

NINE DASHES

BEIJING'S TERRITORIAL CLAIMS
IN THE SOUTH CHINA SEA

Michał Bogusz

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MAIN POINTS

- **For more than a decade, the South China Sea has been one of the most significant hot spots in East Asia and, to a large degree, also globally.** Due to its fundamental importance for global maritime transport, its natural resources and its strategic location, the South China Sea is not only a key element of the policy pursued by its littoral states, but is also an area of interest of the world's greatest powers. Although the importance of South China Sea cannot be overestimated, territorial disputes affecting it have remained unsettled since the end of World War II and have been the subject of rivalry between the region's states, the People's Republic of China in particular.
- **In the 21st century, one of the main goals of Beijing's foreign policy has been to gain control of the South China Sea.** Since its creation, the People's Republic of China has sustained territorial claims to a major portion of the South China Sea. Since the 1970s, it has been making attempts to impose its jurisdiction over this sea by building artificial islands and military installations, and by carrying out a diplomatic campaign targeting the region's states, alongside unilateral military action. This is accompanied by international legal regulations being ignored and challenged in an unprecedented manner, including one of the pillars of international law – the United Nations Convention on the Law of the Sea (UNCLOS). In this way, Beijing is also striving to change the current international order.
- **For China, achieving domination in the South China Sea is a means of proving its superpower status both globally and domestically. This is leading China into open confrontation with the United States and its allies.** Beijing views the South China Sea as a key to its supremacy in East Asia. As a consequence, it is provoking not only the region's states, but most importantly the US and its allies (such as Japan and the main NATO states), to action. For these international powers, curbing China's attempts equates to defending both the basic principles of international law, including freedom of navigation, and their credibility as guarantors of the current international order. Since the beginning of the 2010s, the dispute has been mounting in proportion to China's growing ambitions and significance, and also in proportion to the deepening political and economic conflict between Beijing and Washington. At present, the COVID-19 pandemic is lending this conflict a new dynamic and encouraging both sides to carry out more assertive action.

INTRODUCTION. THE SOUTH CHINA SEA BUT NOT CHINA'S SEA

The importance of the South China Sea rises from its location in Southeast Asia (see Map 1). It is the world's second most frequently used transoceanic route. It hosts maritime routes connecting East Asia with Europe, the Middle East and Africa. According to the United Nations Conference on Trade and Development (UNCTAD), more than half of global sea freight tonnage passes through this basin, which accounts for a third of the total value of sea freight.¹ Prior to the COVID-19 pandemic, during the peak sailing season around 1.6 million m³ (around 10 million barrels) of oil was transported via this route daily heading for China, Japan and South Korea. The South China Sea is an enclosed basin with four international straits leading to it: the Strait of Malacca, the Karimata Strait, the Luzon Strait and the Strait of Taiwan. Due to this, in theory a maritime blockade could easily be organised in the South China Sea. In addition, control of the South China Sea enables the state holding this control to have direct access to the southern coast of continental China and the southern part of Taiwan, as well as to the Pearl River Delta which Beijing views as China's most important economic region.

China's territorial claims in the South China Sea region are confronted by the numerous competing claims of the other states of the region. Frequently, these claims contradict each other. The prospects for settling these disputes are additionally complicated by the fact that China's demands – formulated by the Republic of China ahead of the fall of the Nationalist Government in mainland China and later sustained by the People's Republic of China – go beyond the current international order. As a consequence, they meet with opposition not only from other states of the region, but also from the US, Japan, Australia and several NATO states (which regularly conduct Freedom of Navigation Operations, FONOPs). Beijing is striving to pursue its claims for example by building artificial islands and expanding its military potential.² Due to the fact that the dispute in the South China Sea has become an element of global Chinese-American rivalry, mounting tension is provoking the US to relocate a portion of its troops to East Asia,³ and China's attempts to prevent

¹ In 2019, East Asia accounted for around 61% of global freight, however, not all of this freight was transported via the South China Sea routes. *Review of Maritime Transport 2019 – Sustainable Shipping*, UNCTAD, 31 January 2020, www.unctad.org.

² Cf B.A. Elleman, *China's Naval Operations in the South China Sea: Evaluating Legal, Strategic and Military Factors*, Folkestone, 2017.

³ D.T. Stuart, *Pivot to Asia: Can it Serve as the Foundation for American Grand Strategy in the 21st Century?*, Carlisle, 2019.

FONOPs trigger the risk of a serious incident, which could lead to a military confrontation.

The South China Sea is also an important element of the economic development plans devised by the states littoral to it. In addition, the launch of the exploitation of the local hydrocarbon deposits (see Map 1) may impact on the global energy market. According to estimates by the US Energy Information Agency (EIA), the local deposits likely comprise 11 billion barrels of oil and 190 trillion m³ of natural gas.⁴ The United States Geological Survey has estimated the deposits of hydrocarbons in the South China Sea at 21.6 billion barrels of oil and 299 trillion m³ of natural gas,⁵ whereas the Chinese National Offshore Oil Corporation (CNOOC) puts it at 17 billion barrels of oil and 498 trillion m³ of natural gas.⁶ In addition, the South China Sea is an important source of protein-rich food for the region's population and is characterised by major biodiversity.⁷ Despite the overexploitation by the coastal states, it continues to be among the world's largest fishery resources.

⁴ *South China Sea*, U.S. Energy Information Administration, www.eia.gov.

⁵ *Assessment of Undiscovered Oil and Gas Resources of Southeast Asia, 2010*, USGS, www.usgs.gov.

⁶ L. Hook, 'Gas finds give impetus to China sea claim', *Financial Times*, 9 October 2012. www.ft.com.

⁷ C. Wilkinson, L. DeVantier, L. Talaue-McManus, D. Lawrence, D. Souter, *South China Sea, GIWA Regional assessment 54*, Kalmar, 2005, www.unep.org.

I. CHINESE CLAIMS AND THE REACTIONS OF CHINA'S NEIGHBOURS AND THE WORLD

China's first claims to a major portion of the South China Sea were formulated by the government of the Republic of China and depicted as the 'Nine-Dash Line'⁸ on official maps of the basin published in 1947. This happened when the government was involved in a civil war and was striving to win public support.⁹ The line delimits a region in the sea (see Map 1) to which China voiced imprecise territorial claims. However, due to the fact that China failed to formulate these claims in accordance with the provisions of international law, this line took the form of a dotted line. It neither corresponds to China's sea border, nor to the line showing the actual range of the claims. Regardless of this, media outlets from China and a portion of the Taiwanese media continue to present this line in such a way as to suggest that it corresponds to a border or a demarcation line. China taking control of the South China Sea would be tantamount to it fulfilling a part of its territorial aspirations (other aspirations relate to the Aksai Chin region and the Arunachal Pradesh state, the East China Sea and Taiwan) which date back to imperial times. It is also one element of the programme of recovering the territories China lost in the 19th century. The programme is one of the pillars of legitimisation for the Chinese Communist Party (CCP) which – following victory in the civil war and the establishment of the People's Republic in 1949 – sustained China's claims regarding the South China Sea. It seems that this is the main motivation for formulating the far-reaching demands, besides the strategic aspect. Unlike other states of the region, China views economic issues as of secondary importance, and the overestimates prepared by the CNOOC regarding the local hydrocarbon reserves merely serve to boost the domestic nationalist narrative.

In its 1958 declaration on the territorial sea, the People's Republic formulated its claims to some land areas known as the Nanhai Islands (Chinese: Nanhai Zhudao, literally 'islands of the southern sea', see Appendix 1). However, by the 1970s no activities were carried out in the region in connection with these claims. It was only following the end of the US's involvement in the Vietnam

⁸ In fact, initially there were eleven 'dashes' but in 1951 China unilaterally divided the territorial waters in the Gulf of Tonkin with the Democratic Republic of Vietnam (North Vietnam), which resulted in the creation of the 'nine-dash line'. In 2013, Beijing added another, tenth, 'dash' east of Taiwan to emphasise the one-China principle. However, this has not resulted in any change to this term – literature on the subject continues to use the term 'nine-dash line'.

⁹ Following the democratisation of Taiwan, its government did not formally withdraw its claims to the 'nine-dash line'. However, it is not involved in any efforts intended to satisfy its claims, aside from protecting the areas of land it already controls.

War that China was able to carry out an armed operation to take back the Paracel Islands from the Republic of Vietnam (South Vietnam) in 1974. Since 1987, large-scale land reclamation efforts have been ongoing, resulting in artificial islands being built. In 1988, in another brief armed conflict with the already united Vietnam, China seized the Johnson North Reef and the Johnson South Reef as well as the Fiery Cross Reef. In 1994, China seized the Mischief Reef which *de iure* was a component of the exclusive economic zone of the Philippines. Since the mid-1990s, a territorial *status quo* has been in place (see Map 2). In 2012, Beijing announced the creation of Sansha prefecture in Hainan province, with its capital city in Sansha in the Woody Island (Chinese: Yongxing Dao) which is the biggest islet of the Paracel Islands.¹⁰ Alongside this, basing on the areas of land in the Paracel Islands and the Spratly Islands it administers, China delimited the boundaries of its territorial sea, its contiguous zone and its exclusive economic zone. In April 2020, two municipalities were established in Sansha prefecture. In the same period, the China Committee on Geographical Names 'localised 80 islands' in the region. These islands were automatically included in the list of China's claims (see Appendix 1).

In the Paracel Islands, Beijing has built around 20 military installations. In the Spratly Islands it established such installations on seven artificial islands (see Map 2). Bases of the People's Liberation Army Navy were created there, and harbours and runways for military aviation purposes were built on reclaimed areas of land. The installations are equipped with anti-access systems covering a major portion of the South China Sea. They also include elements of radio-location systems and electronic warfare systems.¹¹ Other measures typical of China – not only in the South China Sea – include the use of the so-called maritime people's militia, i.e. fishing cutters carrying out coordinated and aggressive actions at sea. These cutters are protected by Chinese coast guard units. Another important element of China enforcing its rights involves blocking fishing activity by foreign fishermen in the exclusive economic zones surrounding the artificial islands, which China has delimited unilaterally.

The expansion and intensification of these activities directly correlate with China's economic development and the rise in its international significance, and the actions carried out in the South China Sea are elements of Beijing's

¹⁰ Taiwan did the same regarding Itu Aba in the Spratly Islands and Pratas Island (the only islet in the Pratas archipelago) which have been administered by the authorities of the Kaohsiung municipality as one of its components since 2007.

¹¹ Cf K.H. Radtke, *Understanding China's Behaviour in the South China Sea: A Defensive Realist Perspective*, Singapore, 2019; H. Hawksley, *Asian Waters: The Struggle Over the South China Sea and the Strategy of Chinese Expansion*, New York, 2018.

global ambitions. For Beijing, achieving domination in the South China Sea is not only a necessary step towards securing its own trade routes that connect China with the Middle East, Africa and Europe. It will also enable it to control vital supply routes used by other East Asian states. The United States and its allies argue that these actions pose a threat to the freedom of navigation and to the region's collective security, and that they are an element of a more comprehensive rivalry between Beijing and Washington for domination in the Indo-Pacific region. In addition, they argue that, in ignoring and challenging the present international legal order, China is setting a precedent and provoking a further destabilisation of the international system. The increase in the region's importance for the US's policy was communicated under the Pivot to East Asia strategy announced in 2012. In response to Chinese actions posing a threat to the freedom of navigation in the South China Sea, since 2015 the United States and its allies – including Japan, Australia, France and the United Kingdom – have conducted regular FONOPs involving the passage of warships through the territorial sea surrounding the artificial islands, whose boundaries were delimited by China. This is intended to demonstrate that the US and its allies view these areas of the South China Sea as the high seas which are not subject to Chinese jurisdiction.¹² The US also sends its military aerial vehicles to fly across the air space above these areas of land. These allied operations increasingly frequently meet with aggressive actions from China. Incidents happen regularly, resulting from China's warships performing dangerous manoeuvres in an attempt to force allied units to leave those areas of the sea that Beijing views as the Chinese territorial sea.

China is not the only state to voice its claims to sea or land areas in the South China Sea. Since the 1970s, countries such as Vietnam, Malaysia, Indonesia, Brunei and the Philippines have demanded that their rights to specific areas of land in the South China Sea should be recognised. When the UNCLOS came into effect in 1994,¹³ other states of the region submitted their claims and

¹² Pursuant to UNCLOS, not only commercial ships but also warships of foreign states enjoy the right of innocent passage through the territorial sea. In line with UNCLOS, this passage should be continuous and expeditious, unless it has to be stopped due to a force majeure or distress or for the purpose of rendering assistance. In addition, the passage needs to be carried out without entering internal waters or calling at a roadstead or port facility outside internal waters. However, more than forty signatory states, including China, argue that warships are required to notify their intention to pass through the territorial sea or obtain the relevant permission. While carrying out FONOPs, the warships belonging to the US and other states not only fail to notify the Chinese side of their intention to pass through, but also go off course without any specific reason, launch helicopters and conduct other operations which are banned by the UNCLOS in the territorial sea of another state but are allowed in the open sea.

¹³ For other signatory states, the date of the UNCLOS coming into effect is different.

requested the creation of their own exclusive economic zones and continental shelf boundaries. They not only overlap with China's claims delimited by the 'nine-dash line' but are also frequently mutually exclusive (see Appendix 2). Despite the fact that, unlike in the case of China's claims, their demands are based on legal solutions arising from the UNCLOS, thus far these countries have been unable to settle their mutual disputes. The situation in the South China Sea is aggravated by far-reaching demands voiced by various states, which in some cases seem to be motivated by some of these states intending to gain a strong negotiating position. However, once such claims are submitted, they are difficult to retract due to them rekindling the aspirations of public opinion and due to the region's major economic significance. This is another instance when the practice of countries unilaterally delimiting their exclusive economic zones hampers both the settling of disputes by negotiation¹⁴ and the process of working out a joint position vis-à-vis China's claims. The region's states respond to China's demands in several different ways. Vietnam and the Philippines are examples of two totally different approaches: Vietnam emphasises the expansion of its military potential, whereas the Philippines first chose legal action and now is trying to reach agreement with China regarding the joint exploitation of the South China Sea (see Appendix 2). In addition, other states of the region respond to Beijing expanding its military potential in the South China Sea by launching similar measures. As a consequence, at present the South China Sea is among the most important hot spots in international relations, and frequent and confrontational encounters of units representing all sides of this dispute bring the risk of a rapid escalation and open conflict. In the South China Sea, territorial issues are intertwined with both formal and informal defence alliances and the dynamic of the dispute is provoking a revision of the current shape of mutual relations. The conflict with China has already resulted in Vietnam's strong rapprochement with the US. Indonesia and Malaysia are responding to China's actions by increasing their military potential in the region and by carrying out regular coast guard operations targeting illegal fishing activity by Chinese and also Vietnamese fishermen in their exclusive economic zones. Alongside this, the failed legal action and the attempts to achieve rapprochement with China have resulted in Filipino-American relations cooling off and the future of the treaty on mutual defence between these states being called into question.

¹⁴ Pursuant to the UNCLOS, when at least two states submit their claims to a specific maritime area, their dispute should be settled by negotiation or through international arbitration rather than unilateral actions.

II. THE LEGAL ASPECT OF THE DISPUTES

China has never formally submitted its precise claims to the territory delimited by the 'nine-dash line' as a whole. It was only in 2009 that it appended a map showing this line to the objection it had filed with the UN Commission on the Limits of the Continental Shelf (UNCLCS) regarding a joint declaration by Malaysia and Vietnam on delimiting the boundary of the continental shelf. However, neither the wording of the objection nor any other document contain a precise presentation of specific demands formulated on the basis of this map. In December 2019, when submitting another objection to Malaysia's new declaration on delimiting the boundary of the continental shelf, China for the first time presented its claims regarding the delimitation of the exclusive economic zone and the continental shelf based on the boundaries of the territorial sea and on China's historical rights to the Nanhai Zhudao region (see Appendix 1). However, to date Beijing has failed to submit a relevant declaration to the UNCLCS. It seems that Beijing avoiding a clear definition of its claims results from the fact that the CCP's leaders are aware of the inaccuracy of these claims as seen in the context of the current international order and legal regime. In fact, Chinese territorial claims to the South China Sea have two tiers. On the first tier, China is presenting its claims to specific areas of land and demands that its jurisdiction in areas of water surrounding them should be recognised, citing the provisions of the UNCLOS. On the second tier, China demands that its imprecise and formally undefined claims to around 80% of the South China Sea, delimited by the 'nine-dash line', should be viewed as legitimate. When formulating these demands, China is making a reference to the notion of 'historical rights' which are unknown in international law.

The manner in which both China and other states of the region use the word 'island' in their nomenclature of certain areas of land in the South China Sea differs, which makes it difficult for the public to understand the complex legal background of this dispute. Due to the varying legal status of specific areas of land, the maritime areas adjacent to them also have a varying legal status. From the point of view of international law, to be considered an island an area of land must be naturally formed, surrounded by water, be permanently above water and enable human habitation and economic life. It is only in the case of islands that an exclusive economic zone can be delimited. The extent of the exclusive economic zone is 200 nautical miles measured from the boundary of the territorial sea (the breadth of the territorial sea is 12 nautical miles measured from the straight baseline). Similarly, it is only in the case of islands that the boundary of the continental shelf can be delimited – it is measured from

the outer boundary of the exclusive economic zone. A rock, meaning a naturally formed area of land surrounded by sea waters, which is permanently above water but cannot sustain human habitation or economic life of its own, has a different legal status. No exclusive economic zone or continental shelf can be delimited around a rock. It seems that most of the disputed areas of land in the South China Sea do not meet the definition of an island contained in the UNCLOS.

In response to China's actions, in 2013 the Philippines decided to bring an arbitration case against China to the Permanent Court of Arbitration (PCA) in The Hague. In 2016, the court ruled in favour of the Philippines (case number 2013-19).¹⁵ The court sustained most of the claims formulated by the Philippines and ruled that China's 'historical rights', if these ever existed, had been annulled once the new regulations contained in the UNCLOS (to which China is a party) came into effect. Beijing decided not to participate in the arbitration, citing the Declaration on the Conduct of Parties in the South China Sea, which it signed in 2002 along with the states grouped in the Association of Southeast Asian Nations (ASEAN) including the Philippines. The Declaration envisages, for example, that all disputes should be settled by negotiation. Beijing argues that the court was not authorised to examine the case because it related to the issue of sovereignty rather than to exploration rights. Nevertheless, the PCA ruled that the construction of artificial islands as well as the adaptation and expansion of rocks so that they are able to sustain human habitation and economic life (so-called artificial islands) does not change the legal status of such rocks and artificial islands. This is why the claims voiced by Beijing and other stakeholders regarding the delimitation of both the territorial sea around low-tide elevations¹⁶ and of the exclusive economic zone around rocks should be considered as excessive maritime claims which are in contradiction with the provisions of the UNCLOS regarding the status of areas of land and its legal consequences for maritime areas adjacent to them. Despite this, Beijing reiterated its position that the case exceeds the PCA's jurisdiction, and ignored the ruling.

¹⁵ [The South China Sea Arbitration \(The Republic of Philippines v. The People's Republic of China\)](#), Permanent Court of Arbitration, 12 July 2016, after: [web.archive.org](#).

¹⁶ Pursuant to the UNCLOS, a low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. The presence of a low-tide elevation results in a change of the legal status of the adjacent maritime area only in one specific situation – when at low tide it is situated wholly or partly within the boundaries of the territorial sea of another area. In such a case, the seaward low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea and the contiguous zone. Otherwise, the low-tide elevation is viewed as international waters and has no legal effect on the adjacent maritime area.

In 2017, as late as 15 years after China and the ASEAN states signed the Declaration on the Conduct of Parties in the South China Sea, a preliminary framework was adopted for devising a Code of Conduct of Parties in the South China Sea. According to optimistic forecasts, the final version will be adopted by 2021. The document will likely relieve the tension and reduce the threat of escalation or the outbreak of an accidental conflict, but it will not settle territorial disputes. However, Beijing consenting to the launch of work on the code's wording should be interpreted as an intention to disrupt the cooperation between other states of the region and the US rather than as a genuine effort to relieve the tension. This is prompted by China's unilateral actions and by the fact that back in 2016 China persuaded Brunei, Laos and Cambodia – three states which are heavily dependent on economic cooperation with Beijing – to sign a declaration stating that territorial disputes in the South China Sea are a matter which should not be raised in the ASEAN forum and should be settled bilaterally.

III. OUTLOOK

For internal reasons, Beijing is not willing to make any concessions. This results from its revived nationalist aspirations which the CCP is using as a tool to consolidate its domestic legitimisation. CCP propaganda emphasises that the South China Sea issue is a vital interest for China, alongside the issues of Tibet, Xinjiang and Taiwan. In addition, the claims to the Nanhai Zhudao region (see Appendix 1) which China is making, citing the current international legal order, are largely consistent with the area delimited by the 'nine-dash line'. This is why, in Beijing's view, these claims complement and enhance each other. This, in turn, is intended to result in a precedent being set and in the international community granting consent, even if implied, to China assuming control of a portion of the South China Sea. It seems that the CCP is hoping that once it obtains informal approval for the delimitation of its territorial sea and for its exploration rights to the area surrounding Nanhai Zhudao, it will be able to announce to the Chinese public that the claims based on 'historical rights' have been satisfied. As a consequence, no concessions should be expected from China. On the contrary, it should be expected that China will toughen its position due to mounting economic problems and the crisis which will likely follow the COVID-19 pandemic. Despite its repeated announcements, to date Beijing has failed to introduce its Air Defence Identification Zone over the South China Sea. However, should this happen, it will be a step towards an escalation of the dispute.

China is *de facto* challenging the foundation of the international legal order by presenting excessive maritime claims, which is combined with the region's increasing militarisation and the construction of artificial islands. This is tantamount to it making a deliberate attempt to shape the international order. These unilateral actions pose the threat of the elimination of the current mechanisms and international institutions. This is why the international community recognising China's 'historical rights' to extend any form of its sovereignty over a portion of the South China Sea delimited by the 'nine-dash line' would equate to it accepting a precedent, which would affect the region as a whole and also the entire world. Alongside the strategic and economic importance of the South China Sea, this is the basic reason why these claims are met with objection on the part of the US and its allies. These countries emphasise the inviolability of the provisions of the customary law of the sea contained in the UNCLOS – regardless of the fact that the US itself has failed to ratify this convention. Therefore, it seems unlikely that any type of special rights to the South China Sea for China could be recognised even informally.

This stance results in the US and its allies conducting FONOPs in the South China Sea region.

In the foreseeable future, Beijing will continue to treat the South China Sea as a testing ground for checking how determined Washington and its allies are to maintain the current international order in East Asia. It cannot be ruled out that Beijing will continue to escalate its actions, in particular if it assumes that – due to internal reasons – the US will decide not to intervene. This is why it is more likely that, alongside its active presentation of further claims to areas of land, and recently also to underwater formations, Beijing will decide to use force. It is likely to choose one of two lines of action: (1) it will seize areas of land administered by Taiwan and present this as China's internal issue, or (2) it will deprive another state of the region of some objects this state controls. In the first scenario, Chinese planners may assume that Beijing seizing islets administered by Taiwan will not trigger a significant and enduring reaction from the US, which could for example involve the US sending its troops to Taiwan. This, in turn, could result in Taiwanese elite and society revisiting their belief in American security guarantees. As a consequence, this would ultimately enable China to take over control of Taiwan without the need to carry out a risky invasion. In the second scenario, the goal would be similar, i.e. to challenge the value of American security guarantees and the US's role in the region. This scenario is less likely to happen because it would involve aggression against a sovereign state, which could in turn meet with a negative response from the bloc of developing states which support China. However, China's actions targeting Vietnam back in the 1970s and 1980s, intended to show the worthlessness of the USSR's security guarantees, indicate that this option is still present in Beijing's calculations. However, at present it seems that any attempt to put either of these scenarios into practice would be tantamount to China making a major mistake in its assessment of Washington's determination and capability.

In the long-term perspective, Beijing's success or failure in its pursuit of its claims in the South China Sea will have a significant impact on the international order and legal regime. Due to the direct involvement of both China and the US, the South China Sea has already become the scene of open tension between the two sides. Even if China refrains from significantly escalating the dispute, any minor incident may result in armed conflict – even if only in the form of a limited and brief naval war for control of the South China Sea. This war will not decide the Chinese-American contest and will merely be a prelude to continued rivalry. Should the conflict spill over into Taiwan

or should both sides suffer major losses in its initial stage, it cannot be ruled out that a lasting war of attrition between China and the US may break out and that in time other states may become involved in this military conflict. In addition, even a minor conflict in the South China Sea may result in a blockade which will disrupt navigation and result in East Asia being cut off from Europe, the Middle East and Africa, and – ultimately – in a global economic crisis. The result of this conflict, regardless of the scale of military activity, will in the mid-term perspective mainly decide the future of domination in East Asia and the outlook of statutory law in the international order.

MICHAŁ BOGUSZ

APPENDICES

Appendix 1. China's claims to specific areas of land in the South China Sea

Aside from the exclusive economic zone measured from the straight baseline of the Hainan Island and Guangdong province, China's claims cover more than 300 geographical objects which are mainly located in four regions colloquially referred to as 'si sha' ('four sands'). These are: the Pratas Islands (Chinese: Dongsha¹⁷ Qundao, administered by Taiwan), the Paracel Islands (Chinese: Xisha Qundao, administered by China), the Spratly Islands (Chinese: Nansha Qundao, administered by several states, see Map 2) and the Macclesfield Bank (Chinese: Zhongsha Qundao). In official documents they are also collectively referred to as Nanhai Zhudao. One key element of Beijing's attempts to enforce its jurisdiction over a portion of these regions involves building military structures in areas it administers, i.e. the Paracel Islands and the Spratly Islands, where artificial islands have been built in the Fiery Cross Reef (Chinese: Yongshu Jiao), the Johnson South Reef (Chinese: Chigua Jiao¹⁸), the Cuarteron Reef (Chinese: Huayang Jiao), the Gaven Reef (Chinese: Nanxun Jiao), the Hughes Reef (Chinese: Dongmen Jiao), the Mischief Reef (Chinese: Meiji Jiao) and the Subi Reef (Chinese: Zhubi Jiao). Alongside this, the People's Republic and Taiwan claim the right to jurisdiction over the Macclesfield Bank and the Scarborough Shoal (Chinese: Huangyan Dao), which in fact are merely composed of low-tide elevations and skerries.

¹⁷ In line with the romanisation standard applied in Taiwan it is: Tungsha.

¹⁸ The same romanisation standard as the one applied to the Fiery Cross Reef.

Appendix 2. Territorial claims of China's neighbours in the South China Sea

Brunei

Brunei is the only state in the South China Sea region to have independently submitted its claims to the territorial sea and (in 1988) to the exclusive economic zone. It is not involved in building artificial islands in the South China Sea and its military has no permanent presence in the areas of land in its exclusive economic zone. However, the sultanate has reserved the right to submit to the UNCLCS a declaration on delimiting the boundary of the continental shelf in the future.

The Philippines

The Philippines delimited its 200-nautical-mile exclusive economic zone (measured from the baseline) back in 1978, and in 2009 – in line with UNCLOS regulations – it submitted its declaration on drawing its straight baseline to serve as a starting point for delimiting the current exclusive economic zone. The 2012 declaration specified the Filipino claims to the continental shelf beyond the boundary of the exclusive economic zone. Most of the areas of land belonging to the Spratly Islands, including areas of land administered by the People's Republic, Taiwan, Vietnam and Malaysia (see Map 2), are located in the Filipino *de iure* exclusive economic zone and continental shelf.

Malaysia

Malaysia presented its first territorial claims in the South China Sea back in 1979, which seems to have been intended as a response to actions carried out by the Philippines in 1978. In 1979, the boundaries of the exclusive economic zone were delimited, measured from Malaysia's normal baseline on the island of Borneo and the Malay Peninsula (they were corrected once the UNCLOS regulations came into effect, i.e. they were measured from the straight baseline). In 2009, Malaysia and Vietnam submitted a joint declaration on delimiting the boundary of the continental shelf, and in 2019 Malaysia submitted its separate declaration shifting the shelf's boundary considerably northward (see Map 2).

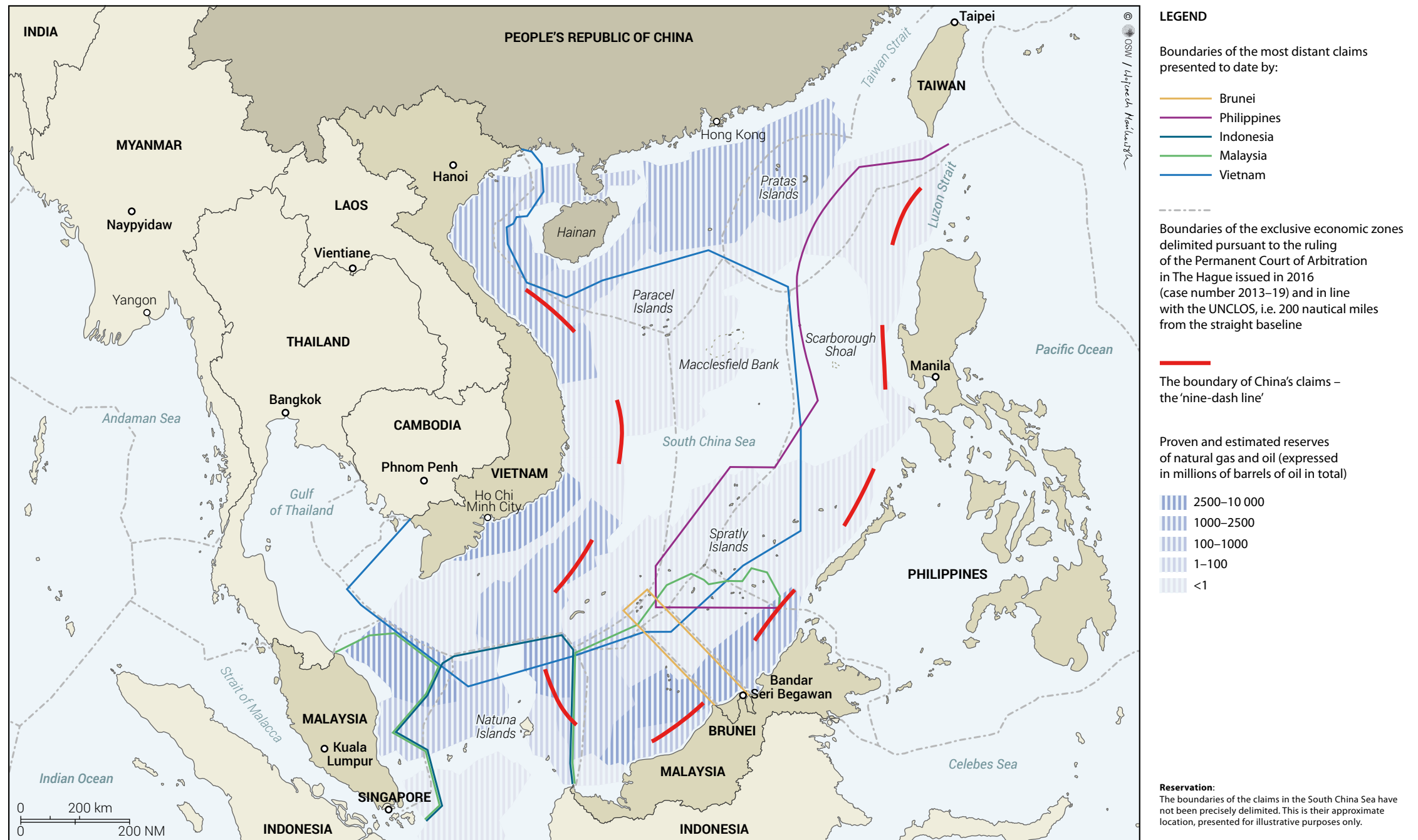
Indonesia

Indonesia's claims relate to the Natuna Islands and to the exclusive economic zone measured from these islands' straight baseline, and to the exclusive economic zone and the continental shelf northwest of Sumatra, which was confirmed in the relevant declaration submitted to the UNCLCS in 2008.

Vietnam

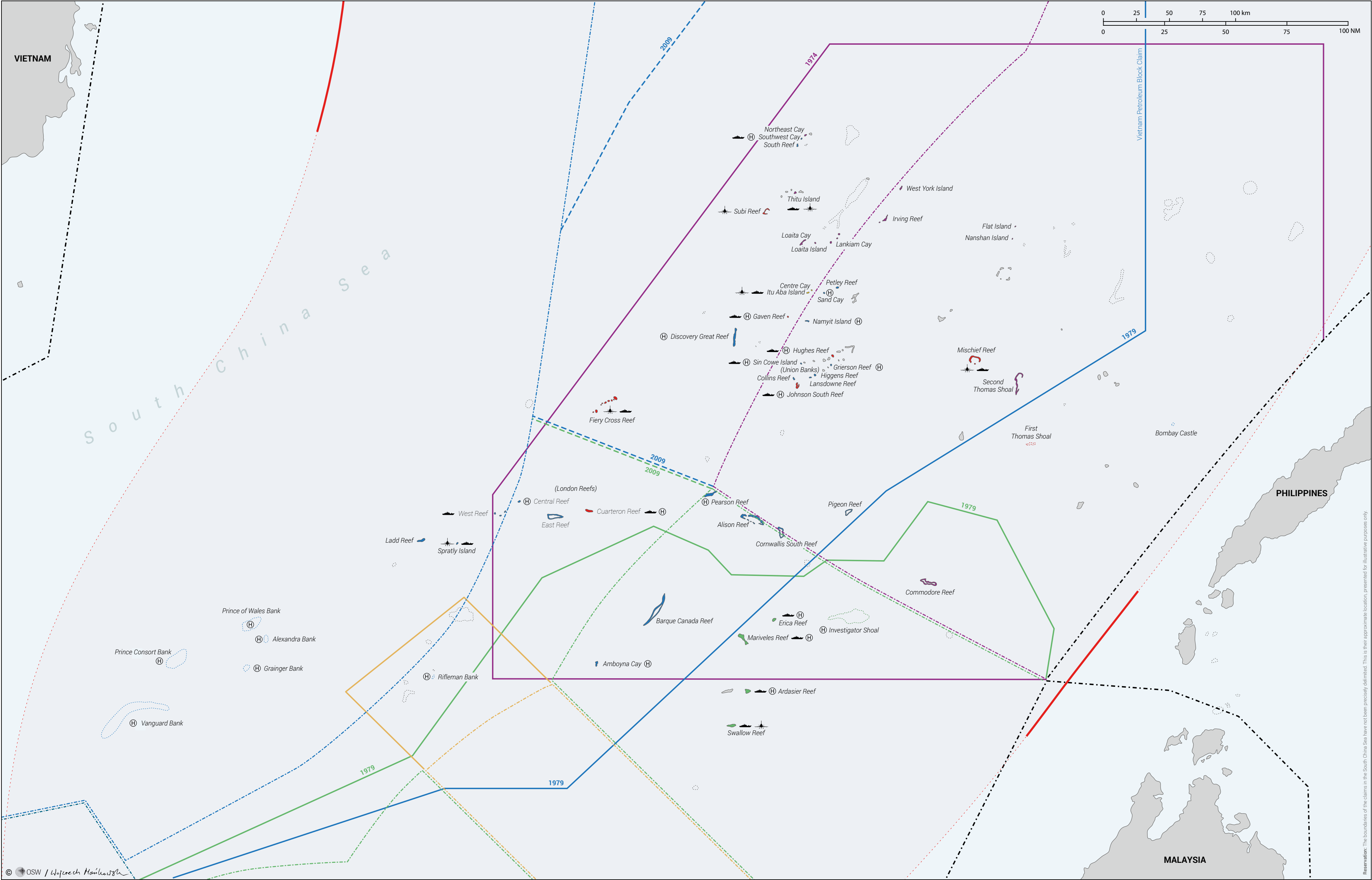
The Republic of Vietnam (South Vietnam) delimited its 50-nautical-mile exclusive fishing zone in 1972, and in 1977 (prior to joining the UNCLOS) the united Vietnam delimited its 200-nautical-mile exclusive economic zone. In 2009, Vietnam and Malaysia submitted to the UNCLCS their joint declaration regarding the continental shelf (see Map 2). In 1979, Hanoi reiterated its claims to the Paracel Islands and the Spratly Islands alongside the petroleum block. Fortified military bases were built on areas of land, some of them were equipped with runways built on reclaimed land. At least 25 blockhouses were built on rocks and floating observation points were launched. Over at least the last three years, ten artificial islands have been built. However, Vietnam emphasises that its actions are intended to enforce effective jurisdiction over the area of the exclusive economic zone covered by Vietnam's claims and that they do not serve the purpose of presenting further demands.

Map 1. Claims in the South China Sea and proven and estimated reserves of natural gas and oil in the basin's region



Sources: M. Hossain, M. Hashim, 'Earth observatory data for Maritime Silk Road development in South East Asia', *Jurnal Teknologi*, no. 79 (6), August 2017;
Zou Keyuan, 'Scarborough Reef: A new flashpoint in Sino-Philippine relations?', *IBRU Boundary and Security Bulletin*, summer 1999;
'China has militarised the South China Sea and got away with it', *The Economist*, 21 June 2018, www.economist.com;
'See U in court', *The Economist*, 18 July 2015, www.economist.com;
Contested areas of South China Sea likely have few conventional oil and gas resources, U.S. Energy Information Administration, 3 March 2013, www.eia.gov.

Map 2. The Spratly Islands administered by the individual states of the region and the boundaries of claims versus the exclusive economic zones and the boundaries of the continental shelf



LEGEND

- Areas of land (islands, cays, reefs, rocks):
- administered by China
 - administered by the Philippines
 - administered by Malaysia
 - administered by Taiwan
 - administered by Vietnam
- Submerged areas and areas only partly above water:
- administered by China
 - administered by Malaysia
 - administered by Vietnam
- Boundaries of claims submitted by:
- China – the 'nine-dash line' (1947)
 - Philippines – to the exclusive economic zone (1974)
 - Malaysia – to the exclusive economic zone (1979)
 - Malaysia – to the continental shelf (2009)
 - Vietnam – to the petroleum block (1979)
 - Vietnam – to the continental shelf (2009)
- Boundaries of the exclusive economic zones delimited pursuant to the ruling of the Permanent Court of Arbitration in The Hague issued in 2016 (case number 2013–19) and in line with the UNCLOS, i.e. 200 nautical miles from the straight baseline of:
- Brunei
 - Philippines
 - Malaysia
 - Indonesia
 - Vietnam
- Boundaries of the territorial seas
- Ⓜ Landing fields ✈ Runways 🏰 Harbours

Sources: M. Hossain, M. Hashim, 'Earth observatory data for Maritime Silk Road development in South East Asia', *Jurnal Teknologi*, no. 79 (6), August 2017; H.T. Nguyen, 'Malaysia's New Game in the South China Sea', *The Diplomat*, 21 December 2019, www.thediplomat.com; J. Burgess, 'Territorial Claims in South China Sea', *The New York Times*, 21 May 2012, www.nytimes.com; Zou Keyuan, 'Scarborough Reef: A new flashpoint in Sino-Philippine relations?', *IBRU Boundary and Security Bulletin*, summer 1999; 'See U in court', *The Economist*, 18 July 2015, www.economist.com.