

**Forum:** Legal Committee (GA6)

**Issue:** Reevaluating the legality of military presence on artificial islands

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## INTRODUCTION

The rise of artificial islands in geopolitically sensitive waters marks a significant and troubling evolution in maritime strategy. Although artificial islands were originally constructed for civilian or economic use, like tourism, housing, or even infrastructure, the fact that they have been rapidly militarized over the past few years has introduced a complex legal and diplomatic challenge globally. This shift from civilian use to military functions has raised serious concerns within the international community about legality and responsibility, but also long-term consequences. Nowadays, the construction of artificial Islands has become a prominent feature of modern maritime activity.

The most significant aspect of the issue is their legal status and the challenge they pose to international legal frameworks, particularly those that govern the use of oceans and seas. There has been an extreme lack of clarity, which has led to varying interpretations, definitions, and legal rules. Although the United Nations Convention on the Law of the Sea (UNCLOS), is comprehensive in many respects, it does not fully address the results in a variety of issues, namely their utilisation by countries to strengthen their presence in contested waters, which has negative consequences for peace, collaboration, and security.

The issue of legal uncertainty over these Islands creates wider tensions between countries, especially since artificial Islands are often constructed in areas where maritime boundaries are not clearly defined or universally agreed upon. Without the proper regulation, there is always a growing risk that artificial islands will become the reason for serious diplomatic crises, conflicts, or even wars.

In addition, the environmental impact of artificial island construction cannot be overlooked. Legal pieces that specifically concern artificial islands and their impact on the environment do not exist, and thus, there are no boundaries set regarding activities that countries can engage in. For instance, large-scale dredging and land reclamation activities often damage fragile marine ecosystems, disrupt biodiversity, and lead to long-term ecological degradation. This raises ethical questions about how the pursuit of national interest can be balanced with environmental responsibility and the protection of the global commons. Subsequently, the legality of artificial islands needs to be reevaluated in order to prevent their illegal construction as well as militarization of artificial islands

## DEFINITION OF KEY TERMS

## **Artificial Islands**

“Artificial islands are man-made structures built in bodies of water, created for various purposes such as habitation, tourism, or resource extraction. These islands can be constructed from a variety of materials and methods, often impacting land use and density by allowing urban expansion into water areas that were previously unutilized.”<sup>1</sup>

## **Man-made Structures**

“Human-made structures are physical constructions that have been created by people, such as buildings, bridges, roads, and other infrastructure. These structures play a significant role in shaping cultural landscapes, reflecting the values, technology, and social practices of a society.”<sup>2</sup>

## **Maritime Boundaries**

“Maritime boundaries are the demarcations that define the limits of a coastal state's jurisdiction over the ocean and its resources, while they play a crucial role in shaping the economic geography of a region and have a significant impact on international trade and global economies.”<sup>3</sup>

## **International Maritime Law**

“International maritime law is a set of conventions adopted by the United Nations (UN), that regulate maritime organizations, shipping, and navigation, create maritime labor and training standards, establish safety standards, and prevent pollution.”<sup>4</sup>

## **Sovereignty**

“In international law, sovereignty means that a government possesses full control over affairs within a territorial or geographical area or limit. Determining whether a specific entity is sovereign is not an exact science, but often a matter of diplomatic dispute.”<sup>5</sup>

## **Jurisdiction**

“Jurisdiction means both the authority or power of the court to determine a dispute between parties as well as the territory over which the legal authority of a court extends.”<sup>6</sup>

<sup>1</sup>“Artificial Islands - (AP Human Geography) - Vocab, Definition, Explanations | Fiveable.” *Fiveable.me*, 2024, [library.fiveable.me/key-terms/ap-hug/artificial-islands](https://library.fiveable.me/key-terms/ap-hug/artificial-islands). Accessed 15 July 2025.

<sup>2</sup>“Human-Made Structures - (AP Human Geography) - Vocab, Definition, Explanations | Fiveable.” *Fiveable.me*, 2024, [library.fiveable.me/key-terms/ap-hug/human-made-structures](https://library.fiveable.me/key-terms/ap-hug/human-made-structures). Accessed 15 July 2025.

<sup>3</sup>Lee, Sarah. “Maritime Boundaries: A Comprehensive Guide.” *Numberanalytics.com*, 2025, [www.numberanalytics.com/blog/maritime-boundaries-economic-geography#google\\_vignette](https://www.numberanalytics.com/blog/maritime-boundaries-economic-geography#google_vignette). Accessed 15 July 2025.

<sup>4</sup>“International Maritime Law - Maritime Injury Center.” *Maritime Injury Center*, 10 Oct. 2024, [www.maritimeinjurycenter.com/maritime-rights/international-maritime-law/](https://www.maritimeinjurycenter.com/maritime-rights/international-maritime-law/).

<sup>5</sup>Cornell Law School. “Sovereignty.” *LII / Legal Information Institute*, Cornell Law School, 2019, [www.law.cornell.edu/wex/sovereignty](https://www.law.cornell.edu/wex/sovereignty).

<sup>6</sup>“Jurisdiction Definition | Legal Glossary | LexisNexis.” *www.lexisnexis.co.uk*, [www.lexisnexis.co.uk/legal/glossary/jurisdiction](https://www.lexisnexis.co.uk/legal/glossary/jurisdiction).

## **Territorial Waters**

“Territorial waters are defined in international law as that area of the sea immediately adjacent to the shores of a state and subject to the territorial jurisdiction of that state.”<sup>7</sup>

## **Exclusive Economic Zone (EEZ)**

“The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.”<sup>8</sup>

## **Think tank**

“A think tank, or public policy institute, is an organization that performs research and advocacy concerning topics such as social policy, political strategy, economics, military, technology, and culture.”<sup>9</sup>

# **BACKGROUND INFORMATION**

## **General Overview**

Artificial islands are man-made structures built in bodies of water, created for various purposes such as habitation, tourism, or resource extraction, by depositing materials such as sand, gravel, concrete or rock onto the seabed. The major difference they have with natural islands is that unlike them, which emerge through natural geological processes, artificial islands are constructed through human engineering for specific purposes. According to the international maritime law, the United Nations Convention on the Law of the Sea (UNCLOS), artificial islands do not enjoy the same legal status as naturally formed islands. They cannot generate their own territorial waters or Exclusive Economic Zones (EEZs), but they can be created in the country's EEZ, and their existence should not extend a country's maritime claims.

## Qualifications to build an artificial Island

It is not that simple to create an artificial island even for countries that are considered global powers. To build artificial islands, countries need access to shallow maritime zones, advanced dredging equipment- which they sometimes buy from other countries- skilled labour, financial investment, and strong political and strategic motivations. Such constructions are often very expensive and technically complex, which means only countries with great economic and technological capacity, like China, the United Arab Emirates, and South Korea, can carry them out effectively. Although in most cases the construction takes place in a country's own waters or EEZ, in others, especially in disputed regions, it becomes a point of geopolitical conflict, which creates tension and other issues that affect the international community and global security.<sup>10</sup>

<sup>7</sup>“Territorial Waters | International Law | Britannica.” *Encyclopædia Britannica*, 2020, [www.britannica.com/topic/territorial-waters](http://www.britannica.com/topic/territorial-waters).

<sup>8</sup>United Nations. “PREAMBLE to the UNITED NATIONS CONVENTION on the LAW of the SEA.” *Un.org*, 2019, [www.un.org/depts/los/convention\\_agreements/texts/unclos/part5.htm](http://www.un.org/depts/los/convention_agreements/texts/unclos/part5.htm).

<sup>9</sup>Cambridge Dictionary. “THINK TANK | Meaning in the Cambridge English Dictionary.” *Cambridge.org*, 13 Nov. 2019, [dictionary.cambridge.org/dictionary/english/think-tank](https://dictionary.cambridge.org/dictionary/english/think-tank).

<sup>10</sup>“Why Is China Militarizing Artificial Islands It's Built around the South China Sea?” *Quora*, 2019, [www.quora.com/Why-is-China-militarizing-artificial-islands-its-built-around-the-South-China-Sea](https://www.quora.com/Why-is-China-militarizing-artificial-islands-its-built-around-the-South-China-Sea). Accessed 15 July 2025.

As for the legal aspect of the matter, UNCLOS permits the construction of artificial islands within a country's EEZ but does not grant them the same maritime rights as natural islands. When countries build artificial islands in disputed or international waters, it often leads to legal challenges and diplomatic tensions that create more and more problems. The biggest part of the concerns arises when a country chooses not to utilize such islands for civilian use and other touristic reasons, but for its military.

### Reasons to militarise Artificial Islands

Many countries have chosen to militarize artificial islands by building airstrips, deploying radar systems, stationing troops, and installing missile platforms. Some governments reason this by citing national security or defensive needs. However, the broader motivation is usually to expand influence and secure control over strategic maritime areas, especially in regions where it is not entirely clear which country has the control of it. Militarized islands offer a permanent presence in key regions, support surveillance operations, and serve as logistical hubs for naval and air forces. They are also used to reinforce a country's claims over contested waters, even when those claims are not recognized under international law.

### **Historical Context**

The creation of artificial islands dates back centuries, with early forms of them utilized for habitation, trade, or even defence. However, the modern construction of artificial islands for military and strategic purposes is a recent phenomenon, which is also highly associated with technological evolution, development, and the growing competition over maritime zones around the globe.

### Early Developments

Historically, human-made islands were established in lakes or shallow coastal waters for practical reasons, such as agriculture, fishing, or settlement, when civilians needed them for economic and trade reasons. Ancient examples of the construction of Artificial Islands include the Chinampas of the Aztecs in Mexico or the Venetian islands, which were built on submerged foundations for trade and security.<sup>11</sup>“In Egypt, the ancient Egyptians built artificial islands called "nilometers" along the Nile River to measure water levels, ensuring proper irrigation for their crops, while the Chinese developed a sophisticated system of building artificial islands for agriculture, using fertile silt from riverbanks to create arable land.”<sup>12</sup> However, these early artificial islands were relatively small and limited in scope, resembling only a little the massive, state-sponsored land reclamation projects seen today.

<sup>11</sup>Fakharany, Nour. “Unpacking the History of Artificial Islands: The True Cost on the Built Environment.” *ArchDaily*, 21 Aug. 2023, [www.archdaily.com/1005681/unpacking-the-history-of-artificial-islands-the-true-cost-on-the-built-environment](http://www.archdaily.com/1005681/unpacking-the-history-of-artificial-islands-the-true-cost-on-the-built-environment).

<sup>12</sup>“Exploring the Evolution of Artificial Islands | Blog | CUUB Studio.” *Cuubstudio.com*, 2025, [www.cuubstudio.com/blog/exploring-the-evolution-of-artificial-islands-unveiling-the-genuine-impact-on-the-constructed-environment/](http://www.cuubstudio.com/blog/exploring-the-evolution-of-artificial-islands-unveiling-the-genuine-impact-on-the-constructed-environment/).

In the 20th century, artificial islands began to be constructed with advanced technology and on a much larger scale, particularly in more economically developed countries and global superpowers. Nations like the Netherlands, Japan, and later the United Arab Emirates became pioneers in coastal engineering, building islands for airports, tourism, and real estate. For example, the Kansai International Airport in Japan<sup>13</sup> and the Palm Islands in Dubai are landmark projects that aim to showcase innovation and national pride.<sup>14</sup> These constructions were established in clearly defined maritime zones and were not linked to any kind of military activity. They kind of provided help to the evolution of a country, while they attracted tourists and promoted civilian infrastructure, solving economic problems and helping the residents of each country.

### Shift from civilian use to strategic use

The strategic utilisation of artificial islands started to become more frequent in the late 20th and early 21st century, especially as territorial disputes over maritime zones became an issue among neighbouring countries. With global interest in underwater resources that are highly connected with power and control, fishing rights, and control over key shipping lanes growing rapidly, nations wanted to find a new way to ensure they are the ones that take over a specific maritime region. This resulted in the further militarisation of oceans and especially of artificial islands, which were constructed even in regions that didn't clearly belong to the EEZ of one single country.

The South China Sea became the first maritime region where something like this happened. The region is home to several island chains, including the Spratly Islands, Paracel Islands, and Scarborough Shoal, claimed in overlapping parts by countries such as China, Vietnam, the Philippines, Malaysia, Brunei, and Taiwan. These features were uninhabited reefs or small rocks; however, they gained economic, political, and strategic importance owing to the rich resources of the area as well as the crucial shipping routes that pass through the region.

### The Nine-Dash Line and Rising Tensions

The issue of the South China Sea dispute dates back to 1947, when the Republic of China published a map featuring an eleven-dash line to make its claims over the area clear. When the People's Republic of China was later created in 1949, it inherited and later converted this claim into the "nine-dash line."<sup>15</sup> This vague and expansive boundary formed the basis of China's maritime claims, even though it lacked clear legal grounding under modern international law. The situation began getting more serious in the 1970s and 1980s, when natural resources were found in the region, namely oil and gas. Thus, there were some minor naval incidents that occurred periodically but nothing serious. The situation and tension between these countries changed dramatically and rapidly in the early 2010s, when China started the large-scale reclamation in the South China Sea.

<sup>13</sup>"Kansai International Airport." *The KANSAI Guide - the Origin of Japan, KANSAI*, 31 Jan. 2024, [www.the-kansai-guide.com/en/directory/item/11496/](http://www.the-kansai-guide.com/en/directory/item/11496/).

<sup>14</sup>Berman, Danielle. "Dubai's Man-Made Islands: Everything You Need to Know." *Travel + Leisure*, 14 Dec. 2023, [www.travelandleisure.com/trip-ideas/island-vacations/dubai-man-made-islands-facts](http://www.travelandleisure.com/trip-ideas/island-vacations/dubai-man-made-islands-facts).

<sup>15</sup>Beech, Hannah. "Just Where Exactly Did China Get Its Nine-Dash Line From?" *Time*, 19 July 2016, [time.com/4412191/nine-dash-line-9-south-china-sea/](http://time.com/4412191/nine-dash-line-9-south-china-sea/).

Between 2013 and 2016, China decided to transform several reefs in the Spratly Islands into fully developed artificial islands. This included features like Fiery Cross Reef, Subi Reef, and Mischief Reef, which were eventually equipped with airstrips, radar systems, military barracks, missile platforms, and harbors.<sup>16</sup> These developments made it easier for China to establish a permanent military presence in waters also claimed by other countries. Beijing argued that these islands served defensive and humanitarian purposes, while other nations and legal experts viewed them as aggressive moves violating international law. It has become clear that these man-made Islands were constructed for strategic use and not for civilian purposes, which is the reason that they got so quickly militarised. The international community argues against them, since these Islands and their militarisation threatens global security and underestimate the importance of international law.

## **Challenges**

### Gaps in the Legal System

One of the biggest problems with the current legal framework is that there are no specific international rules focused on artificial islands and their utilisation as well as militarisation. While UNCLOS covers general principles, it lacks detailed guidelines on what states are allowed or not allowed to do with artificial islands in politically sensitive areas and not only.

Furthermore, there is no international authority with the power to enforce the rules, nor an accountability system that can easily ensure the compliance of the States later. Even when international courts make rulings, states do not always comply with their decisions, making up excuses about the misunderstanding of the legal pieces. This was the case in the 2016 ruling by the Permanent Court of Arbitration, which found that certain artificial islands had been built illegally in a disputed region. The ruling was legally sound, but the state involved, namely China, refused to accept it. This proves how difficult it is to ensure that international law is followed, especially by powerful countries.

Another major gap lies in environmental regulation. Artificial island construction often involves extensive dredging and can seriously damage marine ecosystems and the environment not only from that region but also from neighbouring ones. Although environmental protections are included in UNCLOS, there are no specific mechanisms, already set, to monitor or punish environmental harm caused by island-building. Moreover, there are no clear rules about violations and what a country has to go through if it violates the convention, when it comes to artificial islands. Grave breaches are always a thing and they also need to be tackled as soon as possible.

<sup>16</sup>BBC. "What Is the South China Sea Dispute?" *BBC News*, 7 July 2023, [www.bbc.com/news/world-asia-pacific-13748349](http://www.bbc.com/news/world-asia-pacific-13748349).

### Political concerns

One of the most important challenges surrounding artificial islands is the political instability they establish on a global level, especially when built in contested waters. Artificial islands can be utilised by countries for the specific purpose of reinforcing territorial claims in maritime zones that are already disputed by other states. This often leads to increased diplomatic tensions, regional mistrust, and even the potential for confrontation or conflict. For example, when a country unilaterally constructs an island in an area claimed by multiple states, it is often seen as a provocative and aggressive move, regardless of the justification given. Thus, tension is increasing in this area, and countries start to have more issues, while inter-governmental organisations tend to have problems when it comes to making decisions. This whole situation undermines regional cooperation and weakens efforts to resolve maritime disputes peacefully. The presence of the military on these islands creates a high risk for global security and maintaining peace.

### Environmental concerns

Artificial island construction poses significant environmental threats, particularly to marine ecosystems, while their construction as well as militarisation has a very negative impact for the global environment. The process of enlarging the seafloor by depositing sand to build up landmasses often results in the destruction of coral reefs, seagrass beds, and habitats critical to marine biodiversity. These consequences on the environment and the local ecosystem are often irreversible. For example, Jinmeng Bay, a popular resort in northeastern China, has “suffered from green tide events since 2015, after the constructions of artificial islands and submerged reefs. To investigate the potential impacts of artificial islands and reefs on the water quality in Jinmeng Bay, a MIKE 21 numerical model was established by coupling a hydrodynamic model with a transport model of Chemical Oxygen Demand (COD) and nitrate ion ( $\text{NO}_3^-$ ).”<sup>17</sup> These projects are extra harmful for the environment, while most of the time they cost a lot of money. In addition, the machinery and chemicals utilised during the construction phase introduce pollutants into the water, further degrading local environments. Then a variety of changes can be found in the natural ocean, while sediment patterns can also become an issue.

### Gray zone tactics

One of the more subtle but prominent challenges connected with artificial islands is the use of gray zone tactics. “Grey zone tactics, confrontation, and conflict relates to the use of non-military means – below the threshold of armed conflict – to achieve political objectives. Grey zone confrontation is the dangerous ‘grey’ area between peace and war. Activities can include political and election meddling, cyber threats and attacks, economic coercion, use of proxies, and many other measures – including military action.”<sup>18</sup> In the context of artificial islands, gray zone tactics may include the quiet and not known by neighbouring countries, construction of artificial islands on disputed reefs as well as the militarization of “civilian” infrastructure.

<sup>17</sup>Fan, Jiadong, et al. “Impact of Artificial Islands and Reefs on Water Quality in Jinmeng Bay, China.” *Water*, vol. 15, no. 5, 1 Jan. 2023, p. 959, [www.mdpi.com/2073-4441/15/5/959](http://www.mdpi.com/2073-4441/15/5/959), <https://doi.org/10.3390/w15050959>.

<sup>18</sup>Robertson, Anthony. “What Is Grey Zone Confrontation and Why Is It Important? | the Cove.” *The Cove*, 2022, [cove.army.gov.au/article/what-grey-zone-confrontation-and-why-it-important](http://cove.army.gov.au/article/what-grey-zone-confrontation-and-why-it-important).

These tactics are often difficult to counter because they are deliberately ambiguous, operate below the threshold of armed conflict, and tend to delay and become a problem for international diplomacy. Such strategies give states the ability to alter facts on the ground, or in this case, in the water, without formally breaking international law, so that they can later present their actions differently. They also make it extremely harder for other countries to respond effectively, especially if they want to avoid escalating tensions or taking aggressive countermeasures.<sup>19</sup>

## MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

### People's Republic of China

China has become one of the countries with the most important and also the largest background when it comes to artificial islands because of its activities in South China. The Chinese Government has undergone large-scale land reclamation projects since 2013, utilising advanced technological systems and other strategies to transform reefs, rocks, and other submerged features into fully developed artificial islands. All these Islands and especially those in the Spratly and the Paracel archipelagos are now equipped with various military equipment and military-grade infrastructure, like airstrips, deep-water ports and radar systems. China claims that those kinds of constructions have a defensive nature.<sup>20</sup> However, other neighboring countries and the international community hold them as aggressive assertions of territorial claims in disputed maritime areas. Many countries face them as global threats do not underestimate the power that they give to China. The most important issue of these islands is the fact that they are located in an area that was claimed by not only China but also the Philippines, Vietnam and Malaysia. Because of that the Permanent Court of Arbitration in The Hague examined the case and ruled that China's expansive maritime claims had no legal basis under the United Nations Convention on the Law of the Sea (UNCLOS), since according to its rules: "A state may not build an artificial island within the exclusive economic zone of another state"<sup>21</sup>. China rejected the ruling and has continued to expand and reinforce its artificial islands until today. Even though the country faces strong criticism, it is unwilling to stop this process and acknowledge the huge negative impact these islands have on the environment and global security.

<sup>19</sup>A New Framework For.

<sup>20</sup>Southerland, Matthew. "China's Island Building in the South China Sea: Damage to the Marine Environment, Implications, and International Law | U.S.- CHINA | ECONOMIC and SECURITY REVIEW COMMISSION." *U.S.-China Economic and Security Review Commission*, 12 Apr. 2016,

[www.uscc.gov/research/chinas-island-building-south-china-sea-damage-marine-environment-implications-and](http://www.uscc.gov/research/chinas-island-building-south-china-sea-damage-marine-environment-implications-and).

<sup>21</sup>Kohl, Adam W. "China's Artificial Island Building Campaign in the South China Sea: Implications for the Reform of the United Nations Convention on the Law of the Sea." *Insight @ Dickinson Law*, 2017, [insight.dickinsonlaw.psu.edu/dlr/vol122/iss3/8/](http://insight.dickinsonlaw.psu.edu/dlr/vol122/iss3/8/).

## United States of America (USA)

Even though the United States does not construct artificial Islands itself, it plays a huge role in the global response to the militarization of such Islands. The country holds such actions on artificial Islands illegal and opposes the utilisation of them to assert unlawful territorial claims, especially when such actions result in the disruption of freedom of navigation and overflight. Thus, the USA has positioned itself as a defender of the International Maritime law or else the United Nations Convention on the Law of the Sea (UNCLOS), despite not having ratified the treaty owing to some intergovernmental political concerns, sovereignty-related objections, and debates over economic and strategic implications.<sup>22</sup> The main strategy of the USA when it comes to this issue is the conduct of Freedom of Navigation Operations (FONOPs). Those kinds of operations allow the US naval vessels to sail through waters claimed by other countries, like those surrounding the artificial islands. The Freedom of Navigation Operations (FONOPs) have achieved the reinforcement that these Islands don't create new maritime rights, while they have given the USE the chance to prove to the international community that such actions, making similar claims and enforcing them aggressively, like China did, are not in favour of international security and should be discouraged.<sup>23</sup> In addition to all these, the USA has managed to maintain strong defence ties with Australia, the Philippines, and Japan, countries that have artificial islands, to reassure that their actions do not harm global and domestic stability. Even though it emphasizes diplomacy and dialogue, its military presence in such countries serves strategic needs and is, at the same time, a symbol of commitment to upholding international law.

## Permanent Court of Arbitration (PCA)

The Permanent Court of Arbitration (PCA) is an international legal body based in The Hague that was created in 1899 to adopt the resolution of disputes between states, state entities, and international organizations.<sup>24</sup> It is not a court in the traditional sense. However, it provides a flexible and neutral forum for arbitration and legal proceedings involving international law. The PCA played a vital role in organising and forming the whole legal debate around the legality of artificial islands especially through its involvement in the case of the Philippines vs. China in 2013, in which the Philippines challenged China's expansive maritime claims in the South China Sea, particularly the legality of its "nine-dash line" and the construction of artificial islands in disputed waters. The PCA ruled that China had no right to militarise those islands and claim the rights of this region. This ruling was considered a major affirmation of international maritime law, re-addressing the principles that artificial islands do not create new territorial water or EEZs.<sup>25</sup> In addition to that the PCS helped with clarifying the legal distinction between natural features and man-made constructions under UNCLOS. Once again China rejected the tribunal's authority and still refuses to recognize the ruling.

<sup>22</sup>Kraus, John. "Unmoored from the UN: The Struggle to Ratify UNCLOS in the United States - the SAIS Review of International Affairs." *The SAIS Review of International Affairs*, 26 June 2023, [saisreview.sais.jhu.edu/unmoored-from-the-un-the-struggle-to-ratify-unclos-in-the-united-states/](https://saisreview.sais.jhu.edu/unmoored-from-the-un-the-struggle-to-ratify-unclos-in-the-united-states/). <sup>23</sup>*Pacom.mil*, 2022, [www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20FONOPs.pdf?ver=pH6FtE-cpyghqfJi2vEKg%3D%3D](https://www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20FONOPs.pdf?ver=pH6FtE-cpyghqfJi2vEKg%3D%3D).

<sup>24</sup>Home | PCA-CPA." *Pca-Cpa.org*, 2018, [pca-cpa.org/home/](https://pca-cpa.org/home/).

<sup>25</sup>NOAA. "What Is the "EEZ"? : Exploration Facts: NOAA Office of Ocean Exploration and Research." *Oceanexplorer.noaa.gov*, 2024, [oceanexplorer.noaa.gov/facts/useez.html](https://oceanexplorer.noaa.gov/facts/useez.html).

## Association of Southeast Asian Nations (ASEAN)

The Association of Southeast Asian Nations (ASEAN) is a regional intergovernmental organization composed of ten Southeast Asian countries, established to mainly promote peace, stability, and cooperation in the Asian region. It consists of ten Asian countries, namely: Indonesia, Malaysia, Laos, Brunei, Cambodia, Myanmar, the Philippines, and Vietnam.<sup>26</sup> This organisation plays a vital role for these regions but also for the international community, owing to the fact that it promotes diplomatic dialogue and regional coordination. One of its most notable contributions is the Declaration on the Conduct of Parties in the South China Sea (DoC), signed with China in 2002; an agreement that aimed to reduce tensions and promote peaceful behaviour, although it lacked binding legal force.<sup>27</sup> ASEAN has been collaborating with China to develop a more concrete and legal Code of Conduct, but the whole project has been progressing slowly due to a variety of national interests and external pressures. The organisation's response to the militarisation of Artificial Islands has been measured and extremely cautious. As an organisation that carries a lot of responsibilities, it has been challenging for it to present a unified stance owing to its consensus-based decision. This means that before taking a political decision all its countries have to agree with it, which has been extremely difficult since the majority of these countries have strong economic bonds with China, one large global power. Despite these challenges, ASEAN remains important in promoting regional dialogue and preventing escalation. Through diplomatic channels, multilateral discussions, and regional security forums, ASEAN continues to encourage peaceful solutions, compliance with UNCLOS, and the maintenance of stability in maritime areas where artificial islands have raised significant tensions.

<sup>26</sup>Teekah, Ethan. "ASEAN | Definition, History, & Facts." *Encyclopædia Britannica*, 2019, [www.britannica.com/topic/ASEAN](http://www.britannica.com/topic/ASEAN).

<sup>27</sup>ASEAN. "Declaration on the Conduct of Parties in the South China Sea." ASEAN, 14 May 2012, [asean.org/declaration-on-the-conduct-of-parties-in-the-south-china-sea-2/](http://asean.org/declaration-on-the-conduct-of-parties-in-the-south-china-sea-2/).

## TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
10 December 1982	Adoption of United Nations Convention on the Law of the Sea (UNCLOS) at Montenegro Bay, Jamaica
16 November 1994	UNCLOS comes into force, one year after the 60th ratification
4 November 2002	ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DoC) in Phnom Penh, Cambodia
22 January 2013	The Philippines files arbitration case against China at the Permanent Court of Arbitration (PCA)
2013-2016	China begins large-scale land reclamation and construction of artificial islands in the Spratly Islands, where key activities occurred from late 2013 until 2016
12 July 2016	PCA ruling in favor of the Philippines, rejecting China's "nine-dash line" claims
27 May 2018	The US Navy conducts Freedom of Navigation Operations (FONOPs) near Paracel Islands, one of several such operations that year
28 August 2023	China releases a new "standard map" reaffirming broad territorial claims in the South China Sea
March 2024	UN General Assembly holds informal discussions on maritime security and artificial island disputes

## RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

### United Nations Convention on the Law of Sea (UNCLOS) (1982)

"The United Nations Convention on the Law of the Sea lays down a comprehensive



regime of law and order in the world's oceans and seas establishing rules governing all uses of the oceans and their resources, while it enshrines the notion that all problems of ocean space are closely interrelated and need to be addressed as a whole.”<sup>28</sup>. It is exactly how this convention of utmost importance for global security and international peace is described. The Convention was first proposed and opened for signature on 10 December 1982 in Montego Bay, Jamaica. This date marked the following work of 14 years of more than 150 countries, that represented all regions around the globe, all legal, and political systems as well as mindsets and purposes. It came into force after a lot of work in 1994 and is in charge of the most important issues in maritime regions until today. One of its most important features is the establishment of maritime zones such as Territorial Waters, Exclusive Economic Zones (EEZs), and the High Seas. I have also worked on artificial islands, something that the Convention should examine further in the following years. Until now, it has successfully established the rule that artificial islands do not have the same legal status as natural islands. They do not generate territorial waters or EEZs and must respect the navigation rights of other states. Moreover, UNCLOS provides the legal foundation for most international rulings and disputes involving maritime issues, including the 2016 PCA case on artificial islands.

### **UNGA Resolution 69/262 (2015) – “Territorial Integrity of States”**

Adopted by the United Nations General Assembly in 2015, Resolution 69/262 reaffirms the principles of the sovereignty, independence, and territorial integrity of all states and countries on a global level. It declares that “no state should use force or other coercive means to violate another state's territory, and that all international disputes should be resolved peacefully and in accordance with international law.”<sup>29</sup> Even though this resolution does not directly refer to artificial islands and the issues they are connected with, it is highly relevant in contexts where such islands are built in disputed or occupied waters. In case a state begins construction of artificial islands or their militarisation to assert territorial control in contested regions, it automatically violated the territorial integrity of another country, grave breaching the international law. The resolution actually works with the principle that sovereignty must be respected and that illegal actions to expand maritime control are unacceptable and a violation of the law.

### **United Nations Sustainable Development Goals (SDGs) – Particularly Goal 14: Life Below Water**

<sup>28</sup>---. “Overview - Convention & Related Agreements.” *Un.org*, 2012, [www.un.org/Depts/los/convention\\_agreements/convention\\_overview\\_convention.htm](http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm).

<sup>29</sup>UN General Assembly (2015) Resolution Adopted by the General Assembly on 25 September 2015. Transforming Our World the 2030 Agenda for Sustainable Development. - References - Scientific Research Publishing.” *Scirp.org*, 2015, [www.scirp.org/reference/ReferencesPapers?ReferenceID=2232930](http://www.scirp.org/reference/ReferencesPapers?ReferenceID=2232930).

The Sustainable Development Goals (SDGs) were adopted in 2015, and altogether they set 17 global objectives aimed at promoting peace, prosperity, and environmental sustainability by 2030. The one that has to do with the legality of artificial islands indirectly is Goal 14: “Life Below Water”, which focuses “on conserving and sustainably using the oceans, seas and marine resources for sustainable development”<sup>30</sup>. Goal 14 is relevant to artificial island construction due to the harmful environmental impacts such activities can cause, destruction of coral reefs, loss of biodiversity, and alteration of local ecosystems. It calls on countries to reduce marine pollution, regulate overfishing, and protect vulnerable ecosystems, with any costs. The construction of artificial islands without proper environmental safeguards and accountability mechanisms runs counter to the goals outlined in this agenda. Moreover, since there is still no legal piece or special authority for such activity, the construction of large artificial islands as well as their militarization, should be prohibited. Therefore, countries that promote projects in unchecked land reclamation may be seen as acting against global commitments to marine sustainability.<sup>31</sup>

## PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

### China-Philippines Bilateral Talks

After rising tensions in the South China Sea and especially after the Philippines won its legal case against China at the Permanent Court of Arbitration in 2016, both countries have engaged in bilateral diplomatic talks to ease conflict and manage maritime disputes peacefully, trying to prohibit any further conflict. These talks were planned to rebuild trust and open communication channels between the two governments. The biggest and most important points of discussion have included fishing rights, joint exploration of marine resources, economic cooperation, and the establishment of crisis communication mechanisms.<sup>32</sup> Even though these talks have not managed to solve the most prominent issues, such as sovereignty and artificial island construction, they have helped prevent further escalation and maintain stability in the region in security and political matters. However, critics argue that “the power imbalance between China and the Philippines limits the effectiveness of such negotiations, and that bilateral talks cannot substitute for legally binding multilateral agreements.”<sup>33</sup>

### Non-Governmental Organizations (NGOs) and Think Tanks (attempts that have been made by a variety of NGOs )

<sup>30</sup>The Global Goals. “Goal 14: Life below Water.” *The Global Goals*, [globalgoals.org/goals/14-life-below-water/](https://globalgoals.org/goals/14-life-below-water/).

<sup>31</sup>Celestine, Ekeh. “(Oxford Handbooks) Simon Chesterman, David M. Malone & Santiago Villalpando - the Oxford Handbook of United Nations Treaties-Oxford University Press (2019) (1).” *Scribd*, 2019, [www.scribd.com/document/577329838/Oxford-Handbooks-Simon-Chesterman-David-M-Malone-Santiago-Villalpando-The-Oxford-Handbook-of-United-Nations-Treaties-Oxford-University-Press](https://www.scribd.com/document/577329838/Oxford-Handbooks-Simon-Chesterman-David-M-Malone-Santiago-Villalpando-The-Oxford-Handbook-of-United-Nations-Treaties-Oxford-University-Press). Accessed 15 July 2025.

<sup>32</sup>“China and the Philippines Hold the Tenth Meeting of the Bilateral Consultation Mechanism on the South China Sea\_Ministry of Foreign Affairs of the People’s Republic of China.” *Mfa.gov.cn*, 2025, [www.mfa.gov.cn/eng/xw/wjbxw/202501/t20250117\\_11537079.html](http://www.mfa.gov.cn/eng/xw/wjbxw/202501/t20250117_11537079.html).

<sup>33</sup>ANC 24/7. “PH, China Officials to Discuss Maritime Row in Bilateral Consultation Mechanism Today | ANC.” *YouTube*, 15 Jan. 2025, [www.youtube.com/watch?v=TAeVsfSmjuM](https://www.youtube.com/watch?v=TAeVsfSmjuM). Accessed 15 July 2025.

A variety of NGOs and policy think tanks have played a critical role in addressing the artificial islands issue through research, advocacy, dialogue, and policy development. These organizations operate independently of governments, which means that they are always unbiased and often serve as neutral platforms where scholars, diplomats, and former military officials can exchange ideas and explore peaceful solutions, without enlarging the tension between their countries. Groups like the Asia Maritime Transparency Initiative (AMTI)<sup>34</sup> under the Centre for Strategic and International Studies (CSIS)<sup>35</sup> provide detailed satellite imagery, analysis, and reports tracking artificial island construction and militarization, the only accountability mechanisms that exist for the matter. Other institutions such as the International Crisis Group, the S. Rajaratnam School of International Studies<sup>36</sup>, and Chatham House<sup>37</sup> have published important studies and hosted regional forums on maritime regions' security and its importance.

## Freedom of Navigation Operations (FONOPs) – Led by the United States

One very successful action undertaken by the United States was the conduct of the Freedom of Navigation Operations (FONOPs) in international waters, especially in the South China Sea, where artificial islands have been constructed by some countries to assert territorial claims and gain control over a maritime region.<sup>38</sup> These operations involve U.S. naval vessels having the right to sail legally through areas where other states claim territorial seas that the U.S. considers inconsistent with international law. The purpose of FONOPs is to challenge excessive maritime claims and uphold the principle that artificial islands do not generate sovereign territorial waters under UNCLOS. In addition to that, while this move by the US might help the situation on a global level, it has strategic importance for the country itself so that it doesn't get bothered by any tension and can continue its trade without having economical consequences. By demonstrating freedom of movement through these waters, the U.S. reinforces its commitment to a rules-based international order and supports the rights of all nations to free navigation.

## POSSIBLE SOLUTIONS

### Strengthen enforcement mechanisms for arbitration decisions

One of the main challenges in international law is the absence of legal rulings and most importantly, the lack of enforcement. Arbitration decisions, like the ones discussed by the Permanent Court of Arbitration (PCA), are on the one side legally binding for signatories but there is a huge lack of enforcement tools, something that must be addressed. Strengthening these mechanisms would involve giving international rulings greater political, diplomatic, or economic weight, especially when states refuse to comply. Thus, international law will be respected more on a global level and the international community will have less issues and tension.

<sup>34</sup>“Home.” *Asia Maritime Transparency Initiative*, [amti.csis.org/](http://amti.csis.org/).

<sup>35</sup>CSIS. “Center for Strategic and International Studies |.” *Csis.org*, 2024, [www.csis.org/](http://www.csis.org/).

<sup>36</sup>“S. Rajaratnam School of International Studies (RSIS).” *@RSIS\_NTU*, 2017, [rsis.edu.sg/](http://rsis.edu.sg/).

<sup>37</sup>Chatham House. “International Affairs Think Tank.” *Chatham House*, 7 Nov. 2019, [www.chathamhouse.org/](http://www.chathamhouse.org/).

<sup>38</sup>*Pacom.mil*, 2022,

[www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20FONOPs.pdf?ver=pH6FtE-cpyghqfBJi2vEKg%3D%3D](http://www.pacom.mil/Portals/55/Documents/pdf/J06%20TACAID%20-%20FONOPs.pdf?ver=pH6FtE-cpyghqfBJi2vEKg%3D%3D).

This possible solution could be rapidly and easily achieved through international pressure, like diplomatic responses, trade consequences, or international collaboration and dialogues led by the UN or other prominent organisations. Additionally, either regional or even international coalitions could be formed and planned to publicly uphold and enforce arbitration outcomes, prohibiting future violations.

## Environmental regulations on island building

Artificial island construction, particularly on reefs or shallow waters, can have permanent and irreversible environmental impacts, including the destruction of coral reefs, marine habitats, and biodiversity. Setting specific international environmental regulations would ensure that countries make use of environmentally responsible practices before undertaking such big projects. This involves requiring Environmental Impact Assessments (EIAs) before construction begins, which already exist for other constructions but not for artificial islands, and thus limiting dredging in ecologically sensitive areas, and mandating restoration efforts after development. These rules could be enforced through existing frameworks like the Convention on Biological Diversity (CBD) or through new regional and international agreements. Once again, compliance with international law is the key for something like that to work successfully.

## Creation of an authority and regulation body in the regions where artificial islands are constructed

A long-term solution that would potentially have the power to control this issue more than any other plan would be the establishment of a regional or international authority specifically tasked with monitoring, regulating, and mediating artificial island activities. This body could function similarly to the International Atomic Energy Agency (IAEA) or International Seabed Authority, which are authorities both established for specific reasons, offering a structured and transparent way to manage construction, assess legality, and prevent militarization. Seeing as this body would only have to deal with the grave breaches of international law are to be prevented by it effectively, without letting any illegal construction begin. It would ideally operate in regions with high maritime tension, such as the South China Sea, and include representation from all affected countries. It could also collaborate with existing legal frameworks like UNCLOS to enforce maritime law, oversee environmental compliance, and facilitate dispute resolution.

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