Getting the Green Light:
Majority Party Rule and Taiwan’s Approach to the South China Sea

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Abstract: In the lead up to Taiwan’s 2016 presidential and legislative elections, high-ranking members of Taiwan’s Democratic Progressive Party (DPP) gave interviews and issued statements indicating the DPP was not committed to defending the U-Shaped Line claim in the South China Sea. The DPP consistently accused China of ignoring international law in the South China Sea, and the DPP avoided citing the U-Shaped Line in its own statements on Taiwan’s sovereignty. Now that it has regained the presidency and holds a legislative majority, how has the DPP managed Taiwan’s ambiguous South China Sea claim, and what does this tell us about the role of domestic politics in territorial and maritime disputes? This paper argues that since retaking power, the DPP has followed a moderate position in the South China Sea, a position selected based on its appeal to both the Republic of China (ROC) public and Mainland China. DPP concessions represent a move toward the center, demonstrating that even in the midst of highly intractable territorial and maritime conflicts, political parties will make strategic calculations based on the preferences of their base and the general public. In this case, the DPP base has preferences in the South China Sea, but holds these preferences less strongly than on other issues, making the South China Sea an issue where the DPP can make concessions to China without severe repercussions from its base.
I. Introduction:

The South China Sea, an area stretching from the Karimata and Malacca Straits to the Strait of Taiwan, is subject to a complex array of overlapping territorial and maritime claims.\(^1\) The area is a global hub for transportation and telecommunications, is highly valued for its fisheries, and is believed to possess considerable natural resources in its seabed. The dispute is frequently portrayed in international media as highly volatile and as a potential flashpoint for global conflict, with much analysis centered on China's ambiguous claim encompassing much of the area. While the Chinese people are assumed to view China's claim as quite natural – an oft-cited fact is that the South China Sea appears in maps on the walls of every classroom in China – the claim is generally puzzling to those outside China, with many asking how China claims water and territory spanning an area over 1,000 miles from its coast. More cynical perspectives characterize China's claim as simply a power grab by a rising power hungry for natural resources, but this rationalization cannot explain the similar claim maintained by the Republic of China (ROC or Taiwan). Taiwan has consistently advocated for its own, separate claim in the South China Sea, drawing on a common basis of Chinese history. In sum, overlapping claims in the South China Sea are a highly topical puzzle, and the ROC claim provides important and intriguing evidence.

Scholarship has long attested to the intractability and volatility of territorial disputes.\(^2\) Yet it has been relatively quiet on how states form claims such as those found in the South China Sea. In much analyses of territorial and maritime conflict, claims are taken as given, with limited

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\(^1\) The claimants to the dispute are China, the Philippines, Vietnam, Malaysia, Brunei, Indonesia, and Taiwan. Indonesia is sometimes excluded from this list, due to the ambiguous nature of both China's and Taiwan's claims in the South China Sea. It is unclear whether or not maps depicting both PRC and ROC claims include the Natuna area, an area administered by Indonesia.

theoretical work on how states initially determine what belongs to them. In one of the few studies that directly address how claims are formed, Alexander B. Murphy finds that historical justifications play a central role in shaping claims and disputes. Murphy argues that principles of individual property rights are routinely applied to states, resulting in the use of historical loss of property as a rationale for claims. Now it is universally recognized that “a state is not entitled to seize territory from another unless that territory itself was originally wrongfully seized.” Similarly, strategic value and economic value, such as natural resources, have been found to motivate territorial claims. These insights provide important directions for research, but do not provide a comprehensive picture for how states determine their claims.

To further explore such an important and timely puzzle, this paper includes a qualitative case study of Taiwan’s South China Sea claims, including evidence drawn from interviews with ROC government officials and maritime experts. While China’s claim in the South China Sea is regularly highlighted in media and scholarly work, Taiwan has grappled with a common Chinese historical record when establishing its parallel claim, and is nonetheless often omitted from analyses of the dispute. Undoubtedly due to Taiwan’s ambiguous international status, as well as its decidedly restrained foreign policy, the exclusion is significant, as Taiwan’s democratic political environment provides an exceptional opportunity to “look inside the box” in which foreign policy is being made.

The case study presented here focuses on Taiwan’s current ruling party - the Democratic Progressive Party (DPP). In the run-up to the 2016 election, the DPP made a number of statements indicating they might change Taiwan’s South China Sea claim if they returned to power. Since winning the presidency and gaining a majority in Taiwan’s unicameral legislature, they have

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4 Huth, *Standing Your Ground*. 
instead pursued a somewhat subdued although decidedly moderate position, in some limited but noteworthy instances they have been quite similar to the previous KMT (Nationalist Party) administration. This is because, similar to the median voter theorem, where government policies converge toward the political center, statements on Taiwan's South China Sea claim are designed to satisfy each party's political base while simultaneously appealing to the ROC public. In this case, an interesting and theoretically significant addition is the efforts by both parties to concurrently balance and satisfy external actors, chiefly the United States, China, and Japan. Although the DPP emphasizes Taiwanese identity and openly questions connections to China, striving to articulate its position on the claim largely in terms of international law rather than Chinese history, the DPP is still a major party in a two-party dominant system, driving it to find policies that will satisfy a large number of constituents and actors. In the case of the South China Sea, the DPP has tended to view Taiwan's claim as a bargaining chip more than as an inherent right or responsibility, allowing them to take a more moderate position unlikely to alienate their base, who's strongest preferences tend to be focused on other issues. Ultimately, this case shows that although territorial and maritime disputes remain intractable and volatile, domestic politics dictates foreign policy outcomes, even on something as assumedly sacred as claims to land and water.

To illustrate the process through which the DPP has developed and adjusted their position on the South China Sea, this paper will explore DPP policies on the South China Sea claim in four parts. First, basic background information on the ROC claim is outlined. The second section documents the DPP position on the claim in the lead up to the 2016 election. Third, the strength of DPP preferences with respect to the South China Sea are evaluated. Fourth, evidence of a DPP shift toward the center is described. Finally, the article concludes with a summary of findings and implications for the study of domestic politics in the context of territorial and maritime disputes.
II. Background: Republic of China (ROC) Claims in the South China Sea

An essential reference point for understanding Taiwan’s claim, as well as that of the PRC, is a map created by the Republic of China government in 1947 (see Figure 1). The dashed line depicted in this map, encompassing the vast majority of the South China Sea, is referred to as the “U-Shaped Line” or the “11-Dash Line.” Taiwan has never altered the line found in the map’s original version, and both the PRC and ROC have maintained similarly ambiguous claims based on this map (or alternate versions in the case of the PRC).5 Rival claimants and observers have questioned what the now infamous U-Shaped Line is designating: historic waters or some other historic right, a territorial claim to land features, maritime delimitation, or perhaps a combination of jurisdictional rights. Moreover, the legal justifications of the line are unclear. Neither the PRC nor ROC government has ever provided a comprehensive explanation for the claim. For instance, no coordinates have been provided to designate an exact geographical area. In the 1993 South China Sea Policies, issued by Taiwan’s legislature, the ROC government specifically noted that it had historic water rights in the South China Sea. These historic water rights were not defined, and possible definitions range from exclusive fishing rights up to a conception of the South China Sea as a Chinese lake, similar to waters internal to a nation’s territory in terms of exclusivity. This wording was suspended during Chen Shui-bian’s DPP presidency, and was not revived during the KMT Ma Ying-jeou administration.

5 The line will be referred to in this paper as the “U-Shaped Line.”
Figure 1: A Map of the Positions of the South China Sea Islands (1947)
Although Taiwan’s claim is ambiguous, Taiwan’s government has doggedly asserted Taiwan’s rights in the South China Sea. For instance, Taiwan’s Ministry of Foreign Affairs (MOFA) has remained consistent when describing Taiwan’s claim. Using a variation of wording that has been present in ROC statements for decades, MOFA consistently emphasizes sovereignty over South China Sea land features and maritime claims to waters surrounding those features. A MOFA statement on the South China Sea in 2015 serves as a prime example:

Whether from the perspectives of history, geography, or international law, the Nansha (Spratly) Islands, Shisha (Paracel) Islands, Chungsha Islands (Macclesfield Bank), and Tungsha (Pratas) Islands, as well as their surrounding waters, are an inherent part of ROC territory and waters. As the ROC enjoys all rights to these island groups and their surrounding waters in accordance with international law, the ROC government does not recognize any claim to sovereignty over, or occupation of, these areas by other countries, irrespective of the reasons put forward or methods used for such claim or occupation.  

As illustrated by this excerpt, Taiwan’s MOFA appears to be following an interpretation of Taiwan’s claim centered on South China Sea land features. No separate historic waters claim is mentioned, and the U-Shaped Line is also notably absent from their description. Similarly, the recent Ma administration often expressed a conception of the claim based on land features and related water rights. While the official ROC claim has seemingly moved away from a historic waters claim in the South China Sea, MOFA still adamantly maintains a claim on the rocks, shoals, and islands within the U-shaped line, including waters rights based on these features.

It is important to note, despite the relative consistency in Taiwan’s recent South China Sea statements, especially those coming from MOFA, ambiguity remains the defining characteristic of Taiwan’s South China Sea claims. This ambiguity has several sources. First, ambiguity on South China Sea claims has been and continues to be a consciously selected policy of the Taiwanese government.

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government. As one official in MOFA’s Department of East Asian and Pacific Affairs explained during the recent Ma Administration, disagreement within Taiwan’s government is a source of ambiguity:

There are a lot of arguments about what the claim should be. Every four scholars has five different views. There is some internal discussion between MOFA, the Ministry of Interior, and the National Security Council, and we also need to consider the United States and cross-Strait relations. It’s not easy. President Ma says that so far we haven’t reached a position of agreement among all parties within the government.\(^8\)

Moreover, strategic considerations factor into Taiwan’s policy of ambiguity. As the same official explained, Taiwan’s main goal right now regarding the South China Sea is to join the Code of Conduct discussions, and upsetting any of the other parties would disadvantage these efforts. He concluded, "We have a delicate role, and so far we haven’t figured out a better policy than ambiguity."\(^9\)

In sum, Taiwan’s South China Sea claim possesses a significant degree of ambiguity. Such ambiguity makes electoral outcomes important for the South China Sea claim, as legislative and presidential actions can impact the claim. In the next section, DPP statements on the claim while in the minority position will be examined.

III. DPP South China Sea Policy Positions Before the 2016 Elections

The Democratic Progressive Party (DPP), which recently retook the presidency and now holds a legislative majority, has staked out a position on Taiwan’s South China Sea claim that is centered on Taiwanese identity. Yet their approach ultimately reflects an effort to account for the concerns of their base while utilizing moderate approaches. As a minority party, the DPP ceaselessly advocated for Taiwan’s sovereignty over Taiping Island, the largest naturally forming
feature in the South China Sea, and the only feature occupied by Taiwan that is disputed by an actor other than China. At the same time, the DPP avoided any use of the U-Shaped Line or more expansive claims in the South China Sea. In stating their positions on Taiwan’s claim, DPP officials consistently emphasize a reliance on international law as a guideline in shaping Taiwan’s claim, particularly the principle of effective occupation.

The DPP has been a persistent advocate of Taiwan’s claim to Taiping Island, but that advocacy comes with the insistence that Taiwan’s claims are separate from China’s. On February 2, 2008, the DPP’s Chen Shui-bian became the first Taiwanese president to visit Taiping Island, his visit commemorating the opening of a new runway commissioned by his administration. While Chen was visiting Taiping, he announced his “Spratly Initiative,” which the DPP still cites as foundational to their policies on the South China Sea.10 Throughout his time in office, Chen was quiet on the U-Shaped Line as well as the South China Sea land features not occupied by Taiwan, but as noted above, he played an important role in weakening the historic waters argument by suspending the 1993 South China Sea Policies. Current DPP President Tsai Ing-wen has consistently maintained that Taiwan’s position on the South China Sea is different from Mainland China’s.

Similarly, in the DPP’s internally distributed South China Sea Policies and Positions, the English translation states, “Taiwan has its own viewpoint regarding the Spratly Islands – one that is founded on sovereignty originating from Taiwan, and which is different from China’s [claims over the territory].”11 As one scholar closely affiliated with the DPP explained during an interview, this internal South China Sea policy document intentionally mentions “South China Sea exclusive

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10 During one interview, a former DPP official that helped draft the Spratly Initiative explained that in writing the Initiative, then DPP government officials debated the name extensively. Reflective of their views on the dispute, they joked that they could not name the initiative “The South China Sea Initiative,” because then the title would have the word “China.” The former official added, we joked about it, “but actually we all thought about it.” Interview. Taipei. June 2014.

11 The Democratic Progressive Party’s South China Sea Policies and Viewpoints (internal document provided to author)
economic zone” as a signal that the DPP disagrees with a broader historic waters claim in the South China Sea.¹²

In their public statements, DPP officials uniformly cited a desire to base Taiwan’s claim on international law, particularly the legal principle of effective occupation. During an interview, Michael Tsai, former Secretary of Defense during the Chen Administration, stated that, “Taiwan should only claim Taiping Island and the surrounding waters, areas with actual control. If Taiwan made this claim, it would be relatively undisputed. Only China would challenge ROC control of Taiping.”¹³ In another example, Joseph Wu has argued Taiwan should not invest itself in strengthening relations with “an expansionist power which claims unsubstantiated historical rights,” a clear reference to China and its claims. In the same editorial, Wu included a policy point specific to the South China Sea:

South China Sea issue: Taiwan should make it clear that it follows the UN Convention on the Law of Sea, article 121 specifically, in defining its territorial claims based on the actual ownership of Itu Aba (Taiping islet)...Taiwan should also make it very clear that it will not cooperate with China on the sovereignty issue against any other claimants.¹⁴

Wu’s statement articulates what was a consistent expression of Taiwan’s South China Sea claims among the DPP minority – international law supports Taiwan's sovereignty over Taiping, and no other disputed South China Sea land features.

¹² Moreover, the Chinese translation of the same document refers to South China Sea “high seas” (the English translation says “international waters”), which was carefully worded in the original Chinese to indicate a DPP skepticism regarding the ability of most South China Sea land features to qualify as islands under the UNCLOS definition of an island as included in Article 121. Interview. Taipei. June 2014.
¹³ Interview. Taipei. February 2014
The DPP’s distinct position on the South China Sea creates the potential for Taiwan’s claim to change in the future. Former Deputy Secretary General of the National Security Council during the Chen Administration, Parris Chang told Voice of America in September 2014 that if the DPP regained the government in 2016 (which it did), the DPP will consider changing Taiwan’s South China Sea claim. According to Chang:

After the 2016 change of government in Taiwan, there is this kind of possibility [changing the claim], because DPP members, including myself, have already said Taiwan should adjust our territorial claims in the South China Sea. After World War II, the Kuomintang government in 1947 put forward the 9 or 11 dash line position, which has no relationship with Taiwan’s government today. If we have a DPP government, I believe, we are willing to reconsider. We believe that Taiwan, in the capacity of an independent country, is in the Asian and world democratic camps. Our position and our obedience to international law are different from China, which emphasizes its history and sovereignty.15

In May 2015, Taiwan's then incoming president Tsai Ing-wen told reporters that the DPP would not abandon Taiwan's claim to sovereignty over Taiping Island. Tsai expressed surprise that anyone would question the DPP's commitment to defending Taiping, but it is notable that Tsai did not make any statements about Taiwan’s South China Sea claims beyond Taiping Island, other than that the dispute should be handled in accordance with international law16

IV. The Strength of DPP Preferences

Although the DPP has been consistent in its argument for a claim based on the effective occupation of Taiping Island alone, rooted in international law and avoiding any use of the U-Shaped Line that is so directly connected to Chinese national identity, there are reasons to question

16 Tsai was explicit on Taiping. She stated that the DPP will not “abandon or renounce Tai- wan’s Taiping Island sovereignty.” A paraphrased English translation of her statement is given in CNA, “DPP Has No Plan to Give Up Taiping Sovereignty: Tsai,” China Post, May 27, 2015, <http://www.chinapost.com.tw/taiwan/national/national-news/2015/05/27/437001/DPP-has.htm>.

how dedicated the DPP is to this position. The main reason for doubt is that both the DPP and the DPP base tend not to have any firm or deep preferences with regards to the South China Sea, and therefore the South China Sea represents a potential area for compromise. During interviews, DPP members have made statements indicating this to be true, both before and during the current administration. For example, during an interview in 2014, a former official in the Chen administration explained that for Chen, the South China Sea was not a priority. He said, “Chen’s priority was not the South China Sea, it was the United States first, the East China Sea and Taiwan-Japan relations second, and then last was the South China Sea.” One former high-ranking official from the Chen administration, who continues to play an advisory role in the current administration, explained that for the DPP, the East China Sea and South China Sea dispute are different kinds of disputes:

Lots of fishermen fished in that area [the East China Sea], and did that always, so when Japan surrendered after World War II, fishermen’s habits were still the same, fishermen went to that area, took their boats there, then went back home... so suddenly after World War II, you cannot do that? Historians do a lot of research, but from an ordinary person’s perspective, they are used to daily activities in that area. Of course this does not mean historical documents are not important. I just want to add, ordinary fishermen used to go there. For Taiping, this is quite different. Chen Shui-bian had strategic thinking... for former president Chen, we want to play a certain kind of role... this is quite different, it is a strategic role.18

The idea that the South China Sea dispute is a strategic opportunity rather than an inherent right or responsibility is consistent throughout DPP interviews on this topic. Moreover, the DPP does not generally believe their base prioritizes the South China Sea, making it an area ripe for compromise. In another 2014 interview, a DPP strategist specialized in foreign policy said, “So far there has been no discussion on setting a [official] political statement on the South China Sea, maybe in the future. For now it is not politically important; there are other issues we are focused on.”19

17 Interview, Taipei, June 2014.
19 Interview, Taipei, June 2014.
Although the DPP is less committed to an expansive South China Sea claim, views the area strategically, and does not believe the dispute is highly salient to their base, they still recognize that China cares about Taiwan’s claim in the South China Sea. Even before returning the power, the DPP indicated during interviews they may be willing to shift their position on the claim based on considerations of external actors, particularly cross-Strait relations. As one DPP strategist noted, “The DPP is focusing on what we have effective control over, but if we drop other parts of the (South China Sea) claim, we are worried about affecting cross-Strait relations. We want to be helpful to the US, making the situation more peaceful, but cross-Strait relations is a priority too.”

V. DPP South China Sea Policy After the 2016 Election

After coming to power, the Tsai administration generally avoided any South China Sea claims beyond Taiping and its related jurisdictional rights. When the Permanent Court of Arbitration invalidated the U-Shaped Line in July 2016, also finding that no South China Sea land feature qualifies as an island (not even Taiping Island), Tsai responded by moving up a scheduled naval patrol of Taiping and strongly denouncing the ruling. Her administration has since sent delegations of visitors to Taiping, including a visit by Interior Minister Yeh Jiunn-rong in August. In the wake of the ruling, scholars in Taiwan noted the Tsai administration’s singular focus on Taiping in its defense of Taiwan’s South China Sea rights, for example avoiding any mention of Scarborough Shoal despite it being mentioned in the ruling. It seems safe to assume that had the court left Taiping out of its ruling, the DPP response to the ruling may have been more positive.

20 Interview, Washington DC, November 2014.
21 Admittedly, there have been some early signs that the Tsai administration may be more pragmatic on the South China Sea now that it is in office. For instance, MOFA Spokesperson Eleanor Wang has indicated in public statements that South China Sea land features are ROC “historic lands and maritime territories.” However, it should be noted that Wang was also MOFA spokesperson during the Ma administration, and made similar statements when Ma was in office. For further discussion, see Ralph Jennings, “New Taiwan Leadership Takes Tough Stance on Disputed South China Sea,” Forbes, May 31, 2016, <http://www.forbes.com/sites/ralphjennings/2016/05/31/new-taiwan-leadership-extends-tough-stance-on-disputed-south-china-sea/>
22 The China Post, “Tsai govt should set up South China Sea ruling committee: experts,” September 6, 2016.
Although the Tsai administration has been noted for emphasizing Taiping Island in its defense of ROC rights after the ruling was announced, Tsai’s administration has made several significant departures from the party’s established approach both during the Chen administration and while in the minority position. In the aftermath of the arbitration announcement, the Tsai administration sent both Minister of Foreign Affairs David Lee and Minister of the Interior Yeh Jiunn-rong to the Legislative Yuan where they each gave reports reaffirming the Tsai administration’s commitment to the land features depicted in the 1947 map. Even when faced with criticism from the New Power Party’s Freddy Lim, who said it was a joke to continue claiming the South China Sea land features, and similar to claiming outer Mongolia, David Lee simply repeated several times that the Tsai administration supports the position put forward in the 1947 map.23 David Lee has since referred to “South China Sea Islands” in his statements of ROC claims given to the Legislative Yuan. However, an anonymous source in the Tsai administration made it clear that the Tsai administration will never use the U-Shaped Line in its claim.24

When asked about shifts between Tsai as a candidate and the Tsai administration in terms of the South China Sea claim, a DPP strategist involved with planning the Tsai administration’s response to the arbitration ruling said that the Foreign Minister and the Minister of Interior’s statements were part of the Tsai administration’s efforts to win favor with Beijing, particularly with the hope of pleasing Beijing enough to gain greater international space. Tsai considered moves toward Japan and the US on this issue, but ultimately hoped concessions aimed at Beijing and the status quo would reap the greatest political rewards:

Our Minister of Foreign Affairs... says we respect Nanhai qun dao weizhi tu (the 1947 map). So Beijing was surprised when they heard this. This was some communication to Mainland

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China. Tsai will always do this to stabilize cross-Strait relations. I can say this, it is not a big change; we just change some words.

In the Legislative Yuan, they asked our cabinet members if we follow the map. The pan-blue asked questions, our ministers say they follow Nanhai qun dao weizhi tu (the 1947 map). This is a message to Beijing.25

As these statements illustrate, Tsai sent her ministers to the ROC Legislative Yuan with the intention of stating support for a version of the South China Sea claim that comes closer to Chinese articulations of the claim than any DPP statement had come before. This was because Tsai is eager to gain international space, and the path to gain international space is through Beijing. Because the South China Sea is an issue less salient to Tsai’s base, relatively speaking, it is an area where she can make concessions, in contrast to the 1992 Consensus, which is highly salient to Tsai’s independence-leani ng base and where shifts toward the center are impossible. Even in public statements on the South China Sea dispute, the Tsai administration has followed this strategy – mirroring Beijing’s wording in an effort to gain leverage. As the same DPP strategist explained, the DPP started using Beijing’s wording from its 2009 United Nations submission, such as “relevant waters,” despite its legal ambiguity:

> We used the term ‘relevant waters’ to maintain cross-Strait relations. Tsai wants to join Interpol and other international organizations, so she tried to send good feelings to Beijing. At that time, we suggested to Tsai that this is impossible, and we suggested catering to Japan and the United States to create leverage. Tsai didn’t accept this. She wanted to maintain the status quo.26

It is noteworthy, however, that the DPP drew the line at listing “history” as a reason justifying the South China Sea claim. When they were asked by Chinese officials why they did not include history in their public statements of justifications for the claim, they said it was a trivial difference from the Ma administration, when in actuality it was intentional decision.27

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In sum, Tsai administration statements on the South China Sea do not contain references to Chinese heritage or the U-Shaped Line, and instead emphasize international law. However, a recent notable shift has been in stating a simple affirmation of support for the 1947 map. This shift is only possible because the South China Sea claim is less salient to Tsai’s base, and Tsai knows it may be an area to offer concessions to Mainland China. The DPP position on Taiwan’s rights in the South China Sea had previously been very uniform: Taiwan has sovereignty over Taiping (which is an island), but claims to other land features in the South China Sea have a questionable legal basis. Now Tsai has had her ministers make simple statements supporting the 1947 map position and has issued statements mirroring Beijing’s language, all with the goal of gaining international space.

VI. Conclusions & Implications

Scholarship does not have a comprehensive theoretical explanation for how states establish territorial and maritime claims. This is a significant oversight because understanding the background for claims helps us better understand the conditions shaping volatile disputes. In the case of Taiwan, the DPP had advocated for a limited sovereignty claim over Taiping Island, and related jurisdictional rights, when they were the minority party. Since gaining power, they have been pushed toward the center of Taiwan’s political spectrum, showing a willingness to compromise when they believe it will serve their broader interests, especially in light of the low saliency of the South China Sea to their political base. The implications of this finding are twofold: (a) political party political decisions and strategic maneuvering can directly impact something as seemingly intractable as territorial and maritime claims, and (b) the claims put forth by other actors, such as China, require similar in-depth analyses.