

# TED ISTANBUL MODEL UNITED NATIONS 2020

“Protecting Future Generations”



**The Issue of The South China Sea**

İrem Duru

Chair

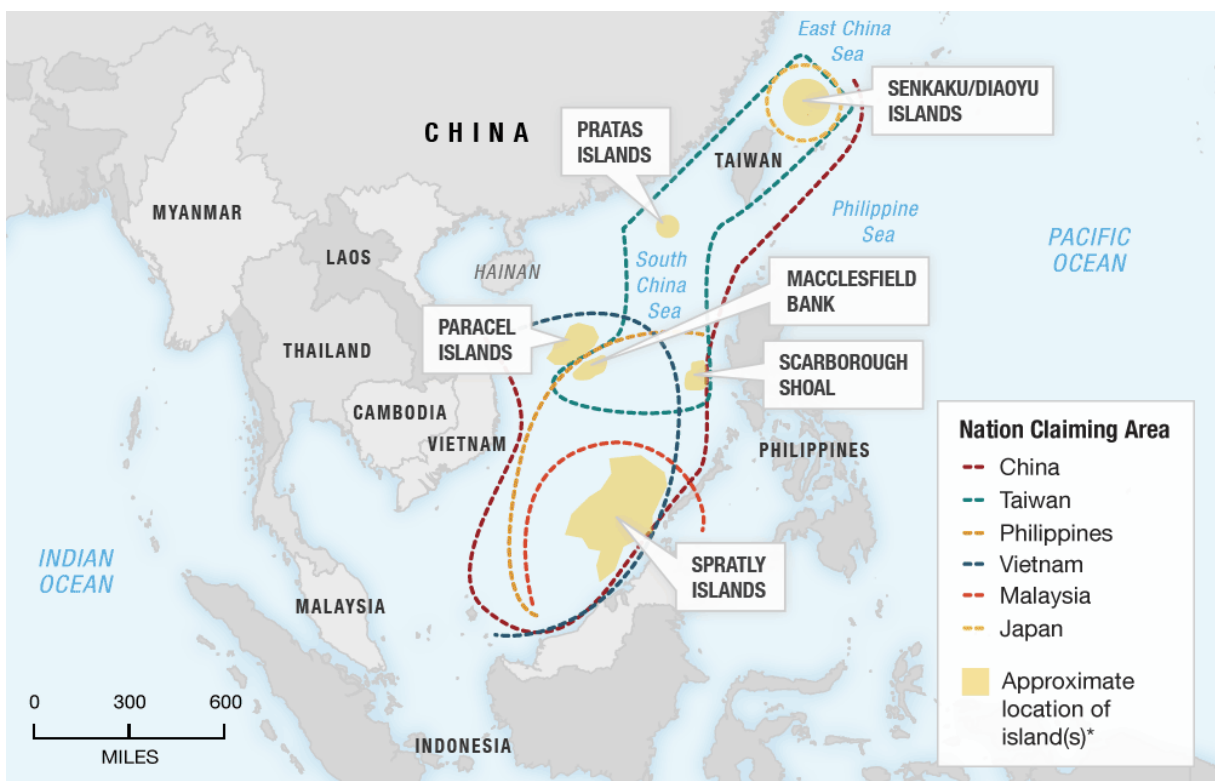
**Committee:** North Atlantic Treaty Organisation (NATO)

**Issue:** The Issue of The South China Sea

**Student Officer:** İrem Duru (Chair)

## Introduction

The South China Sea is a 3.5 square km stretch of water ranging from Singapore to Taiwan and due to its geographical position is one of the most important trade routes for the countries surrounding it. The area is host to one-third of the world's merchant shipping and transport. Furthermore, it is believed to have immense, untouched oil and natural gas reserves beneath its waters. Consequently, South China Sea is the host of many territorial disputes that result in conflict between its surrounding countries. The territorial disputes over this area are the primary source of tension within the region.



As can be seen from the figure due to the location of the surrounding countries there are many overlapping claims over the area. According to the United Nations Convention on the Law of the Sea each state has claims over an area of 200 miles from its mainland as an exclusive economic zone. However not only do these zones overlap but states have ventured to make historical claims over the area which further enhances the disputes. While there has been no armed conflict yet, there has been heavy militarization in the area which is still increasing and could lead to an armed conflict in the future.

## Definition of Key Terms

**Terra Nullius:** Terra Nullius in Latin is an expression that means "nobody's land," which is used in international law to describe landmass or territories which has never been subject to the sovereignty of any state, or over which any prior nation has expressly or implicitly renounced sovereignty.

**Territorial dispute:** A disagreement between multiple countries over who is the rightful owner of a territorial region. In other words, this means that multiple countries claim sovereignty over the same region.

**Exclusive Economic Zones (EEZs):** An Exclusive Economic Zone (EEZ) is a sea zone defined by the United Nations Convention on the Law of the Sea (UNCLOS) over which a country has rights regarding the exploration and use of marine resources, including energy production from water and wind and the exploration and the processing of the natural resources within the discussed region.

**Continental Shelf:** Continental shelf is the area of seabed around a large land mass where the sea is relatively shallow compared with the open ocean.

**The Nine-Dash Line:** The nine-dash line first appeared in 1947 as an attempt of the Nationalist Chinese government to claim the waters surrounding it. This originally appeared as an eleven-dashed line but was changed to settle disputes with Vietnam. The ICJ has ruled that the nine-dash line has no historical rights, but this ruling has been rejected by the Chinese government. As can be seen in the figure here it encompasses a large area of the South China Sea.



## General Overview

### Disputed Regions

The South China Sea, as a part of the Pacific Ocean lies enclosed by the countries China, Vietnam, Malaysia, Brunei, Philippines and Taiwan which all possess maritime and territorial claims over the region.

Initially China's then also Taiwan's claim over the region, the nine-dash line, overlaps with the Exclusive Economic Zones (EEZ) of Vietnam, Malaysia, Brunei, Philippines and Indonesia. Even though Indonesia is the only country among the listed five that does not have ownership claims regarding the South China region the nine-dash line overlaps with the waters near the Natuna Islands that lies in the EEZ of Indonesia. Additionally, many of the maritime claims made by the nations Malaysia, Brunei, Philippines and Vietnam overlap with each other as well.

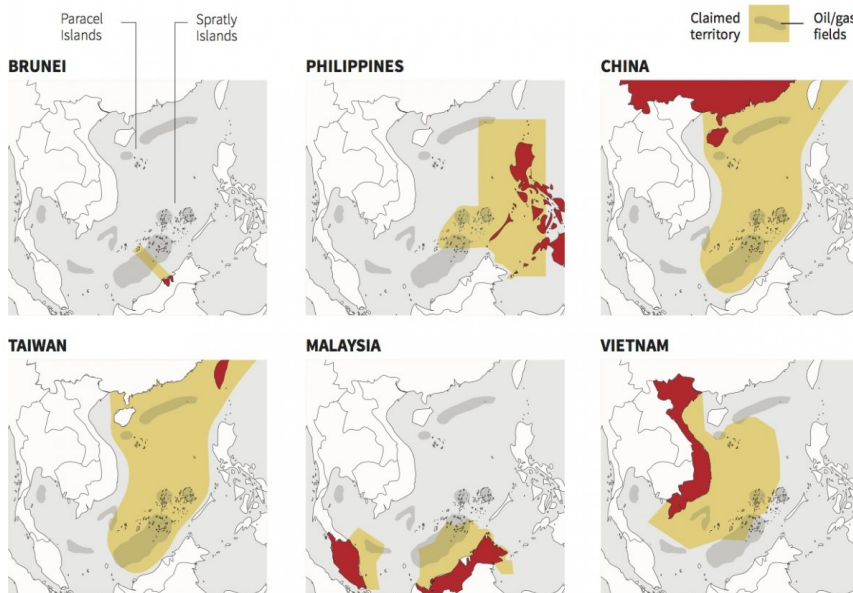
One of the two main lands of dispute in the South China Sea, the Spratly Islands which are claimed by China, Taiwan, Vietnam, Malaysia and the Philippines. Brunei does not hold official territorial claims, however it claims jurisdiction over the seas surrounding the Louisa Reef, the southern part of the islands. The Spratly Islands constitute of more than one hundred small islands and reefs, of which forty-five are occupied by military forces of those countries who has territorial claims. These small islands and reefs are rich in terms of allowing access to natural gas and oil sources. The islands are

also an important commercial fishing and shipping area. The second land of question in the region is the Paracel islands which is again claimed by multiple countries: China, Taiwan and Vietnam. Nevertheless, the islands are occupied by Chinese forces. The Paracel islands possess a potential for oil and gas development along with being a potential commercial fishing area just as The Spratly Islands do.

Many small reefs and areas like Scarborough shoals in the region have gone through construction by the Chinese forces to create artificial platforms on these small islands. Itu Aba, Gaven Reef, Johnson South Reef and Fiery Cross Reef are examples where artificial platforms have been constructed that can be used for military purposes, such as the constructed airstrip on Fiery Cross, which are causing significant danger and tension in the region.

### Claims on the South China Sea

China and five other Asian states contest all or parts of the Spratlys and Paracel islands in the South China Sea.



Sources: U.S. Energy Information Administration, U.S. Department of State, Middlebury College, National Geographic Staff, 13/02/2014

REUTERS

### Historical Background

After the end of World War II, both Republic of China and People's Republic of China claimed ownership on South China Sea territories that were previously occupied by Japanese forces. In 1947 China proposed the eleven-dashed line map that assigned 80% of the region, including both the Paracel and Spratly islands, to Chinese control due to historical claims over the region dating back to the third century. Vietnam, followed by the Philippines was opposed to the claims of China in the region. Due to augmenting tensions in the region, in 1974 the Battle of Paracel Islands occurred between Vietnam and China. For the relations between China and the Philippines, tensions regarding the region reached its maximum during the 1994 occupation of Mischief Reef in Spratly Islands by China leading to a conflict between the two countries. Currently tensions still exist between the six nations whose maritime claims overlap with each other regarding the economically and strategically advantageous region, the South China Sea.

## **Economic and Strategic Opportunities**

There are various incentives for the six nations to fight over the disputed territories and aim to gain control over them, as China wishes with its nine-dash line which would provide a significant economic growth considering that the South China Sea is rich in terms of natural resources such as untapped oil and gas reserves. Possible commercial fishing areas can also be listed as one of the economic benefits of gaining the right to control the waters of the South China Sea. The region is also suitable to be used for military and security purposes by constructing military bases on artificial islands supported by the reefs as it was proved in April 2015 when satellite imagery revealed that China was rapidly constructing an airfield on Fiery Cross Reef within the Spratly Islands.

## **NATO involvement**

The Asia Pacific is the most economically dynamic area in the world, vital to international growth and financial stability. NATO members the US and Canada are Pacific powers whilst France and Britain also have interests in the region as Britain maintains a military base in Brunei at the southern edge of the South China Sea. The Asia Pacific region is strategically significant as the only place where all five official nuclear weapons states, including Russia, meet. The promise of future growth, however, is in jeopardy with the region riven by divisions and territorial disputes: the division of the Korean peninsula; the division of China and Taiwan; and, of course, territorial disputes over islands in the East and South East China Sea. Any of these flashpoints could trigger a nuclear confrontation.

The conflict in the region has increased militarization in the region, which also increases the chances for an armed conflict that would cause disputes to be more difficult to resolve. To China, the South China Sea is an important naval power projection. Increased presence of other countries in the South China Sea has caused China to deepen its military build-up. The USA argues that China has completed three military bases in the South China Sea's disputed regions, which allow China to deploy military assets to Spratly Islands at any time, posing a military threat to those who seek freedom of passage. However, China denies that it is militarizing the South China Sea. Other countries are also increasing their military presence. For instance, Vietnam and Malaysia have increased their military build-up, and increased arm trade with India and Russia. The Philippines increased their military budget, and have joined arms trade deals with the United States. In April 2014, Philippines stated that their largest warship, which is from the USA, was in a standoff with Chinese surveillance vessels after the Philippines ship had attempted to arrest Chinese fishermen. NATO declared that it is still keen to support countries in the region which are willing to develop defence capabilities, or share intelligence and best practices in maritime security. On this front, General Pavel in the name of NATO affirmed that NATO is also keen on looking at opportunities between NATO and ASEAN.

## **Major Parties Involved**

### **People's Republic of China**

This is the country with the biggest impact on the situation and the influence on the region. Remaining determined on its nine-dash line while firmly considering that the Spratly and Paracel Islands are a historical part of China and have been for at least 2000 years, China ignores the rulings of the PCA. It has furthermore developed an increasingly strong stance on the issue, notably in ASEAN while in a

meeting stating, “China is a big country and other countries are small countries, and that's just a fact.”<sup>1</sup> Since 2014 it has started reclaiming a large amount of the area and building artificial islands and infrastructure which could potentially lead to militarization of the area. Furthermore, China prefers the Code of Conduct which is a document that was signed between ASEAN members and China to solve the issue of the South China Sea, as the valid solution to this issue, instead of UNCLOS while restraining from an international arbitration.

### **Association of Southeast Asian Nations (ASEAN)**

ASEAN is a key organization involved in this conflict. Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam are members of the organisation. In 2002, the Code of Conduct was signed by the parties in the South China Sea, initiating and promoting dialogue and cooperation between the governments. With the help of ASEAN in 2011, the conflicting parties agreed on a set of guidelines to achieve the tasks in the Code of Conduct. In general, ASEAN's holds an objective, peaceful view on the issue.

### **Republic of China (Taiwan)**

Similarly, to China, Taiwan remains steadfast on the nine-dash line since it was part of China when the claim was issued so it continues to have claims on it. It has also declared it does not accept the ruling of the PCA on this issue. Taiwan is not a member of the UN therefore is not obliged to follow the ruling of the UNCLOS and may continue with its claims.

### **Vietnam**

Vietnam has been one of the most active claimants in the South China Sea dispute. It claims the Spratly and Paracel Islands based on its EEZ and continental shelf zones, and joined Malaysia in a joint submission of territorial claims in the South China Sea to UNCLOS. Vietnam went to war with China in 1947 over the Paracels, and again in 1988 the Chinese navy sank three Vietnamese naval vessels. The confrontation marks China's first armed conflict over the Spratly Islands, and one of the most serious military clashes in the South China Sea. Vietnam and China conducted bilateral talks and made an agreement to work towards achieving the Code of Conduct. Vietnam continues its policy to claim the Spratly and the Paracel islands. Vietnam has further conducted joint military drills with the United States of America.

### **The Philippines**

The Philippines made its claim to the Spratly Islands in 1978. The Philippines argue that the Chinese nine dashed lines are a violation of UNCLOS. Several disputes occurred throughout 1995 to 2012 between China and the Philippines, both military and in court. A few examples of these are China capturing Philippine military installations in their EEZ, the Philippines taking China to a UN Tribunal under the UNCLOS and the seizure of Chinese fishing vessels in the disputed Scarborough Shoal. The United States of America is a major ally of the Philippines.

---

<sup>1</sup> <http://edition.cnn.com/2017/08/08/asia/singapore-trump-china/index.html>



## Malaysia

In 1991, Malaysia developed a resort and has built an airstrip on Swallow Reef to promote tourism and commerce. Malaysia claims some small islands in the southern Spratly Islands, and has occupied five of them since 2009. While Malaysia has remained largely silent on the issue, in 2017 the foreign minister Anifah Aman, stated that China's nine-dash line is not in accordance with international law and is not recognized by Malaysia, stressing that Malaysia cannot remain neutral on the issue despite its reliance on China for trade and investment. Even though Malaysia has not been an active claimant regarding military presence in the region but recently has signed a defence pact with the PRC in order to advance military cooperation.

## Brunei

Brunei is the least vocal of all involved parties and only lays claim to a small area within its EEZ. Furthermore, it has signed the Code of Conduct and its constituent guidelines. Overall, Brunei has preferred acting through peaceful rather than a military show of force. In fact, the Royal Brunei Navy (RBN) is a small force whose major task so far has been to conduct search and rescue missions.

## United States of America

The United States does not claim any territories in the South China Sea. However, the US conducts naval patrolling missions known as Freedom of Navigation operations (FONOPs). Since October 2015, the United States has launched three FONOPs to aid its claimant allies and to challenge China's presence in the region and to increase its own influence as a world superpower. The USA has conducted numerous military drills in cooperation with Vietnam, and it has announced that it will be deploying more ships in the Pacific to hinder China's advance. Lastly, the US has a defence treaty with the Philippines, as they are major allies.

## European Union (EU)

The European Union and its Member States are committed to maintaining a legal order of the seas and oceans based upon the principles of international law, and to the peaceful settlement of disputes by UNCLOS, contrasting China's preferences. The EU so far has not made any statements regarding the sovereignty of any island yet some members such as France and Germany have expressed their wishes that China complies with the ruling. Other member states such as Hungary and Greece on the other hand have refrained from criticizing any party. The EU and EU member states have important financial resources and dependencies within the South China Sea region. The EU released its guidelines on the EU's Foreign and Security Policy in East Asia in 2012, encouraging freedom of navigation in the South China Sea. The EU continues a neutralist policy although some member states lean toward different parties. In addition to this, the EU offered its help to parties involved in the conflict by sharing its skills in settling laws on maritime borders and sustainable management of resources and security measures.



## Timeline of Key Events

When	Event
1946	China claims Spratly Islands.
1948	Nine dashed line map first published by the Republic of China's Interior Ministry in Taiwan staking its sovereignty claims.
1951	Japan officially relinquishes empire through the Treaty of San Francisco thus annulling all of Japan's claims to the South China Sea Islands.
1974	China captures Paracel Islands.
1988	70 Vietnamese sailors killed in naval battle with China
1991	China invokes International law to expand sea territory.
1994	The United Nations Convention on the Law of the Sea (UNCLOS), which was drafted in 1982, is put under execution following the ratification by 60 Member States to the UN including China.
2009	The nine-dash line map created by China, which claims %80 of all the South China Sea as Chinese territory, is presented to the United Nations and to the international community. All the other claimants have protested the nine-dash line map as it was highly biased and was disregarding the EEZ and UNCLOS, which China has ratified.
June 2011	US Senate condemns China's use of force in South China Sea.
April 2012	The Philippine navy discovers Chinese fishing vessels in a lagoon off Scarborough Shoal, finding large amounts of what it describes as illegally harvested coral and other sea life. The US and Philippines hold a joint military exercise during the ensuing stand-off.
June 2012	US announces that more ships will be deployed in the Pacific while Vietnam passes a new maritime law claiming sovereignty over the Spratly and Paracel Islands.
17 October 2012	Declaration of Conduct of Parties in the South China Sea was accepted.
January 2013	The Philippines announces that it will take China to a UN tribunal under the UNCLOS.
2014	Vietnamese and Chinese vessels collide because of a new drilling rig introduced near the Parcel Islands.
2015	According to the Pentagon's Annual Report to Congress, China has started an infrastructure project on four reclamation sites.
12 July 2016	The Permanent Court of Arbitration announces its rulings regarding the case of between the Republic of the Philippines and the People's Republic of China. PRC recognizes the rulings as null and void.



## Previous attempts to resolve the issue

One of the most recent and most important methods that has been tried to resolve the conflict was appealing to the Permanent Court of Arbitration (PCA) to resettle the overlapping claims between the Philippines and China. Although PCA published a ruling, which considered the Exclusive Economic Zones, which, were prescribed by the UNCLOS, as the main factor in settling the claim conflicts, the ruling was not recognized by China. Although, by not recognizing the rulings, China commits a crime against international law, the Chinese authorities have reasons to do so. First and foremost, the issue of the South China Sea has been a historic one and is a great source of populist votes in the country. So, any action of “cowardice” or acceptance on the Chinese side would mean a failure in both foreign and domestic affairs. Therefore, it is not feasible to believe that China would withdraw any of its claims through international court rulings as such, if they do not benefit from them equally. Hence, Chinese Government, since first conflict in the South China Sea, claimed that the islands in the area that they claim have always been habited and used by the Chinese fishermen during fishing seasons. China has submitted many documents in order to prove this claim yet the documents could not have been verified. These documents not being considered by the PCA is another reason why China has rejected to abide the rulings of the court.

UNCLOS and the EEZs have had a great impact on resolving many maritime conflicts around the World, as they are both applicable and just. Yet they have repetitively failed to resolve the issue of the South China Sea because of the foreign policy of China and other parties on the issue. Accepting the maritime area granted by the UNCLOS as EEZ of China would be considered humiliation for the existing government, therefore China, once again, does not recognize the UNCLOS in its own case, although it does for other cases around the world.

Secondly, Declaration of Conduct of Parties in the South China Sea was a declaration, which has been signed on October 17th, 2012 between the sides of the conflict, which was regarded as the first step of a peaceful solution and cooperation in the region. Even China has agreed to commence taking confidence-building measures in the area. Although foreign relations seemed to improve with the declaration, the road to peace has been once again disrupted by aggressive measures taken by the PRC.

Thirdly, Association of Southeast Asian Nations (ASEAN) is an organization which gathers Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam under its roof in order to unite against the overly exaggerated maritime claims of China in the South China Sea. Even with this union, a determinate solution was not reached.

## Possible Solutions

Although the question of the South China Sea is a complex and long-lasting one, with the cooperation of all Member States, a satisfactory solution can be reached. Yet this solution should be one that all parties of the conflict benefit from and do not diminish any parties in the eyes of their people. One of the main reasons for the raising of tensions in the region is the encounter of military personnel of the parties of the conflict in the South China Sea. The harassments of either side on the other puts the peace talks in jeopardy. Therefore, stricter measures should be taken against these unpleasant interactions, and these interactions should be replaced with diplomatic visits and assemblies instead. One possible solution to ease tensions in the region lies in confidence building measures which first pioneered during the Cold War. Confidence Building Measures consist of programs, activities and

agreements between countries that aim to reduce military tensions in a region. However, there are certain principles that should be considered if we want the efforts of establishing confidence-building measures to yield successful results. Firstly, actions that promote openness and transparency within the region should be encouraged, as they will prevent the emergence of accidental conflicts regarding the region that can be fuelled by events such as the Hainan island incident that occurred in 2001 due to the mid-air collision of Chinese and US air forces. Secondly, it is necessary to realise that South China Sea involves multiple claimants that creates a security dilemma regarding the region. Military building of one nation to increase its security over the region results in a less secure environment for other nations involved and compels them to also increase their military measures. The arms race that emerges in the region due to this concept makes it more difficult to achieve transparency. That is why multilateral agreements should be encouraged to be made between the countries involved in the conflict to promote confidence-building measures in the region, which is currently the most realistic way to ease the tensions.

There are two types of interest in laying territorial claims in the South China Sea: political and economic. A solution including a joint governmental organization to administer the South China Sea's (the area of the sea, excluding the lawfully defined EEZs of each party) economic activities can also be considered. This organization, which has a multi-governmental administration, could profit from the current trade tariffs and possible natural resource exports and could divide these profits amongst the South East Asian countries according to rates that are defined by a consensus.

## Appendix/Appendices

<https://www.youtube.com/watch?v=FOpkTdUv4zU> , Who Owns South China Sea CNBC Explains

<https://www.youtube.com/watch?v=luTPMHC7zHY> , Vox, Why China is building islands in the South China Sea

## Bibliography

- Daiss, Tim. "South China Sea Disputes Off-Limits, Says NATO." *Forbes*, Forbes Magazine, 4 June 2016, [www.forbes.com/sites/timdaiss/2016/06/03/south-china-sea-disputes-off-limits-says-general/#408f6b10ddaf](http://www.forbes.com/sites/timdaiss/2016/06/03/south-china-sea-disputes-off-limits-says-general/#408f6b10ddaf).
- Ellyatt, Holly. "China Is 'Coming Closer' but We Don't Want a New Adversary, NATO Chief Says." *CNBC*, CNBC, 2 Dec. 2019, [www.cnbc.com/2019/12/02/jens-stoltenberg-rising-power-china-must-be-addressed-by-nato.html](http://www.cnbc.com/2019/12/02/jens-stoltenberg-rising-power-china-must-be-addressed-by-nato.html).
- Muzaffar, Chandra. "How to Resolve Conflicts in the South China Sea." *US & Canada | Al Jazeera*, Al Jazeera, 4 July 2012, [www.aljazeera.com/indepth/opinion/2012/07/201273124725247147.html](http://www.aljazeera.com/indepth/opinion/2012/07/201273124725247147.html).
- "NATO's Global Focus Following the US Asian Pivot?" *CNDUK*, Feb. 2018, [cnduk.org/wp-content/uploads/2018/02/NATOs-global-focus-following-the-US-Asian-pivot.pdf](http://cnduk.org/wp-content/uploads/2018/02/NATOs-global-focus-following-the-US-Asian-pivot.pdf).
- Sim, Walter. "Nato Has 'No Legal Platforms' to Intervene Militarily in South China Sea." *The Straits Times*, 3 June 2016, [www.straitstimes.com/asia/east-asia/nato-has-no-legal-platforms-to-intervene-militarily-in-south-china-sea](http://www.straitstimes.com/asia/east-asia/nato-has-no-legal-platforms-to-intervene-militarily-in-south-china-sea).
- "South China Sea Dispute." *South China Morning Post*, 19 Feb. 2019, [www.scmp.com/week-asia/article/2186449/explained-south-china-sea-dispute](http://www.scmp.com/week-asia/article/2186449/explained-south-china-sea-dispute).
- "Territorial Disputes in the South China Sea | Global Conflict Tracker." *Council on Foreign Relations*, Council on Foreign Relations, [www.cfr.org/interactive/global-conflict-tracker/conflict/territorial-disputes-south-china-sea](http://www.cfr.org/interactive/global-conflict-tracker/conflict/territorial-disputes-south-china-sea).