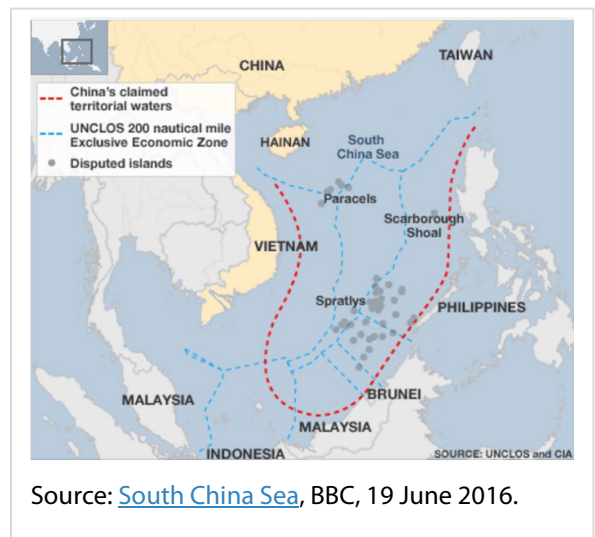


China tightens its grip over the South China Sea

Of all the disputed areas claimed by China, the South China Sea (SCS) has been the most prominent in recent years, since it involves the largest number of actors with overlapping claims to maritime features and waters, as well as non-claimant countries, owing to its strategic importance as one of the world's busiest shipping lanes. In 2020, China stepped up its salami-slicing tactics to assert its sweeping 'historic' rights, while Malaysia, Indonesia, the Philippines, and Vietnam dismissed them in an alignment of positions supported by a 2016 landmark arbitration award under the United Nations Convention on the Law of the Sea (UNCLOS). In 2020, the United States' previous neutral position on China's maritime claims shifted to dismissing them as unlawful. The EU remained attached to its position of not taking sides with either party's claims. Some EU Member States have become more vocal in dismissing China's 'historic' rights and have increased their presence in the SCS.

China's increasing power projection capabilities

In 2020, China pursued its two-pronged hybrid warfare strategy of deterring United States (US) presence in the SCS and of coercing competing claimants into abandoning their claims. The People's Liberation Army Navy (PLAN) conducted [military exercises](#) and assumed an important [signalling](#) role. By contrast, the [China Coast Guard](#) (CCG), that [blurs](#) the lines between civil law enforcement and national defence, and the [maritime militia](#), a state-funded armed fishing fleet, were deployed to coerce and intimidate coastal states in what is typically referred to as low-intensity '[gray-zone operations](#)'. In an effort to subdue the enemy without fighting, in line with Chinese military strategist [Sun Tzu](#), these operations remain below the threshold of military action and seek to secure strategic gains without prompting military responses. They [aim at](#) buttressing China's maritime claims by incrementally changing the status quo with [salami-slicing tactics](#).



Source: [South China Sea](#), BBC, 19 June 2016.

In 2019-2020, China's [intimidation](#), [harassment](#) and [coercion](#) of other claimants in disputed waters continued, thereby [preventing](#) them from [exploiting](#) natural resources. Chinese steel-hulled [militia trawlers](#) repeatedly [rammed](#) and sank fishing boats of competing claimants, [undermining](#) lawful fishing. China [tightened](#) its grip over the disputed Paracel and Spratly Islands (see map) by [creating](#) new administrative units, [protested](#) by Vietnam and the Philippines. It continued to build infrastructure on [smaller](#) maritime features, adding to bigger artificial islands already transformed into [military](#) outposts. Ship-tracking data [show](#) that commercial ships tend to avoid China's military outposts, and that shipping traffic has become more concentrated on a small number of increasingly busy routes. China also conducted sea trials of a new [amphibious assault ship \(Type 075\)](#) that raises China's ability to transport, land, and support ground forces outside the Chinese mainland.

China expanded its 'law fare' strategy by [adopting](#) a new CCG law that [positions](#) China as a major maritime law enforcement power in the SCS. It [allows](#) the CCG to use weapons under certain circumstances within China's 'jurisdictional waters', a vague term which is not defined in the law but is likely to be interpreted expansively by China as applying to large parts of the SCS that it claims. It reflects China's growing [assertiveness](#), and creates the risk of sparking violent incidents between Chinese naval forces and military forces or commercial vessels from other claimants or non-claimants. China's potential declaration of an [Air Defence Identification Zone](#) over parts of the SCS would be a further escalation. At the same time, the long-wavering [negotiations](#) between China and the ten members of the Association of Southeast Asian Nations (ASEAN) on a code of conduct for the SCS seem to be helping China gain time and thus to create facts on

the ground. A large [gap](#) appears to exist between ASEAN's expectation of the code as a binding dispute-resolution mechanism and China's interest in devising a non-binding trust-building instrument. China's claim to absolute control over large swaths of the SCS and its growing military capabilities underpinned by military outposts serving as platforms for anti-ship missiles, surface-to-air missile systems and surveillance technologies, [are part of](#) China's [anti-access/area denial](#) strategy, which may enable it to disrupt [freedom of navigation](#) operations and to [thwart](#) US deterrence of a potential invasion of [Taiwan](#).

China's claims versus counter-claims under the rules-based international order

In 2020, the **Philippines** under President Duterte [reversed](#) its past [low-key](#) stance in respect of the enforcement of the 2016 Permanent Court of Arbitration [award](#) in its favour, declaring China's claims to 'historic rights' in the SCS inconsistent with UNCLOS. While the Philippines had long [prioritised](#) prospects of Chinese support for large infrastructure projects and joint resource exploitation, in 2020 it submitted a [note verbale](#) to the UN reiterating that the arbitration ruling 'conclusively settled the issue of historic rights and maritime entitlements' in the SCS. President Duterte, in a [speech](#) at the UN, declared the award as '[beyond compromise](#)'. **Vietnam** followed suit with a similar [note](#) that objects to China's 'historic' rights, tacitly supporting the 2016 ruling. **Malaysia** issued a similar [note](#) dismissing China's claims to 'historic' rights. **Indonesia** likewise handed in a note endorsing the arbitration ruling and [rejecting](#) China's arguments. **Brunei**, by contrast, [published](#) a statement that does not refer to the award but instead advocates bilateral solutions and negotiation of a code of conduct. **Taiwan** [protested](#) against unilateral actions and [reiterated](#), inter alia, that 'any claim inconsistent with international law should not be accepted'.

Moving from rhetoric on the rules-based order to action with like-minded partners?

In 2020, the **United States** [reasserted](#) the alignment of US policy with the 2016 Permanent Court of Arbitration award. It [protested](#) China's unlawful maritime claims at the UN. The US continued to criticise China for [violating](#) its own commitments under the 2002 [Declaration](#) on the Conduct of Parties in the SCS, for militarising its outposts in the SCS contrary to President Xi Jinping's [pledges](#) made in 2015 to former President Barack Obama, and for using these outposts as '[platforms of coercion](#)'. The US Navy continued its presence in the SCS by conducting [freedom of navigation operations](#) and [naval exercises](#) with allies and partners. The US Air Force [stepped up](#) military surveillance flights. The US has [added](#) 77 Chinese construction, energy and shipbuilding firms involved in the SCS to its [Entity List](#), preventing US firms from exporting to them without a government licence. **Australia** issued a diplomatic [note](#) explicitly affirming the 2016 ruling and rejecting China's claims to 'historic rights' in the SCS. However, Australia's [position](#) went beyond the US position, by also dismissing other '[spurious legal justifications](#)' for Chinese claims. **India** voiced tacit support for the US position by reiterating that the Indian government supports freedom of navigation and overflight in the SCS, and by labelling it '[the global commons](#)', where all disputes should be settled in accordance with international law. After clashes with Chinese troops in the Galwan Valley in the Himalayas, the Indian Navy [deployed](#) a warship to the [SCS](#). **Japan** [committed](#) to [enhancing](#) security [relations](#) with Indo-Pacific countries and to beef up their maritime security capabilities by [exporting](#) Japanese defence equipment and technology to them to counter China's maritime advances. Japan [performed](#) anti-submarine drills in the SCS in 2020.

This publication is an update of a [briefing](#) published in 2016.

EU and European involvement

In its [declaration](#) on the 2016 award, the **EU** reaffirmed that it 'does not take a position on sovereignty aspects relating to claims'. Although it emphasised the vital role of UNCLOS to uphold the international order based on the rule of law, it [refrained](#) from urging China to comply with the award that declares China's claims as inconsistent with UNCLOS. In a 2020 [resolution](#) the **European Parliament** calls in respect of the East and South China Seas and the Taiwan Strait 'for all parties involved to respect the freedom of navigation, to solve differences through peaceful means and to refrain from taking unilateral actions to change the status quo'.

In 2020, **France**, **Germany** and the **United Kingdom** [issued joint diplomatic notes](#) to the UN rejecting China's claims to 'historic rights' in the SCS as inconsistent with international law, while [stepping up their presence there](#). In its 2020 [strategy](#) for the Indo-Pacific region, **the Netherlands** [calls on](#) the EU to speak out more often and more strongly on violations of UNCLOS in the SCS and seek cooperation with countries in the region for free passage and maritime safety. Maritime security is one of the [priorities](#) of the **Portuguese Presidency** of the Council of the EU in 2021.

