

## **The South China Sea: Is there a compromise?**

---

December 2024

**The South China Sea remains a focal point of strategic and territorial dispute, principally involving China and neighbouring ASEAN member countries like the Philippines, Vietnam, Malaysia and Indonesia. This region, crucial for**



**international shipping and its wealth of natural resources, witnesses frequent disputes that have the potential to escalate into greater regional conflict.**

China's assertive maritime strategy includes the fortification of several mega land reclamation island projects and deployment of military assets to enforce its self-ratified territorial claims, often clashing within the exclusive economic zones (EEZs) of other nations, as defined by the United Nations Convention on the Law of the Sea (UNCLOS). Recent actions by China, such as setting baselines around the Scarborough Shoal and renaming geographical features within contested areas, reveal, at times, a juvenile playground style strategy and an almost surreal intent to solidify claims and enhance its naval operational scope over the entire South China Sea.

The Philippines, under President Ferdinand Marcos Jr., has adopted a more confrontational stance compared to his predecessor President Rodrigo Duterte, demonstrating a firmer policy line by increasing his country's military presence and by considering deploying warships as a countermeasure to the unabating Chinese aggression. This includes incidents where Chinese vessels have utilised high-pressure water cannons and engaged in dangerous manoeuvres against Philippine patrol boats that has resulted in injury to Philippines personnel.

The situation is further complicated by the involvement of Western nations, particularly the United States (USA), which conducts freedom of navigation operations to challenge China's maritime claims and affirm support for regional allies. This international intervention reflects broader geopolitical rivalry at play in the contested area, and some analysts believe this is the core reason for China's actions against the Philippines.

### **Current legislation and national sentiments**

The South China Sea disputes continue to intensify, guided by fluid legal interpretations and nationalistic sentiments that do nothing but stir existing tensions. Each nation involved leverages its domestic legal framework to bolster territorial claims, often resulting in overlapping assertions that leave one to consider if this dispute and its myriad stakeholders can ever be concluded. Vietnam's approach embodies a quiet but steadfast resolve, as it too has been consistently fortifying its own islands in the Spratly chain without drawing excessive attention. All in direct defiance of China's expansive claims.

Vietnam's strategy has many prongs, involving both the construction and modernisation of military bases on the islands and reefs it controls. By mid-2024, Vietnam had already ramped up its land reclamation efforts in the Spratly Islands, constructing nearly half as much land as China had during its infamous construction spree between 2013 and 2016. This marked acceleration demonstrates Hanoi's determination to bolster its position, quietly, while firmly asserting its sovereignty amidst the broader regional narrative that often frames the dispute as just a larger battle between only China and the USA, or China and the Philippines. Many overlook that both Malaysia and Indonesia have also been subjected to China's encroachments on their respective EEZs.

Public and governmental attitudes in countries like the Philippines and Malaysia exemplify a growing frustration with China, mixed with a determined resolve to protect sovereign rights that are blatantly being ignored. Philippine policy has markedly shifted under the current Marcos Jr. administration, symbolising a broader public outcry against weekly infringements from Chinese maritime activities. This has been seen in recent legislative moves aimed at reinforcing maritime law enforcement capabilities and enhancing naval cooperation with allies, much to China's displeasure.

As for the Chinese, the government's policies in the South China Sea are mirrored with strong nationalistic support from its citizens. These sentiments are often driven by state-controlled media, which frames the territorial disputes as a matter of national pride and historical rights. However, this stance continues to place China in difference with international legal norms, particularly the rulings under UNCLOS, which Beijing has decided is not relevant to its claims.

In this complicated tableau, the role of international law, exemplified by UNCLOS, remains pivotal, yet contentious. While the law provides a framework intended to mediate disputes through diplomacy and legal processes, its effectiveness is impinged when key players, such as China, decide to reject its authority. The result is a precarious balance between national desires and international legal standards, making the South China Sea a focal point of geopolitical strife that could trigger wider regional conflict if not managed.

### **Recent confrontations**

In the lead-up to Donald Trump's second inauguration, tensions in the South China Sea have intensified, signalling potential shifts depending on the USA's forthcoming 2025 policy towards China. This region, marked by frequent military and maritime confrontations, provides insight into the fragile stability of a critical logistic shipping thoroughfare.

Last month, the Philippine coast guard detained 13 undocumented Chinese nationals aboard a dredging vessel off the coast of Bataan, revealing an escalation of security concerns. The vessel's agent initially denied the coast guard's inspection request, which led to a more thorough search and the discovery of the undocumented crew. This incident has raised fears of potential retaliatory actions by Beijing, particularly against Filipinos working in China.

Experts are divided on the implications of this incident. Some see it as a straightforward case of immigration policy violation, while others suggest it could be part of a more sinister strategy by Beijing. The discovery of China's People's Liberation Army uniforms in the crew quarters has added to the concerns, although there is no concrete evidence of espionage.

The incident also coincides with tightened visa controls in the Philippines, aimed at curbing illegal activities, including those associated with the offshore gaming industry.

Just days before time of writing, the Philippines and China experienced yet another confrontation over the contested Scarborough Shoal, leading to near clashes. A dangerous encounter involved a Chinese navy vessel performing "*blocking, shadowing and dangerous manoeuvres*" against Philippine coast guard ships.

China's coast guard defended its actions as "*professional, standardised, legitimate and lawful*", attributing blame to the Philippine vessels for attempting to intrude into the territorial waters of China's Huangyan Dao [Scarborough Shoal]. Meanwhile, Chinese experts accused the Philippines of escalating the South China Sea issues to fuel the "*China threat*" narrative.

These confrontations have significant implications beyond immediate military aggravation. They deter investments in critical sectors like offshore energy exploration and fishing, vital to ASEAN economies, and strain diplomatic ties within regional blocs like ASEAN and BRICS, the former of which is struggling to maintain unity. Politically, these incidents reflect broader geopolitical rivalries, drawing in external powers like the USA.

### **Western influence and international response**

These ongoing territorial disputes not only pit China against its ASEAN neighbours but also draw significant attention from Western nations, particularly the USA. The USA has been proactive in its stance, frequently conducting FONOPs to challenge China's claims. Beyond mere military presence, Western countries, including European nations, have voiced strong support for the rulings under UNCLOS, promoting peaceful resolutions and adherence to international law.

The role of international organisations in this geopolitical puzzle is pivotal yet complicated. ASEAN, while striving for unity among its member states, often finds itself in a delicate position due to varying degrees of economic dependence and political alliances with China among its members.

Despite these challenges, ASEAN continues to serve as a platform for dialogue and negotiation, though its effectiveness is sometimes questioned given the complexities of the disputes and the power imbalances involved that sway heavily in China's favour.

The United Nations, through mechanisms like UNCLOS, provides a legal framework for resolving disputes. However, the effectiveness of international law is hampered by the lack of enforcement mechanisms and the refusal of key stakeholders like China to accept adverse rulings, such as the 2016 decision by the Permanent Court of Arbitration which invalidated China's "*nine-dash line*" claims.

### **Future considerations and potential solutions**

The South China Sea disputes present a complex situation with significant implications for regional and global security. Looking ahead, several scenarios could unfold, influenced by geopolitical machinations, and the strategic powerplays of all involved nations.

One potential pathway is full-blown military engagement, leading to localised skirmishes and broader conflicts. These developments would likely be instigated by the Philippines or China, leading to further international intervention by the USA, potentially polarising global powers even more. This is, however, as far as expert grade analysis is concerned, not in any of the stakeholders' interests. A notion exemplified by President Marcos Jr.'s recent announcement not to send his own naval warships into the contested zones against unarmed Chinese coast guard vessels.

Conversely, there is opportunity for diplomatic negotiation. Initiatives such as multilateral talks under ASEAN's aegis or direct negotiations involving all claimants, could pave the way for more sustainable solutions. These discussions could focus on joint resource management or establishing a maritime code of conduct, which might reduce the risk of further conflicts. This, however, will involve substantial compromise from China and the necessity for it to relinquish some of its self-proclaimed sea borders.

Assessing the likelihood of outright conflict, while challenging, is crucial for strategic planning. The most likely scenario we can expect to see throughout 2025 is more of what we have already been witnessing.

Continued patrols from the Philippines within its own EEZs, and Chinese coast guard and militia vessels challenging these rights by way of boat ramming, use of water cannons and military grade laser assaults.

## **Conclusion**

The South China Sea remains a critical flashpoint with strategic, economic and political implications extending beyond Asia. These disputes involve numerous interactions of historical claims, national ambitions, military posturing and international law. China's aggressive expansion has heightened tensions, prompting ASEAN countries like the Philippines and Vietnam to seek joint and international support to improve defences.

Western involvement, particularly by the USA, highlights what is at stake, with USA's freedom of navigation operations underscoring the geopolitical rivalry in the region. The likelihood of this issue escalating into significant conflict remains, but more probable are ongoing localised confrontations and diplomatic efforts to appease aggression. Effective resolution will necessitate concessions and a rigorous commitment to universally recognised international legal standards.

### **KCS Group International – Strategic Intelligence & Corporate Security**

KCS Group International is a leading provider of security and intelligence services, operating in some of the world's most difficult environments on complex cases of fraud, theft, corruption or market dynamics. We gather intelligence through the discreet use of human sources to level the playing field and help our clients identify and deal with any risks, weaknesses and threats which could impact on their business, financially or reputationally.

Our key areas of expertise include: Corporate Intelligence Services – New market or sector entry research – Know your customer screening.

In addition, we offer a unique service in the areas of Cyber Security and Cyber Risk. This covers penetration testing, vulnerability assessments, intelligence gathering and cyber security audits – providing unparalleled analysis, contingency planning and implementation.

To find out more or to arrange a meeting to discuss your business needs, please email the team at [info@kcsgroup.com](mailto:info@kcsgroup.com) or call (00 44) 20 7245 1191 – [www.kcsgroup.com](http://www.kcsgroup.com)