The South China Sea, one of the world’s most important and contentious bodies of water, constitutes a complex geopolitical space. It is frequently subject to misunderstandings and, in some cases, propaganda. The purpose of this Perspective is to provide essential background and context to the South China Sea dispute (which is, in reality, a series of disputes) from a political geography standpoint—that is, from the perspective of littoral states, or states that border a water feature, and their respective territorial claims over South China Sea spaces (Agnew et al., 2015, p. 4). Specifically, this primer will focus on the South China Sea’s physical geography and the origins and development of littoral states’ respective claims to portions of the South China Sea, including islands, rocks, and low-tide elevations.
The PRC’s Current Position on the South China Sea

The People’s Republic of China (PRC) is the largest and most active party in the South China Sea disputes. It maintains that it is entitled to the Paracel Islands and much of the Spratly Islands owing to its so-called nine-dashed line, and it ultimately seeks, as the Massachusetts Institute of Technology’s M. Taylor Fravel has argued, “to secure a maritime frontier. . . . Control of the islands is key to the assertion of maritime rights, the security of sea lines of communication, and regional naval power projection” (Fravel, 2008, p. 267). Fravel has argued that the PRC primarily uses delaying tactics when dealing with neighboring states over features of the South China Sea. The PRC has become involved in violent clashes only twice—in 1974 and 1988—and has proven to be very successful in avoiding sovereignty debates in bilateral or multilateral discussions (Fravel, 2008, pp. 268–269). Through this delaying approach, the PRC has bought substantial time for itself to develop those features it does control to strengthen its claims to the Paracels and Spratlys (p. 270). It escalates tensions only when it fears its own claims are weak or weakening relative to those of neighboring states (p. 272). The PRC, therefore, is interested in delaying negotiations on a code of conduct with the Association of Southeast Asian Nations (ASEAN) for as long as possible to consolidate its South China Sea holdings and bolster its position.

To secure its claims, the PRC has extensively developed at least four of its claimed South China Sea features—Mischief Reef, Fiery Cross Reef, and Subi Reef in the Spratlys and Woody Island in the Paracels. These four features have been greatly enlarged through dredging and have been heavily militarized. They now possess “anti-ship and anti-aircraft missile systems, laser and jamming equipment[,] and fighter jets” (“China Has Fully Militarized Three Islands in South China Sea, US Admiral Says,” 2022). According to one account, this equipment specifically includes “72 fighter jet hangars” on the three Spratly features and 16 fighter jet hangars on “Woody Island in the Paracels” (Poling, 2020). The PRC has not yet permanently based fighter aircraft on these features, but it “rotates J-11 fighters frequently through Woody. Assuming it was the first mover in a conflict, it would be able to deploy combat aircraft to the airfields in the Spratlys, instantly establishing air dominance in the theater” (Poling, 2020). According to another account, the PRC has landed H-6K bombers on Woody Island (Grossman, 2020, p. 7). It has installed “YJ-12 and YJ-62 anti-ship cruise missiles” in both archipelagos, “backed by longer-range missile capabilities

### Abbreviations

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<tr>
<td>A2/AD</td>
<td>anti-access/area-denial</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>CIA</td>
<td>Central Intelligence Agency</td>
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<td>EEZ</td>
<td>exclusive economic zone</td>
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<td>HYSY</td>
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<td>nm</td>
<td>nautical mile</td>
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<td>PCA</td>
<td>Permanent Court of Arbitration</td>
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<td>PLAN</td>
<td>People’s Liberation Army Navy</td>
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<td>PRC</td>
<td>People’s Republic of China</td>
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<td>ROC</td>
<td>Republic of China (Taiwan)</td>
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<td>UNCLCS</td>
<td>United Nations Commission on the Limits of the Continental Shelf</td>
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from the mainland” (Poling, 2020). Yet another account documents hardened missile shelters, “large underground structures” for ammunition storage, high-frequency arrays, electromagnetic transceiver domes, and Y-8 transport aircraft (Center for Strategic and International Studies, 2017).

The PRC supports the militarization of these features with the world’s largest navy and coast guard (Shelbourne, 2021). It recently finished initial construction of its third—and first indigenously designed and produced—aircraft supercarrier, the Fujian (Kuo and Cadell, 2022). At 80,000 tons fully loaded, the Fujian is somewhat smaller than a U.S. Nimitz-class supercarrier (Rising and Moritsugu, 2022). The PRC Coast Guard possesses at least 130 “large patrol ships (each displacing more than 1,000 tons), making it ‘by far the largest coast guard force in the world’” (Brimelow, 2021).

In addition, the PRC possesses the world’s largest long-distance fishing fleet—more than 17,000 boats by one estimate (Yap, 2021). According to the Wall Street Journal, these vessels, which average “almost 200 feet long,” have been caught illegally fishing as far away as South America (Yap, 2021). In the South China Sea, this fishing fleet has at least two purposes. First, it is used as a show of force to deter rival fleets. Second, many of these vessels operate as proxies for the People’s Liberation Army Navy (PLAN) and the PRC Coast Guard, serving as dual-use military-civilian assets that monitor neighboring states’ activities (Pala, 2020). As is discussed later, Vietnam has responded in kind, developing the second largest military force in the region and creating a navy and a coast guard force capable of “swarming” an adversary’s vessels in the event of a South China Sea clash.

The Physical Geography of the South China Sea

As mentioned earlier, the South China Sea is one of the world’s most important bodies of water. In 2019, it held an estimated 12 percent of the world’s total fish catch (Rabbani, 2019, p. 70). Approximately one-third of all global maritime trade, totaling an estimated $3.37 trillion in 2016 (Center for Preventive Action, 2021), passes through the Strait of Malacca and the South China Sea (Yergin, 2020). In 2017, 40 percent of the world’s liquified natural gas passed through the South China Sea. The U.S. Energy Information Administration estimates that there are 11 billion barrels of oil and 190 trillion cubic feet of natural gas beneath the South China Sea but cautions that “it is unclear how economically feasible it would be to extract them” (U.S. Energy Information Administration, 2019). China transports the most goods through the South China Sea, followed by South Korea, Singapore, Thailand, Vietnam, and Japan (China Power, 2021). Eight littoral states border the South China Sea: the PRC; the Republic of China (ROC), or Taiwan; the Socialist Republic of Vietnam; the Republic of the Philippines; Malaysia; the Sultanate of Brunei Darussalam; the Republic of Singapore; and the Republic of Indonesia (Figure 1.1).

The South China Sea is a large marginal sea (Karig, 1971; Zhou, 2016) approximately 1.4 million square miles (3.6 million square kilometers) in size (Austin, 2020). It is home to more than 250 land features that are collectively organized into six major groups: the Paracel Islands, the Spratly Islands, the Pratas Islands, Scarborough Shoal, Macclesfield Bank, and the Natuna Islands (Lowy Institute,
The Natuna Islands are entirely under Indonesian control and not under dispute.

The Paracel Islands comprise an estimated 130 features. Their total land area, according to the Central Intelligence Agency (CIA), is approximately 13 times the total land area of the National Mall in Washington, D.C. (CIA, 2021a). Their highest point, on Rocky Island, is 14 meters above sea level, roughly the same as Mumbai, India (Chatterjee, 2016; CIA, 2021a). The Paracels are located roughly 115–150 miles from the Vietnamese coastline and the PRC’s Hainan Island. They are subdivided into two clusters: the Amphitrite group and the Crescent group. The Amphitrite group includes West Sand, Tree Island, Middle Island, South Island, South Sand, and Woody Island. The Crescent group includes Pattle Island, Money Island, Robert Island, Drummond Island, Duncan Island, Vuladore Reef, Discovery Reef, and Passu Key Reef. The Paracels also include Triton Island to the southwest and North Reef to the southeast (Tønnesson, 2002a). Woody Island is home to approximately 1,000 Chinese nationals, whose civilian or military status is unknown (CIA, 2021a).

The Spratly Islands comprise more than 100 features spread over 158,000 square miles (410,000 kilometers) of the South China Sea (Figure 1.2). Their total land area is approximately seven times that of the National Mall (CIA, 2021b). Their highest point, on Southwest Cay, is only 6 meters above sea level (CIA, 2021b). The Spratly Island Chain curves along the South China Sea’s southern rim, and a few of the islands are within the exclusive economic zones (EEZs) of Brunei, Malaysia, and the Philippines (Dossani and Harold, 2016, p. 6). Unlike some of the Paracel Islands, almost none of the Spratly Islands are thought to be able to naturally “support habitation” without human alteration—meaning, legally, that they may be rocks or low-tide elevations rather than proper islands in international law. The ROC controls the largest feature in the Spratlys, Itu Aba (Taiping), one of the few Spratly Islands that are potentially able to naturally support human life
FIGURE 1.2
The Spratly Islands

NOTES: Red triangles represent the PRC, orange stars represent Malaysia, green diamonds represent the Philippines, blue circles represent the ROC, and purple squares represent Vietnam.
The Spratly Islands do not have a non-military permanent population (CIA, 2021b; Dossani and Harold, 2016). The Pratas Islands, also under ROC control, comprise the wedge-shaped Pratas Island itself and two largely submerged coral reefs some 140 miles southwest of Hong Kong in the northeastern South China Sea (Lin, 1997, p. 333; Rowan, 2005, p. 423). The Pratas Islands also do not have a non-military permanent population.

Scarborough Shoal is a “small, high-tide elevation about 140 miles west of the Philippines” on the northeast edge of the sprawling Spratly Islands (Morris, 2019, p. 2). It is triangle shaped and is considered a rock feature, not an island (Panda, 2017). Like much of the Spratlys, Scarborough Shoal is known for its substantive fishing grounds (Trajano, 2019, p. 12). The PRC controls Scarborough Shoal.

Macclesfield Bank is an expansive underwater reef east of the Paracel Islands and north of the Spratly Islands. It is considered one of the world’s largest underwater submerged atolls and has an area of approximately 9,073 square miles (23,500 square kilometers) (Huang et al., 2020, p. 3). Macclesfield Bank has no permanent population.

Who Controls What?


The Historical Political Geography of the South China Sea Dispute

The South China Sea dispute is a relatively recent phenomenon. The mapping and demarcation of South China Sea features only began in the latter half of the 19th century, and no country laid a serious claim to any of the features until the early 20th century (Tonnesson, 2002b, p. 571). Indigenous and European societies alike conceived of the South China Sea as a sea of communication and trade, not claimancy. This section discusses the historical development of the political geography of the South China Sea.
dispute, with a special emphasis on the development of the United Nations Convention on the Law of the Sea (UNCLOS) III.

Indigenous and European societies alike conceived of the South China Sea as a sea of communication and trade, not claimancy.

The South China Sea Becomes Contentious

Indigenous Asian, African, and Arab “maritime trading societies” plied the South China Sea in the centuries before the arrival of the European empires (Ward, 2012, p. 344). These early societies laid no claim to the features of the South China Sea; it principally “serve[d] as a means of communication” (Anh, 2015, p. 15; Tønnesson, 2002b, p. 572). European involvement began with the Portuguese takeover of Malacca in 1511 (Hayton, 2014, pp. 31–32). Neither the Europeans nor indigenous traders, however, laid a formal claim to features of the South China Sea. Qing Dynasty–produced maps from 1760, 1784, 1866, and 1897 showed China’s South China Sea border at Hainan Island; no powers made maritime claims to substantive portions of the South China Sea or its features (Hayton, 2014, p. 52).

From the 1890s through the 1910s, the weakening Qing Dynasty suffered a series of geopolitical setbacks, such as the Treaty of Shimonoseki (1895), through which China lost considerable land to Japan, and the Boxer Rebellion (1899–1901), when Chinese uprisers were suppressed by Western powers. Widespread sentiments of “national humiliation” motivated Qing Dynasty officials and private citizens to consider defining the country’s national borders more firmly than in the past (Hayton, 2014, p. 50). In March 1909, as journalist Bill Hayton has argued, the Qing Dynasty “decided to turn the sovereignty of islands in the South China Sea into a question of national pride for the first time” (Hayton, 2014, pp. 50–51; Hayton, 2019).

That same month, the Qing government sent a ship to Pratas Island to claim it for China, only to find approximately 100 Japanese workers there mining guano. China offered to buy Pratas Island for 130,000 silver dollars and an agreement to take over the guano operation. But the deal fell through when Chinese officials determined that the guano operation was uneconomical. They subsequently left the island (Hayton, 2014). Meanwhile, Japan continued its imperial expansion, emboldened by the now Japanese-accepted Western principles of “freedom of the oceans” and “recognition of the three nautical mile territorial limit” (Granados, 2008, pp. 118–119).

In May 1909, Yen Jun Zhang, the governor of Guangdong, dispatched a small naval force to secure the Paracel Islands, despite the fact that the most recent official Chinese-produced map (produced in 1897) still showed Hainan Island as the country’s southern boundary. It is unknown whether this force left any marker or even landed (Bonnet, 2012, p. 12). On the force’s return, Zhang published a new map incorporating the Paracel Islands (Hayton, 2014, p. 52). This map constituted a Chinese offi-
cial’s first demonstrated cartographic claim to South China Sea features (Hayton, 2017, p. 236).

Republicans overthrew the Qing Dynasty in 1911 and proclaimed the ROC in January 1912 (Yu, 1991, p. 895). Neither the new republic nor any other littoral states or European powers made any effort to formally claim any South China Sea features by landing, planting flags, or otherwise establishing physical footholds. Nevertheless, in April 1914, Hu Jinjie, a private citizen, published the unofficial New Geographical Atlas of the Republic of China, which included Pratas Island and the Paracel Islands (Hayton, 2014, pp. 52–53; Heydarian, 2015). Official and private Chinese maps gradually subscribed to Hu’s border in the 1920s and early 1930s (Zou, 2015, p. 633). However, as Keyuan Zou of the Institute for China-America Studies has argued, no historical reasoning was provided for “why the line should have been drawn like this and for what purpose” (Zou, 2016, p. 220).

French concerns over Spratly Island, one of the closest of the Spratlys to what is now Vietnam, grew in 1927 following Japanese inquiries as to France’s interest in the island (Tønnesson, 2006, p. 4). In April 1930, the French formally landed on Spratly Island in response to rumors that the Japanese were about to seize it (Hayton, 2014, pp. 53–54). But they did not formally annex it, along with nearby Amboyna Cay, Itu Aba, North Danger Reef, Loaita, and Thitu, until 1932 (Hayton, 2014, pp. 53–54). Both the Chinese and Japanese governments protested the move but did not take any action to reclaim the features (Hayton, 2014, p. 54). Hayton has argued that this is because the ROC government considered the Paracel Islands, not the Spratly Islands, to be China’s southernmost boundary. He cites a declassified September 1933 ROC report arguing that “all our professional geographers say that Triton Island [in the Paracels] is the southernmost island of our territory” (Hayton, 2014, p. 54; see also Granados, 2005, p. 444).

The Chinese decision not to take action against the French does not mean that the Chinese accepted French control of the Spratlys. In 1934, another private citizen, Chen Duo, published his Newly Made Chinese Atlas, which laid claim to the Spratly Islands (Hayton, 2014, p. 55; Zou, 1999, p. 32). Duo’s map potentially “influenced” China’s Review Committee for Land and Water Maps, which published a list of the Spratly and Paracel islands—but not the waters—that China claimed, albeit without boundary lines (Hayton, 2014, p. 55; Zou, 1999, p. 33). In 1936, private citizen Bai Meichu published the New China Construction Map, incorporating these new claims and establishing a U-shaped dashed line down to 4° north latitude (Dolven, Lawrence, and O’Rourke, 2021, p. 1). This map constitutes the first known instance of China’s nine-dashed or U-shaped line around the South China Sea islands (Hayton, 2014, p. 56; Wang, 2015, p. 504; Zou, 1999, p. 33). The ROC government would not officially internally adopt the U-shaped line claim until 1947 and would not publish it for Chinese audiences until 1948 (Chung, 2016, p. 50). It was agreed within the ROC government, however, that it would “negotiate precise maritime boundaries with other countries at a later date and according to the international laws in operation” (Hayton, 2014, p. 59).

The Japanese empire’s rapid expansion in East and Southeast Asia in the late 1930s temporarily halted the emerging South China Sea disputes. It was not until a year after the Second World War ended that regional countries and imperial powers returned to the subject. Soon after
gaining independence from the United States in July 1946, the Philippines declared the Spratly Islands part of the Philippines (Hayton, 2014, p. 58). In response, the French asserted their claim to the Spratlys (Hayton, 2014, p. 58). In 1947, the ROC government ordered its navy to lay its own claim to the islands. The navy landed forces on Itu Aba. The ROC government drew up plans to “garrison” its forces throughout the Spratly and Paracel islands, but the Communist victory in the Chinese Civil War and the ROC’s retreat to Taiwan shelved those plans for the time being (Chung, 2016, p. 44).

France responded by installing a small garrison at Pattle Island in the Paracel Islands (Fravel, 2007–2008, p. 73). The weakened ROC temporarily retreated from Itu Aba in 1950. At the 1951 San Francisco Peace Conference, Japan relinquished all claims to the South China Sea islands (Cohen, 1957, p. 17). The PRC and the ROC, neither of whom participated in the conference, made respective claims to the South China Sea features, but Western states ignored these claims and did not assign the features to any country (Chung, 2016, p. 57). Historian Stein Tønnesson of Peace Research Institute Oslo has argued that both Western fears of a Communist presence in the South China Sea and competing but weak French and British claims—the latter stemming from a supposed 1877 planting of British flags on Spratly Island and Amboyna Cay—resulted in the sovereignty of the Spratly and Paracel groups deliberately being left “ambiguous” (Tønnesson, 2006, pp. 41–42; see also Bouchat, 2013, p. 25; and Marlay, 1997, p. 201).

In 1955, the PRC introduced forces on Woody Island in the Paracels to secure it in order to mine guano (Hayton, 2014, p. 64). In response, the newly independent Vietnamese government moved to assume control of the Crescent group while the PRC maintained its presence in the Amphitrite group (Fravel, 2007–2008, p. 74). Neither side possessed sufficient naval power to dislodge the other side, so the maritime border in the Paracels remained undefined (Fravel, 2007–2008, p. 74). Meanwhile, in 1956, the ROC returned to Itu Aba and Pratas Island (Chung, 2016, p. 61; Katchen, 1977, p. 1179). On September 4, 1958, the PRC issued a declaration claiming the South China Sea features within the nine-dashed line, although it did not explicitly
include the nine-dashed line, simply claiming the features (PRC, 1958; Thomson, 2004, p. 8).

From the late 1950s to the early 1970s, the South China Sea dispute was overshadowed by other regional concerns as Vietnam plunged into civil war and PRC Chairman Mao Zedong undertook his Cultural Revolution (Koo, 2010, p. 141; Wang, 2015, p. 507). In 1970, however, the Philippine government began exploring for oil near Palawan Island, its westernmost major island on the southeastern border of the South China Sea (Hayton, 2014, p. 69). In 1971, it seized Thitu, Nanshan, and Flat. In 1976, it discovered the Nido Oil Field off Palawan. And in 1979, the first year of oil production, it extracted 8.5 million barrels, although reserves soon declined (Center for Preventive Action, 2021; APEC-GEMEED Minerals and Energy Exploration and Development Expert Group, undated).

The 1974 Dispute

The potential of maritime oil reserves soon motivated other regional countries to make claims. In 1973, the South Vietnamese government issued petroleum exploration concessions. It followed these awards with the seizure of Spratly Island and nine other nearby features (Fravel, 2008, p. 278). This action resulted in diplomatic protests from the ROC and the Philippines, which South Vietnam ignored. The PRC, which was then consumed with balancing its complex relationships with Communist North Vietnam, the Soviet Union, and the United States, decided not to respond for the time being (Hayton, 2014, p. 71).

Shortly after the resumption of conflict between North and South Vietnam in January 1974, the PRC again claimed the Paracel Islands (Hayton, 2014, p. 72). This time, it put its claim into action, clashing with the South Vietnamese Navy in the Crescent group. Technically speaking, the PLAN was outgunned, at least tonnage-wise. The PLAN possessed six naval ships totaling 2,400 tons, whereas the South Vietnamese possessed four ships equaling 8,000 tons (Fravel, 2008, p. 282). Nevertheless, the PLAN was better prepared. It sank one South Vietnamese naval vessel and severely damaged three others. Forty-eight Vietnamese and 18 Chinese were killed in the clash, and another 47 Vietnamese and one American adviser were captured (Bouchat, 2014, p. 15). The PRC moved quickly to take control of all of the Paracel Islands. The PRC also declared that it controlled “the resources of these islands and their adjacent seas” (Chung, 2016, p. 58). As University of Toronto historian Chris Chung has argued, “This statement did not clarify the geographic extent or rights of these ‘adjacent’ waters” (Chung, 2016, p. 58). Chinese-Vietnamese relations continued to deteriorate in the 1970s as the PRC increasingly sought to “punish Vietnam” for its supposed “ingratitude” (Path, 2012, pp. 1041, 1045).

During the 1979 Chinese-Vietnamese war, the PRC further militarized the Paracel Islands and argued, among other points, that Vietnam’s claim over and partial control of the Spratly Islands had catalyzed the war (Donnell, 1980, p. 22; Elleman, 2018, p. 18; Gompert, Binnendijk, and Lin, 2014, p. 119).

Despite the PRC’s gains in the Paracels, it is important to note that Vietnam would remain, alongside the PRC, the most important claimant state in the South China Sea disputes. Vietnam’s South China Sea policy, according to the International Crisis Group, rests on three key points. First, Vietnam argues that “it has sufficient historical evidence and legal foundation to prove its sovereignty over the
Vietnam, like several other states, has used dredging to expand its features into artificial islands, some with military installations. Today, Vietnam boasts the second largest military force in the South China Sea region.

Paracels and the Spratlys as well as its rights to its EEZ and continental shelf in the Sea” (International Crisis Group, 2021). Second, it is against the “use of force” to solve South China Sea disputes (International Crisis Group, 2021). Third, Vietnam would “work with other parties to manage the dispute and preserve regional stability” (International Crisis Group, 2021). It has had to follow a strategy of “cooperating and struggling”—cooperating with the PRC and other claimant states “to reduce tensions” while struggling with them “to protect its core interests in the Sea” (International Crisis Group, 2021).

That being said, since losing the Paracels, Vietnam has conducted an aggressive campaign to control the largest number of Spratly features, including South Reef, Petley Reef, Sand Cay, Namyit Island, Discovery Great Reef, Sin Cowe Island, Collins Reef, Lansdowne Island, Sin Cowe East Island, Ladd Reef, Spratly Island, West Reef, Central Reef, East Reef, Pearson Reef, Alison Reef, Cornwallis South Reef, Pigeon (Tennent) Reef, Barque Canada Reef, and Amboyna Cay (Vuving, 2016). It seized at least nine features from 1973 to 1974 specifically to deter China and other littoral states from making claims (Fravel, 2008, p. 278).

As is discussed later in this primer, Vietnam, like the PRC, the ROC, and several other states, has used dredging to expand its features into artificial islands, some with runways and military installations. Both of the PRC’s military actions to date—in 1974 and in 1988—involved Vietnam. Today, Vietnam boasts the second largest military force in the South China Sea region, “larger than those of the Philippines, Malaysia, and Indonesia combined” (Grossman, 2020, p. 7). Like the PRC, it has demonstrated its ability to militarize islands and deploy warships and coast guard vessels to the region as shows of force, as well as its own long-distance fishing fleet. According to the RAND Corporation’s Derek Grossman, the Vietnamese People’s Army has established anti-access/area-denial (A2/AD) operations—the ability of a state to use certain warfare capabilities, such as long-range missiles, cyber capabilities, and electromagnetic operations, to prevent another state from entering and controlling contested territory—to deter PRC escalatory behavior (Krepinevich, Watts, and Work, 2003, pp. ii, 4–5). The Vietnam Coast Guard has developed a sizable fleet of “paramilitary maritime vessels” (Grossman, 2020, p. 15). Similarly, Vietnam has established the armed Vietnam Fisheries Surveillance Force to “flood
the zone” in any “potential maritime standoff” against the PRC over the Paracels or Spratlys (Grossman, 2020, p. 7). Grossman has argued that Vietnam’s military buildup is intended not to beat the PRC in a major war but to deter it from seizing Vietnamese-controlled South China Sea features if doing so would result in the loss of a major PLAN or Chinese Coast Guard vessel.

UNCLOS

UNCLOS I (1958) and UNCLOS II (1968) formed the basis of discussions for UNCLOS III, which began in 1973. By 1977, it was evident to states that UNCLOS III would establish 12–nautical mile territorial limits and 24–nautical mile contiguous zones, both calculated from the territorial baseline, and up to 200–nautical mile EEZs, calculated from the edge of the territorial limit (Figure 1.3) (Center for Preventive Action, 2021; Katchen, 1977, p. 1167).

Notably, Article 121 defined islands and rocks as follows:

An island is a naturally formed area of land, surrounded by water, which is above water at high tide. . . . the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory. . . . Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” (United Nations, 1982)

UNCLOS III gave rise to at least four major issues directly related to the South China Sea dispute:

1. Some littoral states, such as the Philippines, consider none of the South China Sea features within the PRC’s nine-dashed line claim to be islands and, therefore, do not consider these features to possess EEZs (Permanent Court of Arbitration [PCA], 2016, p. 181). Some of these features are low-lying elevations that do not even possess territorial waters.
2. UNCLOS III explicitly does not deal with states’ competing territorial claims over features.
3. UNCLOS III leaves it up to such international courts as the PCA or the International Court of Justice or to bilateral or multilateral negotiation to arbitrate the line between two or more states’ EEZs.
4. According to some legal scholars, Article 121 does not adequately distinguish between rocks, which at least possess 12–nautical mile territorial zones and 24–nautical mile contiguous zones, and low-tide elevations, which do not.

In 1977, as it became clear that UNCLOS III would embrace a 12–nautical mile territorial zone, a 24–nautical mile contiguous zone, and a 200–nautical mile EEZ, Vietnam moved to assert its claims over both the Paracel Islands and the Spratly Islands. Hanoi first requested a bilateral meeting with Beijing in April 1977, which was rejected. In response, Vietnam declared “a 12 nm [nautical mile] territorial sea, a 23 nm contiguous zone, a 200 nm EEZ, and a 200 nm continental shelf of the Paracel and Spratly Islands” (Koo, 2010, p. 150). China responded with economic sanctions against Vietnam. As discussed earlier, Vietnam’s declaration of a claim over both the Paracel Islands and the Spratly Islands has been identified as one of the causes of the 1979 Chinese-Vietnamese War (Koo, 2010, p. 151).
UNCLOS III was completed in December 1982, although it did not enter into enforcement until November 1994, when the required 60th nation ratified it (Center for Preventive Action, 2021). China had been an active negotiator in UNCLOS III (it ratified it in 1996) and a promoter of the 200–nautical mile EEZ as supported by Latin American and African delegations (Colin, 2016; Kim, 1994, pp. 894–895; Kuok, 2018). More recently, however, Ling Qing, the head of the Chinese UNCLOS III delegation, admitted that there had been “internal discussions in the late stage of the negotiation as some Chinese had realized that a 200 nm EEZ may not belong to China’s national interests” (Wang, 2016). Zheng Wang, Director of Seton Hall University’s Center for Peace and Conflict Studies, has argued that Chinese officials only gradually realized how UNCLOS III could hurt the PRC’s maritime claims (Wang, 2016).
The Recent Political Geography of the South China Sea Dispute

At least three issues have dominated the recent political geography of the South China Sea since UNCLOS III was signed in December 1982: the application of UNCLOS III to the South China Sea dispute; the engagement of state actors beyond primarily the PRC and Vietnam; and the issue of freedom of navigation.

The 1988 Dispute

In 1988, Vietnam claimed the Gulf of Tonkin, arguing that “the waters in the part of the gulf belonging to Vietnam constitute historic waters pertaining to the judicial regime of the internal waters of the Socialist Republic of Vietnam” (Hai, 2017, p. 58). In so doing, it likely hoped to invoke the historical exception to claim historic waters under Article 10 of UNCLOS III (despite the fact that Article 10 applies only to bays where a “single state” is involved) or Article 15, which applies only to the territorial waters of adjacent states (United Nations, 1982). Articles 293(1) and 311 characterize preexisting historical claims other than those explicitly articulated within Articles 10 and 15 as null and void (Kopela, 2017, pp. 183–184). Vietnam’s claim was disputed by both the PRC—which, ironically, used a similar historical argument in its claims—and former colonial power France, which declined to support Vietnam’s diplomatic note (Hai, 2017, pp. 58–59).

Vietnam’s 1988 proclamation resulted in a clash between Vietnamese and PLAN forces in the Johnson South Reef area of the Spratly Islands (Koda, 2014, p. 84; Zhang, 2016, p. 200). In the resultant battle, the PLAN sank three Vietnamese vessels, killed between 68 and 72 Vietnamese soldiers, and captured six to seven reefs (Marlay, 1997, p. 199; O’Neill, 2018, p. 52). In response, Vietnam moved to occupy or enhance its existing presence on 21 other Spratly features (Dzurek, 1996, p. 22). Other littoral states increased their assertive claims in the South China Sea. The Philippine government issued a warning that neighboring states must not contest its claim to the Kalayaan Islands, east of Palawan, where, in 1976, during UNCLOS III negotiations, it had discovered the first known oil field in the South China Sea (Center for Preventive Action, 2021; Dzurek, 1996, p. 23; Katchen, 1977, p. 1171; Villegas, 1986, p. 158). Malaysia also increased patrols of its EEZ claim and temporarily detained several Philippine fishermen (Dzurek, 1996, p. 23).

The clash demonstrates two key points. First, as already discussed in this Perspective, the PRC only uses force when it senses that its claim is weakening relative to those of neighboring states and delaying tactics are no longer an option.
Increasing Tensions

In February 1992, the PRC issued its “Law on the Territorial Sea and the Contiguous Zone” and deposited it with the United Nations. Article 2 explicitly claimed “Diaoyu Island [the Senkaku Islands, controlled by Japan since 1971, when the United States returned them under the Okinawa Reversion Agreement], [the] Penghu Islands [controlled by the ROC since 1949], [the] Dongsha Islands [the Pratas Islands, controlled by the ROC since 1949], [the] Xisha Islands [the contested Paracel Islands], [and the] Nansha Islands [the contested Spratly Islands]” (PRC, undated; Kim, 1994, p. 899; Uras, 2017, p. 1021). Article 2 prompted immediate diplomatic protests from Vietnam, which claimed all of the Spratly Islands; Japan, which controls the Senkaku Islands; and other littoral states in the South China Sea (Herriman, 1997, p. 15). It did not include any reference, however, to a nine-dashed line.

In 1995, the PRC sought to take action to realize its 1992 law. It established an installation on Mischief Reef, a feature approximately 130 nautical miles east of Palawan Island and within the EEZ of the Philippines (Cáceres, 2014, p. 77; Thayer, 2016b, pp. 227–228). ASEAN, which then included all of the Southeast Asian states except Vietnam and Laos (both of whom have since joined), issued a diplomatic protest (Severino, 2010, p. 42). The PRC, however, did not remove the installation. Meanwhile, on May 10, 1995, the United States issued its first South China Sea policy. The U.S. policy rested on “four pillars”:

1. Oppose the use or threat of force to resolve competing claims.
2. Intensify diplomatic efforts to resolve the competing claims, taking into account the interests of all parties, and contribute to peace and prosperity in the region.
3. Maintain freedom of navigation by all ships and aircraft in the South China Sea.
4. Take no position on the legal merits of the competing claims to sovereignty over the various features in the South China Sea but view with serious concern any maritime claim or restriction on maritime activity in the South China Sea that is inconsistent with international law, including UNCLOS. (Office of the Staff Judge Advocate, 2021, p. 77)

According to Peter Kreuzer of the Peace Research Institute Frankfurt, “the crisis slowly subsided” amid escalating tensions between the PRC, ROC, and United States over missile tests near Taiwan (Kreuzer, 2015, p. 17). In January 1996, however, the PRC and the Philippines clashed over Mischief Reef (Center for Preventive Action, 2021; Southgate, 2019, p. 163). This clash constituted the first time the PRC had clashed with a littoral state other than Vietnam over a contested South China Sea feature (Center for Preventive Action, 2021). The U.S. government issued a diplomatic note reiterating its wish for what De La Salle University professor Renato Cruz de Castro has described as a “peaceful resolution” to the South China Sea dispute and “the maintenance of freedom of navigation” (Cruz de Castro, 2009, p. 404).
The PRC formally ratified UNCLOS III, but it used its ratification as an opportunity to restate its claims to the Paracel and Spratly islands.

In 1996, the PRC formally ratified UNCLOS III. Nonetheless, it used its ratification as an opportunity to restate its 1958 and 1992 declarations, both of which laid claim to the Paracel and Spratly islands and the 12-nautical mile territorial seas around them (Hayton, 2016). This prompted another round of diplomatic protests from neighboring South China Sea littoral states (Dupuy and Dupuy, 2013, p. 127). The PRC also declared straight baseline coordinates around the entirety of the Paracel Islands, arguing that they collectively constituted an “archipelagic” entity of the PRC and hence possessed internal, territorial, and contiguous waters and an EEZ (Rej, 2021). The PRC claimed that the Paracels possessed archipelagic status like the Philippines, despite the following facts: (1) The Paracel Islands are not a state, and an archipelagic claim can be made only by a recognized state; (2) the PRC, the claimant state, does not meet the requirements in Articles 46–54 of UNCLOS III to be an archipelagic state (Center for Strategic and International Studies, 2019; Mastro, 2021; United Nations, 1982); and (3) only the United Nations can determine whether a state is archipelagic, and it has not determined that the PRC is an archipelagic state (Mastro, 2021; Office of Ocean and Polar Affairs, 2022, p. 20). The United Nations has so far not declared the Spratly Islands as archipelagic. Both Stanford University’s Oriana Mastro and the Center for Strategic and International Studies have argued that the PRC will likely seek to install troops on Spratly features in a matter of time (Mastro, 2021; Center for Strategic and International Studies, 2019).

In 1998, China increased the scale of its installations on Mischief Reef (Kreuzer, 2015, p. 18; Thayer, 2016b, p. 228). It also reaffirmed its South China Sea claims in the “Law on the Exclusive Economic Zone and the Continental Shelf of the PRC” (Elleman, 2018, p. 69).

A Period of Defusing Tensions?

Despite the clash between the PRC and the Philippines over Mischief Reef and the former’s reassertion of its expansive South China Sea claims in 1998, a period of relative calm followed as the PRC and ASEAN sought diplomatic avenues to manage the dispute (International Crisis Group, 2015, p. 1). None of the littoral states’ respective South China Sea territorial or maritime claims changed during this period. PRC premiers Jiang Zemin and, later, Hu Jintao embarked on a “charm offensive” with ASEAN (Bower, 2011; Pei, 2011). In November 2002, the PRC and ASEAN signed the nonbinding “Declaration on the Conduct of Parties in the South China Sea” as a first step toward a code of conduct (Center for Preventive Action, 2021). The respective parties reaffirmed their commitment to UNCLOS III and to undertake “peaceful means” to “resolve their territo-
rial and jurisdictional disputes by peaceful means, without the threat or use of force” (Elleman, 2018, pp. 278–279).

Relative peace marked the next seven years of the South China Sea dispute, at least from a political geography standpoint. In 2004, the Philippines and the PRC “sign[ed] a bilateral agreement on joint exploration in the South China Sea” through the Philippine National Oil Corporation and the China National Offshore Oil Corporation (Kreuzer, 2015, p. 21). Vietnam signed the agreement in 2005. Bilateral trade grew as Philippine President Gloria Macapagal-Arroyo sought to actively enhance relations with both the PRC and the United States (Kreuzer, 2015, p. 21).

These bilateral exchanges, however, also exposed the difference between the PRC’s and other littoral states’ negotiating approaches. Despite having ratified UNCLOS III, the PRC usually preferred bilateral negotiations—in which it was generally the stronger power—to multilateral diplomacy or third-party international arbitration (Hayton, 2014, p. 193), although exceptions to this approach, such as the Shanghai Cooperation Organization, existed. It also used cooperation discussions and projects to delay discussions of sovereignty in perpetuity to consolidate and expand its South China Sea possessions and position (Fravel, 2008, pp. 268–269). ASEAN states preferred ASEAN-PRC negotiations (Hayton, 2014, p. 193) or third-party arbitration and the application of contemporary international law in their dealings with the PRC, although bilateral boundary negotiations between ASEAN powers, such as between Malaysia and Brunei, did occur (Kreuzer, 2015, p. 21). An example of this approach was the PRC’s 2009 bilateral agreement with Vietnam over their land border, although the treaty did not include the two countries’ competing South China Sea claims (“Report: China, Vietnam Agree on Land Border,” 2009). These differing approaches would start to become apparent over the following decade.

In February 2009, the Philippines revised its archipelagic baselines law—a necessary component of its UNCLOS III claims—to include Scarborough Shoal and the Kalayaan Islands, both of which it claimed (Elleman, 2018, pp. 55, 58). This move may have prompted one Chinese military official to call for the construction of a Mischief Reef airstrip to enhance PRC claims, although directly correlating evidence remains inconclusive (Fisher, 2012, pp. 4–5). Officially, however, it did not substantively alter South China Sea tensions or claims. In 2009, the PRC and the Philippines signed the Joint Action Plan for Cooperation, which stated a goal of $30 billion in bilateral trade by 2010 (Hau, 2017, p. 119).

**International Arbitration Versus Unilateral Action**

This period of relative calm in the South China Sea dispute gradually began to falter in 2009 (Center for Preventive Action, 2021). On May 6, Malaysia and Vietnam jointly submitted a request to the United Nations Commission on the Limits of the Continental Shelf (UNCLCS) for extended EEZs, beyond the 200–nautical mile limits of their existing EEZs, to account for their respective continental shelves in the southern South China Sea (United Nations Division for Ocean Affairs and the Law of the Sea, 2011). Vietnam submitted an additional filing claiming an extended EEZ in the northern South China Sea (Iuchi and Usui, 2013). In response, on the following day, the PRC submitted a
diplomatic protest to the United Nations, arguing that it held “indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoy[ed] sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof” (Permanent Mission of the People’s Republic of China to the United Nations, 2009, p. 1). For the first time, the PRC officially submitted its nine-dashed line claim to an international body (Figure 1.4) (Reed and Wong, 2016, p. 748). It did not provide any historical evidence to support this claim.

In August, the Philippines waded into the dispute, arguing that it “lays claim on areas that are disputed not only because they overlap with that of the Philippines, but also because of the controversy arising from the territorial claims on some of the islands in the area including North Borneo” (Permanent Mission of the Republic of the Philippines to the United Nations, 2009, p. 1). Malaysia rebutted this claim, arguing that it had invited the Philippines to join its joint submission with Vietnam (Permanent Mission of Malaysia to the United Nations, 2009). Vietnam took the opportunity to “reaffirm its consistent position that Viet Nam has indisputable sovereignty over the Hoang Sa (Paracels) and Truong Sa (Spratlys) archipelagoes” (Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, 2009, p. 1). In November, Vietnam hosted a conference of littoral states (except the PRC) to find a cooperative way forward toward resolving the South China Sea dispute, prioritizing international arbitration. This, a BBC News article reported at the time, was at odds with the preferred approach of the PRC, which had “always maintain[ed] that territorial disputes in the South China Sea are bilateral issues that should be dealt by individual countries” (Pham, 2009).

In 2009, some PRC officials began to consider elevating the South China Sea dispute to a “core interest” alongside Taiwan, Tibet, and Xinjiang (Mastro, 2021). Meanwhile, on July 23, U.S. Secretary of State Hillary Clinton announced at the U.S.-ASEAN Joint Ministerial Meeting that the United States remained committed to the peaceful resolution of the South China Sea dispute and to the freedom of navigation at sea (Center for Preventive Action, 2021; Grossman, 2016). China responded by increasing the scale of its Spratly Island operations and patrolling a number of features claimed by the Philippines (Center for Preventive Action, 2021; Thayer, 2016a, p. 26). In 2011, the Philippines responded by renaming its EEZ the “West Philippine Sea” (Center for Preventive Action, 2021; President of the Philippines, 2012; Thayer, 2016a, p. 26).

In April 2012, the PRC and the Philippines became embroiled in “a two-month standoff” over Scarborough Shoal (Center for Preventive Action, 2021). The United States negotiated both sides’ mutual withdrawal, only for PRC vessels to return in June (Fravel, 2014, p. 6). (The PRC has maintained control over Scarborough Shoal ever since [Morris, 2019, pp. 3–4].) Potentially in response, that month, the Vietnamese government issued its “Law of the Sea of Viet Nam,” reasserting its long-standing claim over the Spratly and Paracel island groups (United Nations Division for Ocean Affairs and the Law of the Sea, 2020). In July, PRC pressure on Cambodia may have prevented ASEAN from issuing a formal communiqué condemning the Scarborough Shoal incidents (Center for Preventive Action, 2021).

On January 22, 2013, the Philippine government filed for arbitration with the PCA against the PRC over the latter’s actions within the former’s claimed EEZ (particularly
over Scarborough Shoal) and the PRC’s claimed nine-dashed line (Center for Preventive Action, 2021; Lanteigne, 2016, p. 2; PCA, undated). Specifically, the Philippines contested the PRC’s claim that the PRC possessed historic rights and, therefore, maritime entitlements to the South China Sea; the status of certain maritime features in the South China Sea; and the lawfulness of PRC activities that the Philippines argued were in violation of UNCLOS III. The PRC declined to participate in the proceedings, despite having ratified UNCLOS III in 1996. It declared that “it does not accept the arbitration initiated by the Philippines” and refused to present its case (Republic of the Philippines, 2014, p. 1). Meanwhile, in November 2013, the PRC declared an air defense identification zone (ADIZ) over its claims in the East China Sea, but not the South China Sea (Burke and Cevallos, 2017, pp. ix, 3). Unlike UNCLOS III with respect to the sea, no international law dictates the extent of a state’s declared ADIZ. While the PRC has not yet declared an ADIZ over the South China Sea, such a declaration remains a possibility with implications for regional stability.

In May 2014, the PRC established its first oil rig in a contested area of the South China Sea. The China National Offshore Oil Corporation constructed Haiyang Shiyou (HYSY) 981 and installed it 17 nautical miles to the south of Triton Island (in the western Paracel Islands), which is also claimed by Vietnam. It was located within both countries’ “maximum hypothetical entitlements” of their respective 200-nautical mile EEZs (Green et al., 2017). The two countries’ coast guards subsequently clashed over HYSY 981, as well as at Second Thomas Shoal (Scobell, 2018, p. 200). The PRC removed HYSY 981 in July, officially stating that it had completed its exploration opera-
tion (Kim, 2015, p. 122). The HYSY 981 dispute was perceived by some observers as an effort to substantiate the PRC’s claims during the ongoing PCA arbitration proceedings (Nguyen, 2015, p. 43).

Artificial Islands

The PRC has sought to substantiate its South China Sea claims through the construction of artificial islands (Dobbins et al., 2017, p. 4), although it was not the first littoral state to do so. From the 1970s onward, according to the U.S. Department of Defense, the Philippines added land on Thitu Island (14 acres added) and Malaysia added land on Swallow Reef, both to construct air bases. From 2009 to 2014, Vietnam employed this technique on various islands, adding an estimated 60 acres total. In August 2013, the ROC added an estimated 8 acres to expand Itu Aba Island (U.S. Department of Defense, 2015, p. 15).

In December 2013, the PRC began dredging “sand and gravel on top of the reefs” in the Paracel and Spratly islands (Southerland, 2016, pp. 1–2). What differed from the building of artificial islands by other countries was the size and scale of the PRC’s artificial island operations, which included the construction of airstrips capable of being used by large transport aircraft, as well as major military installations with sophisticated A2/AD equipment on numerous features (Figure 1.5) (U.S. Department of Defense, 2015, pp. 15–17).

The PRC, like other regional states that have dredged land for features under their control, is not likely concerned that these artificial islands will somehow meet the qualifications for islands laid out in Articles 121(1) and (2) of UNCLOS III, which would grant the PRC a “territorial sea, EEZ, [and] continental shelf” of up to 200 nautical miles for each artificial island (Thayer, 2015; see also United Nations, 1982). UNCLOS III Article 60(8) explicitly states that “artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the [EEZ] or the continental shelf” (United Nations, 1982). Even if these features are never classified as islands, actual control may still confer considerable strategic value. In particular, states can enhance their forward military presence in the South China Sea, especially for A2/AD operations. As of this writing, the PRC has constructed artificial features totaling 3,200 acres. Vietnam, the Philippines, and Malaysia also continue to add limited acreage to their claimed features (Pincus, 2015).

The Permanent Court of Arbitration Decision

On July 12, 2016, the PCA ruled on the three claims in The Republic of the Philippines v. the People’s Republic of China. First, the PCA determined that there was little to no evidence that the PRC held a historical claim or title to the South China Sea as delineated by the nine-dashed line. The PCA even noted that “the length and precise placement of individual dashes . . . do not appear to be entirely consistent among different official depictions of the line” (PCA, 2016, p. 72). Second, it determined that UNCLOS III meant that the PCA could not adjudicate over which country possessed which maritime feature in the South China Sea (Heritage and Lee, 2020, p. 143). All it could conclude on this second claim was that Mischief Shoal and Second
Thomas Shoal were low-tide elevations without any maritime rights (PCA, 2016). Third, it determined that Mischief Reef and Second Thomas Shoal were within the EEZ of the Philippines and these waters, therefore, could not be fished by the PRC without prior permission from the Philippines (PCA, 2016; United Nations, 1982, Articles 57(1)(a) and 58(3)). Although legally bound to accept the decision because of its ratification of UNCLOS III (Cohen, 2016), the PRC immediately rejected the PCA’s judgment (Bateman et al., 2016, p. 1; Iida and Denisov, 2017, p. 1). The ROC, which had also promoted the nine-dashed line, also rejected the judgment (Bateman et al., 2016, p. 5).

**Toward a Code of Conduct or the Status Quo?**

In 2002, ASEAN sought to reach an agreement with the PRC to establish a “binding Code of Conduct” for the South China Sea—an idea first mooted in 1996 (Thayer, 2013, p. 76; see also Hayton, 2021). In November 2002, the parties signed a nonbinding “Declaration on the Conduct of Parties in the South China Sea” (Thayer, 2013, p. 77). This declaration committed the parties to the principles of UNCLOS III, affirmed their desire to resolve outstanding disputes “by peaceful means,” “reaffirm[ed] their respect for and commitment to the freedom of navigation in and overflight above the South China Sea,” committed them to “re refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features,” and committed them to “notifying, on a voluntary basis, other Parties concerned of any impending joint/combined military exercise” (ASEAN, 2012). The declaration was intended to form the basis of negotiations for a code of conduct. However, ASEAN and the PRC did not reach an agreement on how to begin negotiating the declaration’s guidelines into a formal code of conduct until 2012 (Thayer, 2013, p. 77). The PRC briefly paused negotiations following the Philippine government’s submission of its case to the PCA, but it agreed in 2013 to resume negotiating (Thayer, 2013, pp. 75–76).
Negotiations have moved slowly and fitfully. In 2017, ASEAN and the PRC agreed on “a draft Framework” (Hoang, 2020). The following year, the two sides drafted what they called the Single Draft South China Sea Code of Conduct Negotiating Text (Thayer, 2018). They designated 2022 as the target date for completing the code of conduct (de Guzman, 2019). PRC media officially remain optimistic (Laurel, 2021), but non-Chinese commentators are skeptical as to whether ASEAN and the PRC can meet this target, especially because the PRC does not want any code to be legally binding (Hunt, 2021; Vannarith, 2021). Furthermore, as discussed earlier, the PRC prefers to delay negotiations and keep sovereignty questions off the negotiating table in order to reinforce its existing military facilities and, hence, its claim to much of the South China Sea.

Not all recent claims issues have involved, or were provoked by, the PRC. ASEAN states continued to have bilateral disputes over their respective South China Sea claims.

On December 18, 2019, Malaysia filed a submission with the UNCLCS to claim the “remaining portion of the continental shelf of Malaysia beyond 200 nautical miles in the northern part of the South China Sea” (Permanent Mission of Malaysia to the United Nations, 2019). This sparked diplomatic protests from littoral ASEAN member states and the PRC. The Philippines recalled its original protest, from 2009, articulating that Malaysia’s extended EEZ claim included portions of the EEZ of the Philippines and its Kalayaan Islands (Permanent Mission of the Republic of the Philippines to the United Nations, 2020). Vietnam took the opportunity to again protest the PRC’s claims (Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, 2020). The PRC, for its part, argued that Malaysia’s new extended EEZ claim, as well as Malaysia’s original joint 2009 claim with Vietnam, ignored its own South China Sea claim (Permanent Mission of the People’s Republic of China to the United Nations, 2020). The United States, citing the 2016 PCA arbitration, rejected the PRC’s claims, especially its historic rights claim (Permanent Representative of the United States of America, 2020). Malaysia’s new claim and the joint 2009 claim have yet to be resolved by UNCLCS. Malaysia’s efforts demonstrate that littoral states other than the PRC contest fellow ASEAN states’ respective claims, although recent South China Sea tensions between the PRC and the United States have, for the moment, somewhat overshadowed these issues.

**Concluding Discussion**

As noted earlier, the South China Sea dispute is a relatively recent phenomenon. Until the early 20th century, the South China Sea was seen as a vital communications and trade
passage that was not under the jurisdiction of any country or empire. The nine-dashed, or U-shaped, line encompassing the area claimed by China has a complicated history. It was first privately drawn by a Chinese cartographer in 1936. The ROC government formally adopted this claim in 1947, followed by the PRC in 1949, the year of the Communist takeover of mainland China. At the 1951 San Francisco Peace Conference, Japan agreed to cede control of the South China Sea features it had seized before and during the Second World War. However, the conference did not assign any of the South China Sea features to any country.

International maritime law—the basis of much of the current regional dispute—evolved in a modern sense only from the 1960s onward, through a series of conferences that led to UNCLOS III. UNCLOS III is intended to provide order to various states’ competing claims and conceptions of international maritime law, the use of maritime resources, and the peaceful transit of commercial and military vessels through nonterritorial waters.

In 2009, after some littoral states filed claims to South China Sea maritime zones and features, the PRC responded by submitting its nine-dashed line claim to the United Nations. The PRC was an important negotiator and a signatory of UNCLOS III. However, the PRC (and the ROC) rejected a 2016 PCA finding against its maritime claims, brought by the government of the Philippines, over the nine-dashed line. Instead, the PRC called for bilateral negotiations with the Philippines, which are ongoing as of this writing.

Will the 2016 PCA finding change anything on the ground in the South China Sea? The likely answer is no. The PRC and the ROC have already rejected the finding, and the PCA has no way of enforcing its decision. In addition, despite the PCA ruling, the PRC maintains a significant military presence on at least four of the Paracel and Spratly islands. The PRC’s forces are unlikely to be removed because of a distant court’s ruling. Negotiations with the Philippines concerning the 2016 PCA ruling are unlikely to go anywhere either; Fravel has argued that the PRC uses delaying tactics both to avoid direct South China Sea sovereignty questions and to consolidate its South China Sea bases and activities (Fravel, 2008). If this is true, the PCA ruling could be largely irrelevant to the realities of the South China Sea.

The sentiment that the PCA ruling might be irrelevant could extend to the PRC-ASEAN negotiations concerning a South China Sea code of conduct, which have been ongoing since 2012. The initial declaration of a code of conduct (in 2002) was nonbinding; the intent was to declare a binding code of conduct at a future date. While the main sticking points are not publicly known, Hayton argues that the PRC would prefer any code of conduct to be nonbinding, whereas ASEAN desires it to be binding (Hayton, 2021). Furthermore, ASEAN is not united on the issue, as might be expected in view of the fact that several of its members do not have claims on the features of the South China Sea (Chang, 2020). The Diplomat’s Viet Hoang expresses similar skepticism, arguing that “China and ASEAN claimant states will struggle to bridge fundamentally divergent interests in the South China Sea” (Hoang, 2020). Delaying the negotiations also allows the PRC to build up and consolidate the features under its control—a long game, as it were (Hayton, 2021).

Given these uncertainties, the expected deadline of December 31, 2022, is unlikely to be met. The Foreign Policy Research Institute’s Felix Chang is doubtful that,
The status quo with regard to existing control of island features seems a likely outcome. Even if passed, a code of conduct would do much to alleviate the status quo (Chang, 2020), since ASEAN might have to accept Beijing’s demand for a nonbinding code of conduct if it really wants to see a code established, thereby playing into the PRC’s hands.

Vietnam continues to develop its military presence in the features under its control. One of its intentions might be to develop sufficient deterrence to prevent the PRC from seizing any of its claimed South China Sea territory (International Crisis Group, 2021). It continues to build up its army, naval, and coast guard forces and conduct dredging to expand its controlled features into artificial islands (Grossman, 2020, p. 7), and, according to Grossman, it has installed “Israeli-built Extended Range Artillery (EXTRA) guided rocket artillery launchers on several of the disputed features it controls” (Grossman, 2020, p. 8). These EXTRA missiles can reach PRC facilities on claimed Paracel and Spratly features (Grossman, 2020, pp. 7–8). In 2019, Vietnam threatened to return to the courts if PRC-ASEAN talks collapsed (Panda, 2019); according to Peter Dutton, “the most likely purpose behind Vietnam’s threat to litigate is to gain clarity about its resource rights and to develop leverage to stop Chinese interference so that Vietnam can move forward with exploitation contracts for its offshore gas and oil deposits” (Dutton, 2020). Vietnam seeks to move forward with potentially lucrative petroleum extraction in areas known as the Vanguard Bank and Block 118, respectively, even though the PRC has repeatedly protested the move (Dutton, 2020). In response to the PRC’s development of its South China Sea claims, Vietnam increased its defense budget by nearly 400 percent between 2005 and 2014 (Dutton, 2020). Vietnam’s moves could create tension among the ASEAN countries as well, not just the PRC (Heydarian, 2020).

What is the future of the South China Sea disputes? The status quo with regard to existing control of island features seems a likely outcome. However, the bigger issue might well be the threat to freedom of navigation arising from the militarization of land features controlled by the PRC and Vietnam (and, possibly, others). This is hotly denied by the PRC and others, of course, but the fact that such militarization is ongoing has raised the risk of threats to safe transit.

Notes

1 Political geography is the study of state and nonstate actors and their varied relationships with spaces for territorial purposes. State and nonstate actors leverage history, geography, international law, legal bodies and treaties, boundaries and boundary-making, and cartography, among other assets, to promote their respective territorial or jurisdictional claims over spaces.

2 This Perspective uses the term feature to describe the islands, reefs, rocks, shoals, and low-tide elevations in the South China Sea, as the exact classifications of individual features remain disputed. Not all features’ classifications are contested. It is generally accepted, for instance, that Woody Island is an island.
3 A marginal sea constitutes “the sea bordering continents, semi-isolated from open ocean by island arc or land ridge, and underlain by oceanic crust” (Zhou, 2016, emphasis in original; see also Karig, 1971).

4 The term islands is sometimes used to describe land features whose status as islands is disputed. For further information, see Dossani and Harold, 2016, p. 1.

5 Dossani and Harold estimate that there might be up to 750 features that make up the Spratly Islands (Dossani and Harold, 2016, p. 6).

6 As a reminder, the term islands might not legally refer to actual islands.

7 For a general discussion as to why the Chinese government did not prioritize its maritime claims during this period, see Granados, 2005, p. 444.

8 Rocks, however, do possess 12-nautical mile territorial seas. See Hayton, 2014, p. 113.

9 Article 47(1) of UNCLOS III states, “An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1” (United Nations, 1982).

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ASEAN—See Association of Southeast Asian Nations.


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About This Perspective
This Perspective provides a political geography primer of the South China Sea disputes. It focuses on the South China Sea’s physical geography; the development of littoral states’ respective claims to portions of the South China Sea, including islands, rocks, and low-tide elevations; and the increasingly important role of the United Nations Convention on the Law of the Sea and the Association of Southeast Asian Nations.

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