

# 5

## Upholding Freedom of Navigation in the South China Sea

China claims large swathes of the South China Sea, primarily on the basis of 'historic rights' and its 'nine-dash line'. It tries to reinforce these claims by assertive Chinese law enforcement and island-building in the region. In doing so, it challenges the UN Convention on the Law of the Sea, particularly freedom of navigation and the right of innocent passage.

### COUNTERMEASURES



**Freedom of Navigation Operations (FONOPs):** In cooperation with regional allies, the U.S. navy regularly sails through the Chinese nine-dash line, indicating that it rejects China's proclaimed revisions to UNCLOS and the right of innocent passage.



**Arbitration:** Between 2013-2016, the Philippines appealed to international law over the legality of China's claims. Despite a tribunal ruling in the Philippine's favor, it has made little impact on the ground.



**Diplomatic Negotiations** include U.S.-Japan-Australia-India quadrilateral dialogue and joint efforts to a joint Indo-Pacific strategic space, amongst others. Beijing's talk and take strategy has been largely successful in holding off meaningful diplomatic progress, including a code of conduct or resource-pooling within the ASEAN context.

### SECOND-ORDER NORMATIVE EFFECTS

The FONOPs may incite escalation between Beijing and Washington and legitimize Chinese behavior. Conversely, such overt confrontations increase domestic pressure on Beijing toward a more hardline position not to accede to U.S. demands.

The precedent set by China in successfully ignoring the 2016 legal ruling may be utilized by other actors in similarly contested regions.

The second order-normative effects of diplomatic negotiations were not considered in this case.

### NORM CONTESTATION

#### China challenges and revises previously internalized UNCLOS norms on freedom of navigation

China attempts to socialize its revisionist norm by linking it to the prevalence of historic rights and sovereignty, and by framing it to its national identity and regional self-determination. It has persuaded other states to support its claims, as shown in varying degrees of support voiced by 70 countries towards the 2016 ruling and opposition to UNCLOS. Finally, Beijing has used coercion towards its neighbors both in terms of economic entanglement and in terms of its assertive maritime law enforcement agencies and growing military power.

