCLOS, nations can claim up to 12 nautical miles of territorial waters around uninhabitable rocks and shoals, but a 200 mile exclusive economic zone around islands that can support "permanent habitation". Many view this provision as exacerbating the competition between nations to turn uninhabitable rocks and shoals into artificially-built islands.

The Association of Southeastern Asian Nations (ASEAN)

The Association of Southeastern Asian Nations (ASEAN) is a regional body that seeks to foster economic, political, and security cooperation among its members. The member nations of ASEAN include Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. Some experts see ASEAN as a potential counterbalance to China's strong influence and power in the region. Indeed, one of the Association's most difficult tasks is to address China's increasingly aggressive actions in the South China Sea. There have been times where ASEAN and China have tried to negotiate a solution to the territorial disputes in the South China Sea. Most recently, in August 2017, ASEAN and China adopted an outline for a code of conduct in the South China Sea, which builds off of the largely-ignored 2002 Declaration of Conduct of Parties in the South China Sea. However, many critics see the move as nothing more than a symbolic gesture, because the framework is neither legally-binding nor enforceable. It also lacks an official venue through which aggrieved parties can resolve disputes, and only "urges commitment" to UNCLOS, instead of

requiring adherence to it. Given the lack of substance in the proposed framework, some critics view the negotiations as nothing more than means for China to buy more time to solidify its control in the South China Sea through the construction of more artificial islands, airstrips, and military bases.

Questions A Resolution Must Address (QARMA):

1. How does each member state benefit from claiming their rights in the South China Sea region?
2. Do you believe the nine-dash line must be revised? If yes, then on what basis should it be revised?
3. What are the implications of the discovery of oil fields in the South China Sea region?
4. Following the ineffectiveness of multilateral agreements such as the ASEAN-China Declaration on the Conduct of Parties in the South China Sea, how do you propose collective action be taken for the resolution of the agenda?
5. How can a future armed conflict between China and the ASEAN countries be prevented? If not, prepare a contingency plan.
6. How and why are the historical underpinnings of the South China Sea dispute relevant to future actions?
7. What additional factors (apart from energy, trade and political considerations) play a major role in the disputed area?
8. What are the factors that restrict the issue to be resolved? Consider past resolutions and their successes and failures when answering this question?
9. Do you think that there is a possibility for rival claimant nations to adopt “joint sovereignty” over a disputed territory and its natural resource reserves? If so, what would be the method for determining this?

Suggestions for further research:

1. https://www.un.org/depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/nguyen_0506_vietnam.pdf
2. IMF Report on Philippines' oil discovery:
<https://www.imf.org/external/pubs/ft/scr/2012/cr12219.pdf>
3. 1992 China's Territorial Sea Law:
<https://www.jstor.org/stable/761006?typeAccessWorkflow=login>
4. ASEAN-China Declaration on the Conduct of Parties in the South China Sea:
<https://cil.nus.edu.sg/wp-content/uploads/2017/07/2002-Declaration-on-the-Conduct-of-Parties-in-the-South-China-Sea.pdf>
5. Joint submission of Vietnam and Malaysia to UN:
https://www.un.org/Depts/los/cles_new/submissions_files/submission_mysvnm_33_2009.htm

6. Trans-Pacific Partnership:
<https://www.cfr.org/backgrounder/what-trans-pacific-partnership-tpp>
7. Remarks by then US President Obama on South China Sea conflict:
<https://obamawhitehouse.archives.gov/the-press-office/2011/11/17/remarks-president-obama-australian-parliament>
8. Full timeline: <https://www.cfr.org/timeline/chinas-maritime-disputes>
9. USA Military Advancement:
<https://www.reuters.com/world/china/chinas-military-says-us-warship-illegally-enters-waters-south-china-sea-2023-03-23/>
10. Oil Trade Flows in the South China Sea
<https://www.eia.gov/todayinenergy/detail.php?id=36952#>
11. Territorial Dispute in the South China Sea:
<http://www.jstor.org/stable/26271078>
12. Risk of Miscalculation:
<https://www.theguardian.com/world/2023/sep/29/risk-of-miscalculation-rises-in-south-china-sea-as-beijing-ramps-up-aggressive-tactics>
13. Memorandum of Understanding between China and the Philippines
https://www.fmprc.gov.cn/mfa_eng/wjdt_665385/2649_665393/201811/t20181127_679548.html
14. UNCLOS Part V: Exclusive Economic Zones
https://www.un.org/depts/los/convention_agreements/texts/unclos/part5.htm
15. ASEAN-China Free Trade Agreement (Full Text)
https://asean.org/wp-content/uploads/2021/08/Framework-Agreement-on-Comprehensive-Economic-Co-Operation_ASEAN-Rep-of-China.pdf
16. Ruling (Permanent Court of Arbitration) China vs the Philippines
<https://web.archive.org/web/20190129031833/https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf>