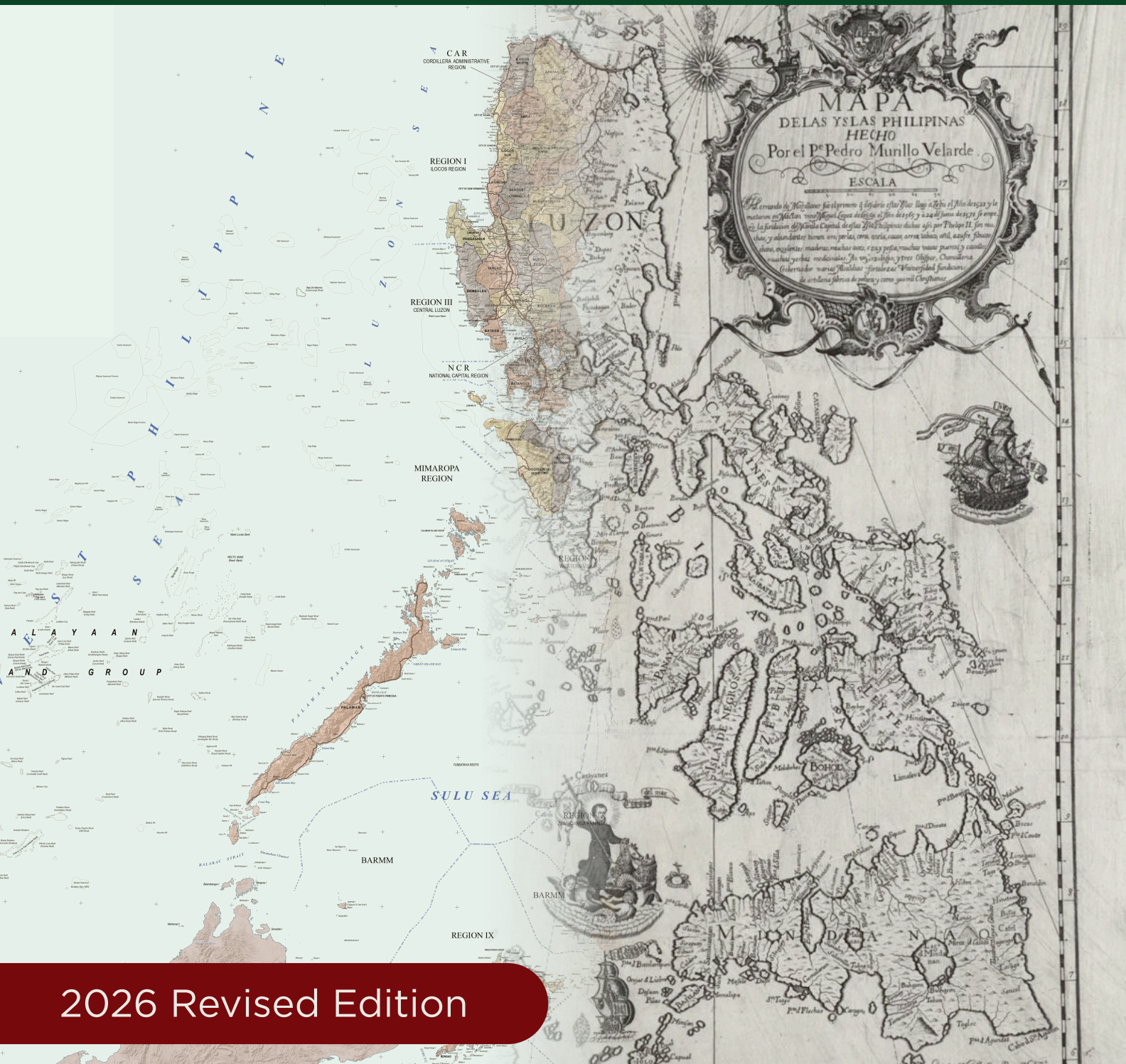




The West Philippine Sea

The Territorial and Maritime Jurisdiction
Disputes from a Filipino Perspective



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2026 Revised Edition

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First Release (15 April 2013) and Updated Version (15 July 2013)

The Asian Center and Institute for Maritime Affairs and Law of the Sea

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2026 REVISED EDITION

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In Memoriam

Professor and Former Dean of the UP Asian Center

Aileen S.P. Baviera, Ph.D.

1959 – 2020

Foremost China specialist, pioneering advocate and defender of Philippine rights in the West Philippine Sea, and originator and co-author of the first edition of the West Philippine Sea Primer.

This revised edition is dedicated to continuing her advocacy and honoring her legacy.

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List of Acronyms

AFP	Armed Forces of the Philippines
ASEAN	Association of Southeast Asian Nations
BFAR	Bureau of Fisheries and Aquatic Resources
CCG	China Coast Guard
CMS	China Marine Surveillance
CMM	Chinese Maritime Militia
CLCS	Commission on the Limits of the Continental Shelf
CADC	Comprehensive Archipelagic Defense Concept
CBD	Convention on Biological Diversity
COLREGS	Convention on the International Regulations for Preventing Collisions at Sea
DOC	2002 Declaration on the Conduct of Parties in the South China Sea
DOE	Department of Energy
DFA	Department of Foreign Affairs
DND	Department of National Defense
EEZ	Exclusive Economic Zone
EO	Executive Order
ECS	Extended Continental Shelf
FTAA	Financial or Technical Assistance Agreement
ICJ	International Court of Justice
IHO	International Hydrographic Organization
JDA	Joint Development Area
JDZ	Joint Development Zone
JMSU	Joint Marine Seismic Undertaking
KIG	Kalayaan Island Group
LTE	Low-Tide Elevation

MOU	Memorandum of Understanding
MT	Metric Ton
NMC	National Maritime Council
NSA	National Security Adviser
NSC	National Security Council
NTF-WPS	National Task Force for the West Philippine Sea
NM	Nautical Mile
PLAN	People's Liberation Army Navy
PCG	Philippine Coast Guard
PN	Philippine Navy
PAMC	Presidential Assistant for Maritime Concerns
PD	Presidential Decree
POMC	Presidential Office for Maritime Concerns
RA	Republic Act
SCS	South China Sea
TAC	Treaty of Amity and Cooperation in Southeast Asia
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
WPS	West Philippine Sea

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GENERAL INTRODUCTION

1. What is the West Philippine Sea?

The West Philippine Sea (WPS) refers to the part of the South China Sea (SCS) that is within the jurisdiction of, and of vital interest to, the Philippines. More specifically, it refers to the “maritime zones of the Philippines on the western side of the Philippine archipelago, including the Luzon Sea and the territorial seas of Bajo de Masinloc and the maritime features of the Kalayaan Island Group.”¹ (See Figure 1 on page 2.) It was first defined in Administrative Order No. 29 (2012) and later in the Philippine Maritime Zones Act (Republic Act No. 12064; 2024).²

2. What is the South China Sea?

The SCS is the much broader expanse of water, often described as a semi-enclosed sea. It “lies to the south of China; to the west of the Philippines; to the east of Viet Nam; and to the north of Malaysia, Brunei, Singapore, and Indonesia.”³ (See Figure 2 on page 3.) Scattered over the SCS are various geographic features, the most prominent of which are known internationally as Pratas Island, Scarborough Shoal, and the Spratly and Paracel Islands. There are overlapping claims by various countries to these features and to the waters and resources surrounding them, including parts of the WPS.

¹ Philippine Maritime Zones Act, Rep. Act No. 12064, § 2, (Nov. 7, 2024) (Phil.), <https://www.officialgazette.gov.ph/2024/11/07/republic-act-no-12064/>.

² Office of the President, Naming the West Philippine Sea of the Republic of the Philippines, and for Other Purposes, Admin. Ord. No. 29, § 1 (Sept. 5, 2012) (Phil.), <https://www.officialgazette.gov.ph/2012/09/05/administrative-order-no-29-s-2012/>.

³ The South China Sea Arbitration (The Republic of Philippines v. The People’s Republic of China), PCA Case No. 2013-19, Award, ¶ 3 (Arbitral Trib. constituted under Annex VII of UNCLOS July 12, 2016) [hereinafter “2016 Award”].

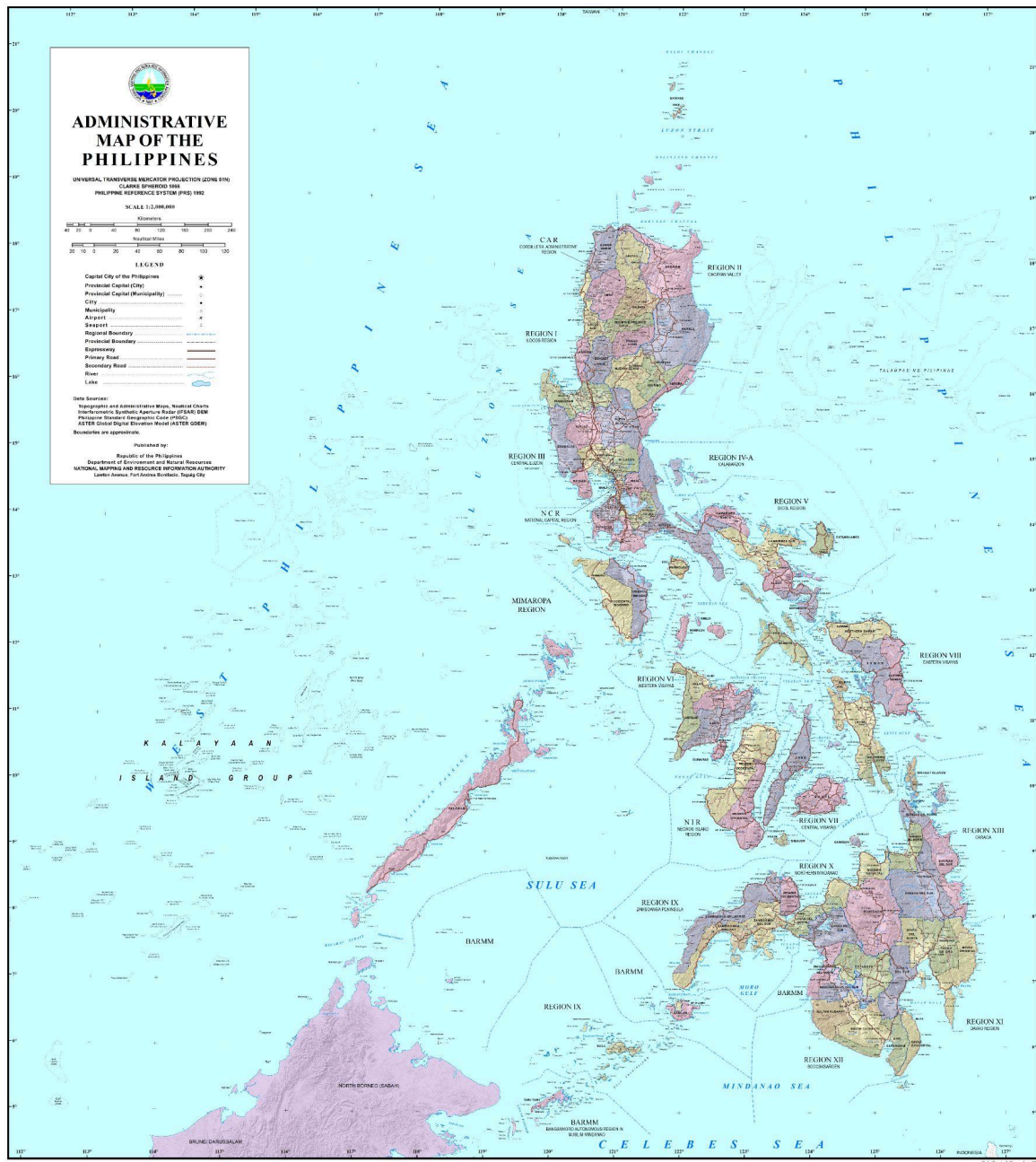


Figure 1. The Philippines, including the West Philippine Sea.
Source: National Mapping and Resource Information Authority⁴

⁴ National Mapping and Resource Information Authority, Administrative Map of the Philippines, map, https://www.namria.gov.ph/Downloads/AdminMap/Administrative_Map_of_the_Philippines.pdf.



Figure 2. The South China Sea as depicted in the 4th edition draft of IHO S-23.

Source: International Hydrographic Organization⁵

⁵ International Hydrographic Organization (IHO), Limits of Oceans and Seas, Special Publication S-23, draft 4th ed. (working document, August 2002), https://legacy.iho.int/mtg_docs/com_wg/S-23WG/S-23WG_Misc/Draft_2002/Draft_2002.htm.

3. What is Bajo de Masinloc?

Bajo de Masinloc is a large coral reef lying 116.2 nautical miles (nm) from the baseline of Luzon.⁶ (See Figure 3 on page 5.) It takes 12 hours for fishermen from Zambales, Pangasinan, and Bataan to travel to Bajo de Masinloc during the fishing season.⁷

Although uninhabited, with only some rocks visible above water, the shoal has been associated with the Philippines and subject to the jurisdiction of Philippine authorities since Spanish colonial times. Bajo de Masinloc serves as traditional fishing grounds for fishermen of various nationalities.⁸ The 1734 Pedro Murillo Velarde map shows the shoal designated as Panacot,⁹ while an 1899 “Mapa General, Islas Filipinas” by the Observatorio de Manila marks it as Bajo de Masinloc (Shoal of Masinloc).¹⁰ It is also locally known as Panatag and Karburo. Its international name “Scarborough Shoal” came into use after the British tea trading ship Scarborough was shipwrecked in the area in 1748, as documented in the journals of the Malaspina Expedition (1789-1794).¹¹ Surveys of the reef were conducted in the 1800s.

⁶ South China Sea Arbitration, 2016 Award, ¶ 284.

⁷ François-Xavier Bonnet, “Geopolitics of Scarborough Shoal,” Irasec’s Discussion Papers No. 14 (November 2012): 7, Bangkok: Research Institute on Contemporary Southeast Asia, accessed November 8, 2012, https://www.irasec.com/IMG/UserFiles/Files/04_Publications/Notes/Geopolitics_of_Scarborough_Shoal.pdf

⁸ South China Sea Arbitration, 2016 Award, ¶ 762.

⁹ Derrotero del Archipiélago Filipino por don Camilo de Arana Madrid, Direccion de Hidrografia (Publicado de orden del Ministerio de Marina: 1872). The 1872 source mentions in a footnote that Scarborough was “Marzingola y Panacot en la carta del P. Murillo.” The word “Panacot” is “undoubtedly a Philippine word, either Tagalog or Visayan.” The old Tagalog root word “tacot” means “to scare” or “to frighten,” while in Visayan the word “panacot” means “spice.” National Mapping and Resource Information Authority (NAMRIA) and UP Institute for Maritime Affairs and Law of the Sea (UP IMLOS), *Bajo de Masinloc/Scarborough Shoal: Maps and Documents* (Taguig City, Philippines: NAMRIA; Diliman, Quezon City, Philippines: UP IMLOS, 2014), 25.

¹⁰ José Algué, *Mapa General, Islas Filipinas* Observatorio de Manila, United States Coast and Geodetic Survey No. 2, Longitud E. del Meridiano de Greenwich (Baltimore: A. Hoen & Co., 1899), David Rumsey Historical Map Collection, <https://www.davidrumsey.com/luna/servlet/detail/RUMSEY-8-1-34680-1180293:No--2--Mapa-General->

¹¹ Andrew David, Felipe Fernández-Armesto, Carlos Novi, and Glyndwr Williams, eds., “Bustamente’s Account of Atrevida’s Visit to Macau and Her Return to Manila,” in *The Malaspina Expedition 1789–1794, Journal of the Voyage*, Volume II: Panama to the Philippines (London: The Hakluyt Society in association with the Museo Naval, Madrid, 2003).

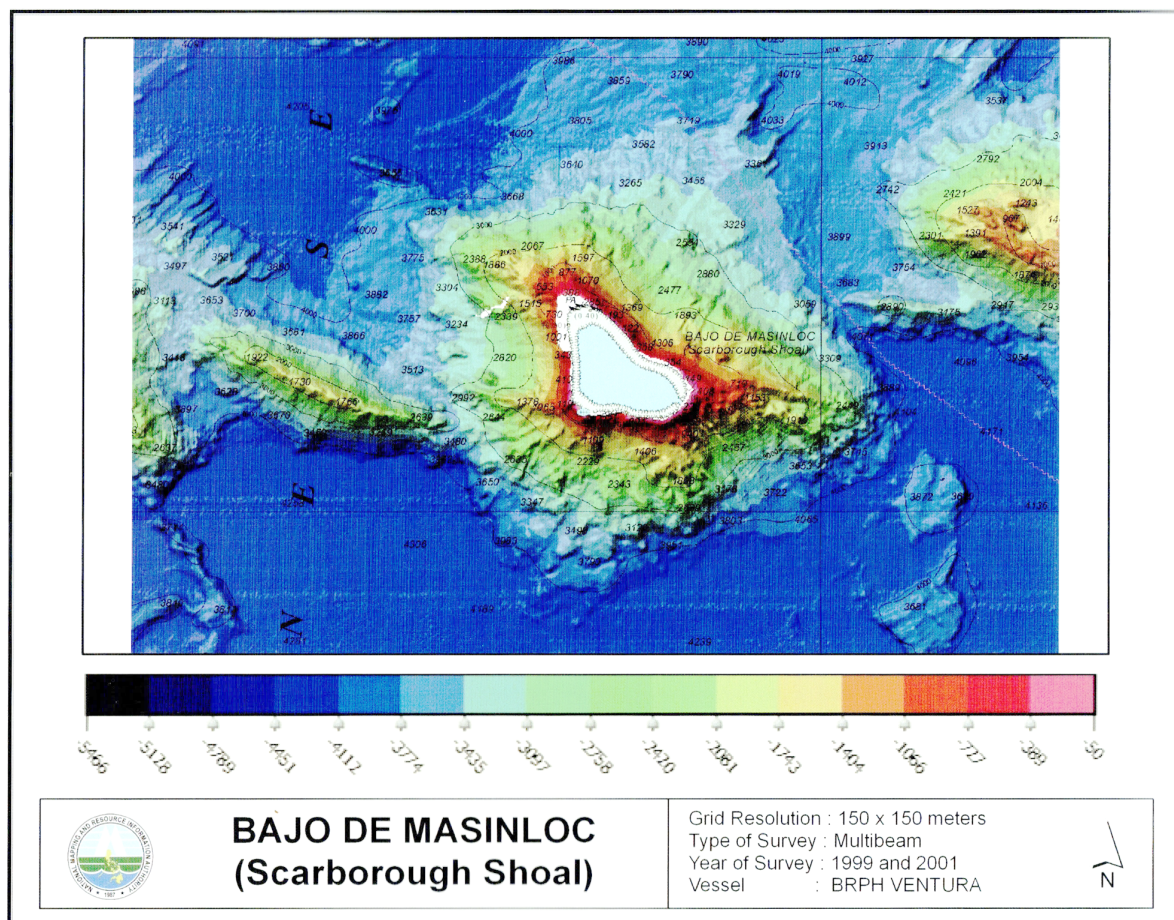


Figure 3. Bajo de Masinloc and its immediate vicinity.

Source: National Mapping and Resource Information Authority¹²

4. What is the Kalayaan Island Group?

The Kalayaan Island Group (KIG) is a group of over fifty features and their surrounding waters that belong to the Philippines, located in what is internationally known as the Spratly Islands. (See Figure 4 on page 6.) The KIG is not the same as the Spratlys, however, as there are features in the Spratlys that are not part of the KIG.¹³

The KIG has been the subject of the Philippines' official and private interests since before it became an independent republic. The islands, reefs, and rocks of the KIG are nearest the Philippine main archipelago, and are believed to be both economically valuable and strategically important for purposes of national security. The KIG was formally incorporated as a municipality of Palawan province in 1978 during the administration of President Ferdinand E.

¹² NAMRIA and UP IMLOS, *Bajo de Masinloc*, 104.

¹³ Ministry of Defense, *The Kalayaan Islands*, Series One Monograph No. 4 (Published for the Secretariat to the Cabinet Committee on the Law of the Sea Treaty by the Development Academy of the Philippines, 1982), 13.

Marcos Sr. through Presidential Decree No. 1596. Nine of its features presently host Philippine civilians and troops. Some states in the region contest Philippine sovereignty over parts, or the whole, of the KIG.

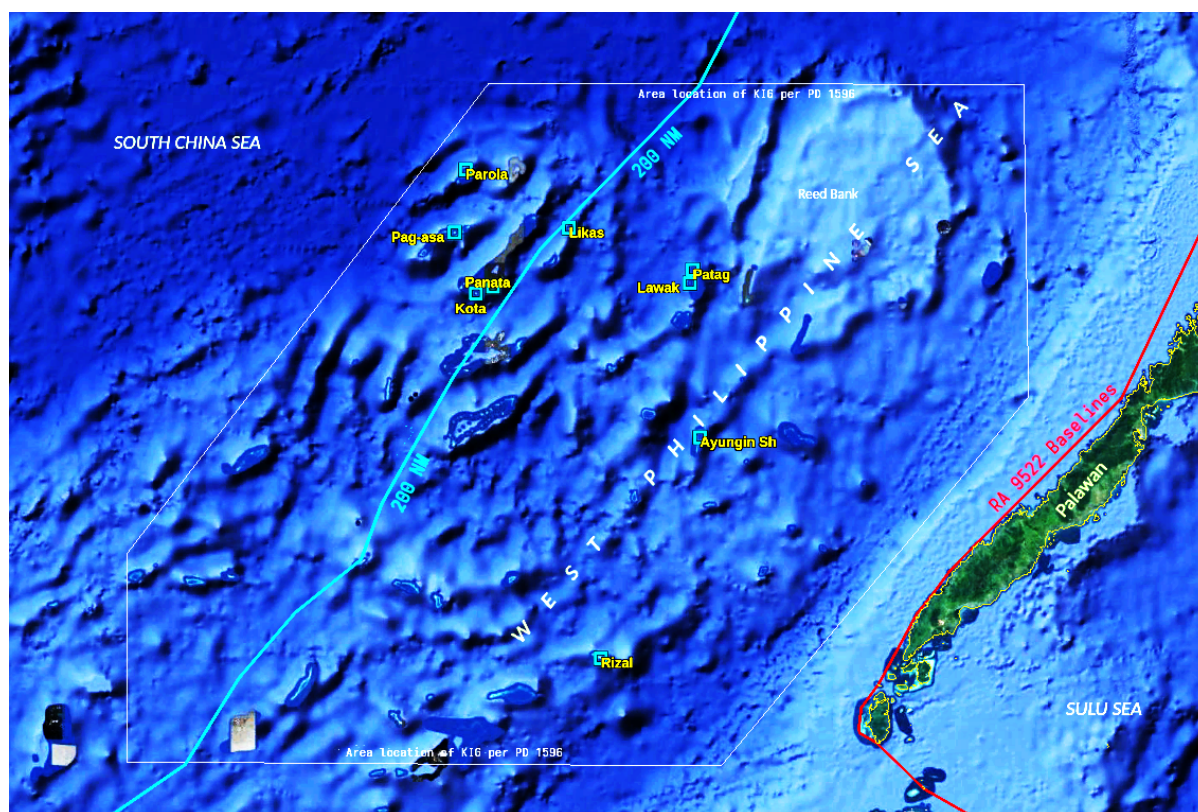


Figure 4. The Kalayaan Island Group, with some prominent features indicated.

Source: Jay Batongbacal

5. What are the disputes in the West Philippine Sea all about?

The disputes in the West Philippine Sea can be categorized into two: territorial and maritime. Territorial disputes concern conflicting sovereignty claims over land features, while maritime disputes concern the determination and allocation of rights over the surrounding waters and submerged seabed.

Territorial Disputes

Customary international law governs sovereignty over land territory, including islands, rocks, and other features above water at high tide. Generally, the decisions of international tribunals, including the International Court of Justice, serve as the main reference for determining what principles and norms may be used to resolve competing claims.

The territorial disputes over the KIG involve six parties that claim sovereignty or ownership of various portions—or even the entirety—of the islands, rocks, and reefs in the SCS. These parties are China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei Darussalam. With regard to Bajo de Masinloc, on the other hand, Philippine sovereignty is being disputed only by China and Taiwan. China calls it Huangyan Dao (Yellow Rock), while Taiwan refers to it as Minzhu Jiao (Democracy Reef). Both claim sovereignty and historic rights over the shoal.

Maritime Disputes

The United Nations Convention on the Law of the Sea (UNCLOS) and treaty law govern the entitlement to the seas adjacent to a state's land territory. UNCLOS provides that all coastal states are entitled to a territorial sea up to a maximum of 12 nm, and a contiguous zone of 24 nm, extending from the coastline or baseline. Depending on whether the land is capable of human habitation or an economic life of its own, it may also be entitled to an exclusive economic zone (EEZ) of up to 200 nm and a continental shelf of at least 200 nm in breadth, which may be modified in application where special geographic circumstances prevail. (See Figure 5 on page 8 and Table 1 on page 9.)

Following the entry into force of UNCLOS in 1994, countries began to contest each other's rights to the 200 nm EEZ and to a continental shelf, particularly the rights to explore for, and exploit, fisheries, petroleum, and other marine resources in these zones. (See Figure 6 on page 10.) Military garrisons and other facilities have been set up by various claimant states to protect their claims.

China's "Nine-Dash Line" Claim

China has asserted a claim to all land and maritime areas lying within a nine-dash line, which encompasses almost the entire SCS.¹⁴ It claims sovereignty over four island groups, which include the KIG and Bajo de Masinloc, and "historic rights" over all the maritime areas. In the landmark 2016 ruling on the SCS Arbitration, the Tribunal held that "China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the nine-dash line are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the Convention."¹⁵

¹⁴ In 2023, China's Ministry of Natural Resources published an updated map which includes a tenth dash around Taiwan. Zhenhuan, Ma, "2023 Edition of National Map Released," *Chinadaily.com.cn*, last modified August 28, 2023. <https://www.chinadaily.com.cn/a/202308/28/WS64ec91c2a31035260b81ea5b.html>.

¹⁵ South China Sea Arbitration, 2016 Award, ¶ 1203(B)(2).

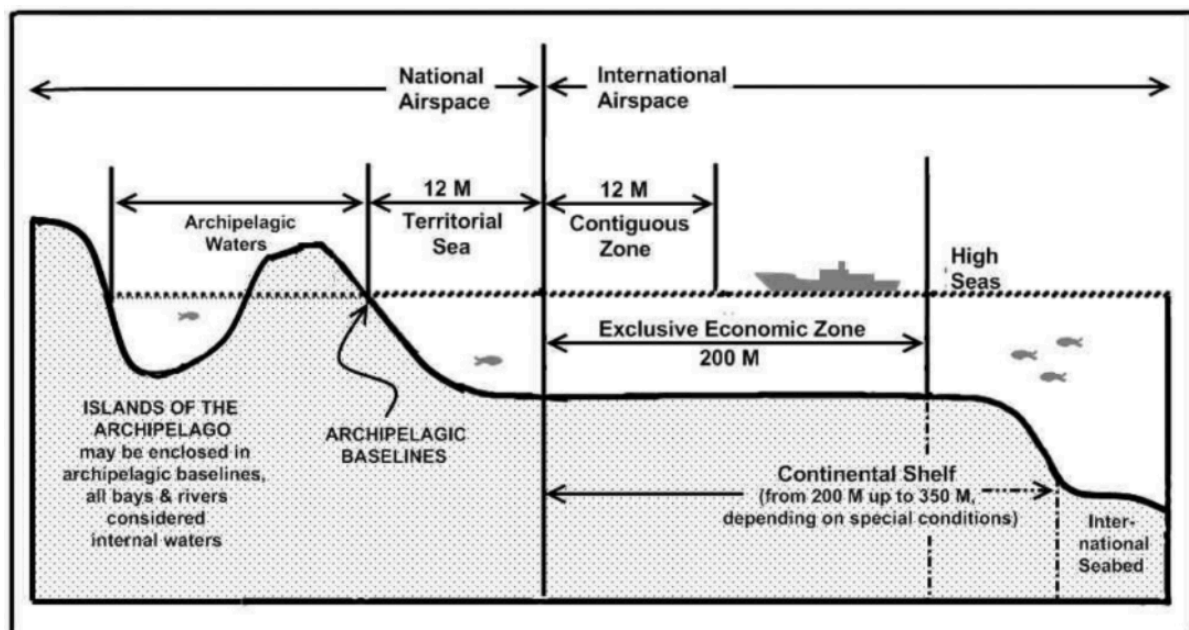


Figure 5. UNCLOS maritime zones applicable to the Philippines.

Source: Jay Batongbacal, adapted from Clive Schofield

Maritime Zone	Rights and Obligations
Internal Waters	Waters on the landward side of the baseline from which the breadth of the territorial sea is measured are “internal waters.” In this area, the coastal state exercises full territorial sovereignty as if it were part of its land territory. Entry of foreign vessels generally requires the explicit permission of the coastal state.
Archipelagic Waters	An archipelagic state, as defined in Article 46 of UNCLOS, may draw straight archipelagic baselines joining the outermost points of its outermost islands. The waters enclosed within these baselines are known as “archipelagic waters.” The state exercises full sovereignty over these waters, their seabed, subsoil, and airspace, subject to the right of innocent passage throughout the archipelagic waters, and archipelagic sea lanes passage within designated sea lanes.
Territorial Sea	A coastal state is entitled to claim a belt of sea adjacent to its coast as its “territorial sea.” This territorial sea may extend up to 12 nm, over which the coastal state may exercise full sovereignty. Foreign vessels are entitled to the right of innocent passage through the territorial sea. This does not apply to overflight by aircraft.
Contiguous Zone	The contiguous zone may extend up to 24 nm from the coast. Within this zone the coastal state is not sovereign, but may exercise the control necessary to prevent and punish infringements of its customs, fiscal, immigration, and sanitary laws and regulations.
Exclusive Economic Zone	A coastal state may claim a belt of up to 200 nm from the coast as its “exclusive economic zone.” In this area, the coastal state is entitled to exercise sovereign rights over the living and non-living resources of the sea, the seabed, and the subsoil. Other states are entitled to freedom of navigation and overflight, freedom to lay submarine cables and pipelines, and other internationally lawful uses of the sea related to those freedoms.
Continental Shelf	The continental shelf of a coastal state comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nm where the margin does not extend that far. Under specific conditions, a state may claim an “extended” continental shelf up to 350 nm. The coastal state exercises exclusive sovereign rights for the purpose of exploring and exploiting the natural resources of the shelf.

Table 1. Rights and Obligations of States in UNCLOS Maritime Zones

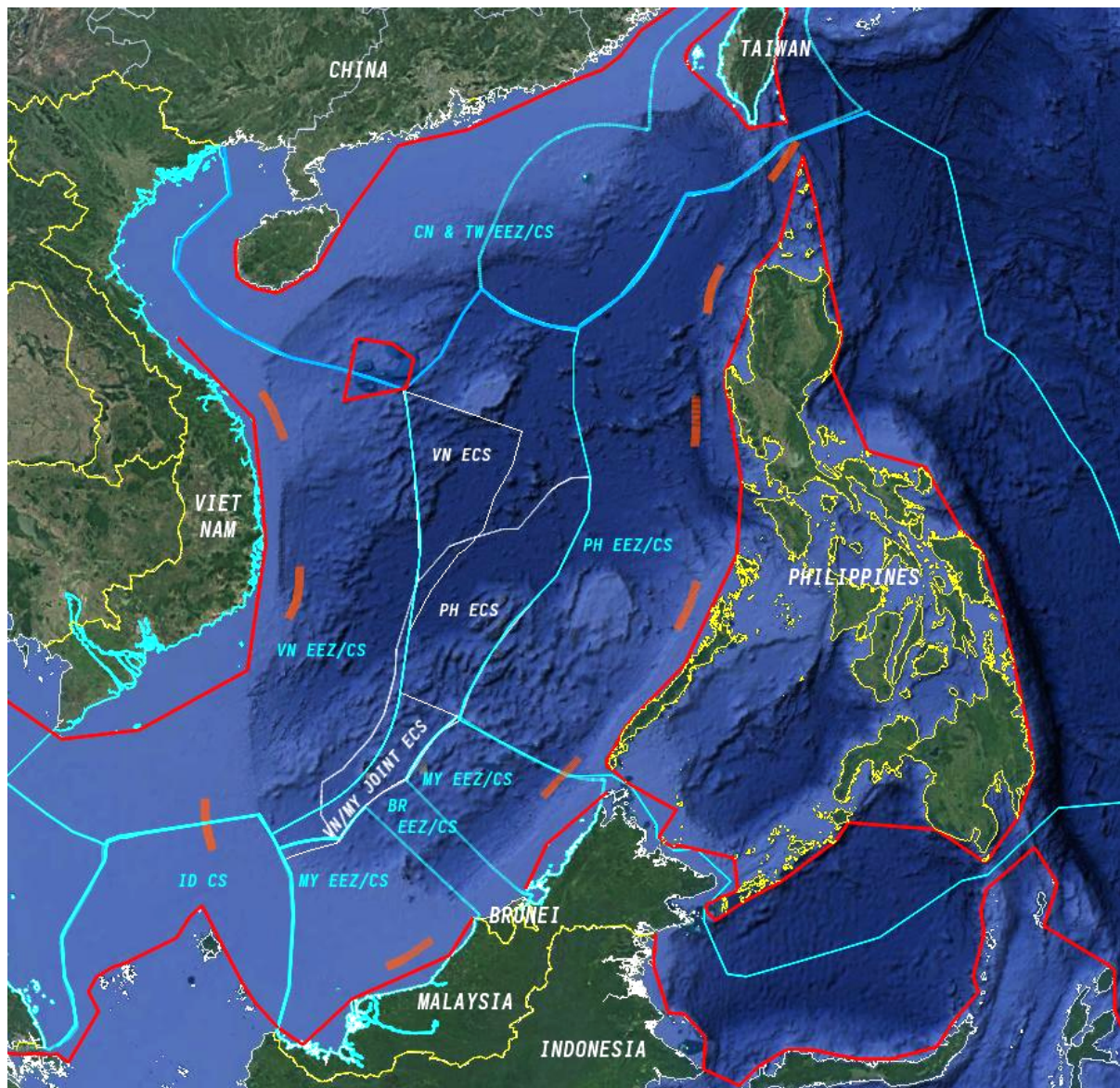


Figure 6. Map of multiple maritime claims in the South China Sea.

Territorial seas are not shown for clarity at this scale. Most of the adjacent EEZ/continental shelf boundaries of the Southeast Asian States have not yet been delimited; only the theoretical technical equidistance lines are shown. China's Nine-Dash Lines are shown only for purposes of illustrating the overlap. The 2016 Arbitral Award declared that China's claims up to the Nine-Dash Lines are invalid and without lawful effect to the extent that they exceed China's lawful maritime entitlements under UNCLOS.

Source: Jay Batongbacal

6. What is the South China Sea Arbitration?

On January 22, 2013, the Philippines initiated arbitral proceedings against China by serving a Notification and Statement of Claim pursuant to Part XV and Annex VII of UNCLOS.

The landmark case dealt with the role of historic rights and source of maritime entitlements in the SCS, the status of certain maritime features and the maritime entitlements they are capable of generating, and actions by China against the Philippines.

The Tribunal was constituted under Article 3 of Annex VII of UNCLOS. The Hague, Netherlands, was designated as the seat of the arbitration, with the Permanent Court of Arbitration serving as the registry for the proceedings.

Despite China's formal stance of non-participation and its consistent, explicit rejection of both the Arbitration and its Awards, the proceedings moved forward in accordance with the rule on non-appearing parties. The Tribunal issued two rulings—the award on jurisdiction and admissibility in 2015 and the award on the merits in 2016—both in favor of the Philippines.

WEST PHILIPPINE SEA

National Interests

1. Why is the West Philippine Sea important for the Philippines?

The West Philippine Sea (WPS) is important to the Philippines because it secures the nation's food and energy, and its connection to the rest of the world. First, it is a center of marine biodiversity, filled with coral reefs, mangroves, seagrass, and mudflats that serve as spawning grounds and nurseries for various marine organisms.¹⁶ This rich environment drives the country's fisheries sector, which supported approximately 2.60 million registered fisherfolk in 2024.¹⁷ From 2016 to 2020, the WPS accounted for 7% to 11% of national fisheries production, and scientists have determined that it supplies up to 27% of our total commercial fisheries catch.¹⁸ By contributing a significant portion of the national catch, the region also bolsters food security for a population where fish and fishery products are the second most consumed food group and the primary source of animal protein.¹⁹

Second, its seabed holds large, untapped reserves of oil and gas which are crucial to the country's energy security. The Malampaya gas field, located around 80 kilometers from Palawan, encompasses the Camago-Malampaya reservoir, which has powered up to 20% of the Luzon Grid through the Malampaya Deep Water Gas-to-Power Project, and the newly discovered Malampaya East-1, which is slated to extend the project's operational lifespan. Recto (Reed) Bank, situated further offshore, offers even more promise of untapped energy reserves.

Beyond resources, the WPS is a vital sea line of communication. Up to USD 3.4 trillion worth of trade passed through the South China Sea (SCS) in 2016, representing almost 21% of global commerce.²⁰ As such, it is an important chokepoint for global trade. Disruptions could add substantially to shipping costs, which may then be passed on to consumers.²¹ The WPS also

¹⁶ Hazel O. Arceo, "CHAPTER I: Biodiversity, Threats and Conservation," in *The West Philippine Sea: State of the Coasts* (University of the Philippines Marine Science Institute, 2024),

<https://pcsd.gov.ph/wp-content/uploads/2024/07/WPS-SOC-2024-Full-Report-ebook-144dpi-2.pdf>.

¹⁷ 2024 Philippine Fisheries Profile (Bureau of Fisheries and Aquatic Resources, 2024), 17,

https://www.bfar.da.gov.ph/wp-content/uploads/2026/02/FINAL_FOR-PUBLICATION-2024-FISHERIES-PROFILE-SIZE-A4.pdf.

¹⁸ Arceo, "CHAPTER I: Biodiversity, Threats and Conservation."

¹⁹ 2024 Philippine Fisheries Profile, 77-78.

²⁰ "How Much Trade Transits the South China Sea?," ChinaPower, August 2, 2017,

<https://chinapower.csis.org/much-trade-transits-south-china-sea/>.

²¹ ChinaPower, "How much Trade Transits?"

hosts thousands of miles of fiber-optic submarine cables that form the physical backbone of the digital world and enable the Philippines to connect to the global economy.

South China Sea Arbitration

2. What prompted the Philippines to initiate arbitration against China?

The April 2012 standoff between the Philippines and China at Scarborough Shoal was the immediate trigger for the initiation of the arbitral proceedings. Although the disputes between the Philippines and China had been long standing, the incident became the tipping point. China's encroachment into and militarization of Mischief Reef, assertion of its nine-dash line claim, interference with the Philippines' petroleum exploration at Recto Bank, and other maritime activities, coupled with a clear impasse in diplomatic negotiations, led the Philippines to bring the dispute before an arbitral tribunal.

3. What was China's official stance toward the arbitration, and on what grounds did it challenge the case?

China rejected the Arbitration through a note verbale on February 19, 2013. It later reiterated its non-acceptance and non-participation through public statements, note verbales, and letters to the members of the Tribunal. On December 7, 2014, China's Ministry of Foreign Affairs published a Position Paper assailing the Tribunal's jurisdiction. The Tribunal formally treated these communications as a plea on jurisdiction.²²

China challenged the Tribunal's competence through three main arguments:

First, it claimed that the subject matter of the Arbitration was territorial sovereignty over features in the SCS, which did not concern the interpretation or application of the United Nations Convention on the Law of the Sea (UNCLOS).

Second, it argued that even assuming that an UNCLOS-related issue existed, it was inextricably linked to maritime delimitation, which is a category of disputes that China formally excluded from compulsory dispute settlement procedures through a formal declaration in 2006.

²² The South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China), PCA Case No. 2013-19, Award on Jurisdiction and Admissibility, ¶ 15 (Arbitral Trib. constituted under Annex VII of UNCLOS Oct. 29, 2015) [hereinafter "2015 Award on Jurisdiction"].

Third, it alleged that standing bilateral agreements between China and the Philippines to resolve disputes through negotiation precluded unilateral recourse to compulsory procedures under UNCLOS, including arbitration.

4. What were the Tribunal's rulings on jurisdiction?

The Tribunal found that it had jurisdiction over almost all of the Philippines' submissions. In fulfillment of its duty under Article 288 and Annex VII, Article 9 to satisfy itself of its own jurisdiction, the Tribunal evaluated all the objections raised by China in its Position Paper, as well as other possible issues concerning its competence over the case. To do this, it addressed the clear-cut jurisdictional issues in a preliminary phase, before addressing the merits and any intertwined jurisdictional issues at a later stage.

a. China consented to be bound by the UNCLOS dispute settlement procedures.

China's ratification of UNCLOS in 1996 entailed the acceptance of the entire Convention, including the dispute settlement mechanisms under Part XV. Because neither the Philippines nor China formally selected a preferred dispute resolution forum upon ratification, Annex VII arbitration operates as the mandatory default mechanism. No separate, case-specific consent was required to initiate the proceedings.

b. China's non-participation did not constitute a bar to the proceedings.

Article 9 of Annex VII of UNCLOS provides that the "[a]bsence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law."²³ On both jurisdictional and substantive issues, the Court did not just accept the Philippines' positions by default, but thoroughly evaluated their merits by holding hearings and requiring further submissions from the Philippines on matters it considered unaddressed or inadequately addressed in its pleadings.²⁴

The Tribunal also took measures to safeguard the procedural rights of China throughout the proceedings, including by providing China with all communications and materials in the Arbitration, notice of hearings, and ample time to comment and submit written responses; as well as by reiterating that it was open to China's participation at any stage.²⁵

²³ South China Sea Arbitration, 2015 Award on Jurisdiction, ¶ 113.

²⁴ South China Sea Arbitration, 2015 Award on Jurisdiction, ¶¶ 115, 119.

²⁵ South China Sea Arbitration, 2015 Award on Jurisdiction, ¶ 117.

c. The Arbitration did not concern territorial sovereignty.

A dispute does not become a sovereignty matter simply because it coexists with other disputes involving sovereignty. According to the Tribunal, “it is entirely ordinary and expected that two States with a relationship as extensive and multifaceted as that existing between the Philippines and China would have disputes in respect of several distinct matters.”²⁶

Furthermore, the Tribunal found that resolving the maritime claims did not require it to first make an express or implicit decision on sovereignty, nor was the actual objective of the Philippines’ claims to advance its position in the parties’ dispute over sovereignty. Notably, the Philippines also repeatedly emphasized throughout the proceedings that it was not asking the Tribunal to rule on sovereignty.²⁷

d. The Arbitration did not concern maritime delimitation.

The Tribunal clarified that a dispute over the existence of entitlements and a dispute over the delimitation of an area where those entitlements overlap were separate issues. In the Tribunal’s words, “[i]t does not follow...that a dispute over an issue that may be considered in the course of a maritime boundary delimitation constitutes a dispute over maritime boundary delimitation itself.”²⁸

e. There were no indispensable third parties that should have been present.

The Tribunal considered whether the absence of other SCS claimants, such as Vietnam, posed a bar to its jurisdiction, given that the case involved the legal status and maritime zones of features they also claim. The Tribunal concluded that since it was not deciding on sovereignty, the rights of other claimant states would not be affected and so they are not indispensable to the proceedings. The Tribunal also took note of Vietnam’s statement affirming the Tribunal’s jurisdiction, as well as the lack of objection from any of the claimants.

f. The parties never agreed to resolve their disputes exclusively through negotiation.

China argued that it had a binding agreement with the Philippines to settle disputes exclusively through negotiations, pointing to the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC) and a series of bilateral joint statements. To determine whether such an agreement existed, the Tribunal examined not only the

²⁶ South China Sea Arbitration, 2015 Award on Jurisdiction, ¶ 152.

²⁷ South China Sea Arbitration, 2015 Award on Jurisdiction, ¶ 153.

²⁸ South China Sea Arbitration, 2015 Award on Jurisdiction, ¶ 155.

instruments invoked by China, but also the Treaty of Amity and Cooperation in Southeast Asia (TAC) and the Convention on Biological Diversity (CBD).

With respect to the 2002 DOC and the joint statements, the Tribunal determined that these are political declarations rather than legally binding agreements. Furthermore, they did not provide a mechanism for binding settlement nor did they express an intent to exclude other means of dispute resolution. The TAC and the CBD, while legally binding, similarly lacked a binding settlement mechanism and did not exclude other procedures.

g. The requirement to exchange views was fulfilled.

The Tribunal found that the requirement under Article 283 had been met through the extensive and prolonged diplomatic communications between the Philippines and China, which clearly expressed their respective positions and preferences for dispute resolution.

h. Did the limitations and exceptions to jurisdiction apply?

Section 3 of Part XV specifies limitations and exceptions to compulsory dispute settlement under Section 2.

Under Article 297,²⁹ disputes regarding a coastal state's sovereign rights or jurisdiction are automatically excluded from compulsory settlement, except in specific cases—such as fisheries disputes that do not touch upon the state's resource management discretion—or when they concern the freedoms of navigation or overflight, the laying of submarine cables, or the protection and preservation of the marine environment.

Article 298, meanwhile, allows States to opt out of compulsory dispute settlement procedures for specific categories of disputes, namely those concerning sea boundary delimitations, historic bays or titles, military activities, law enforcement activities relating to marine scientific research or exclusive economic zone (EEZ) fisheries rights, and disputes already being addressed by the United Nations Security Council. China activated all of these optional exceptions through its 2006 Declaration.

The Tribunal found that none of the automatic limitations to jurisdiction under Article 297 applied to bar any of the Philippines' claims. As to the exceptions to jurisdiction under Article 298, the exclusions concerning sea boundary delimitations, historic titles,

²⁹ Article 297 covers a broader range of jurisdictional limitations, but the discussion here only includes parts relevant to the Arbitration.

and law enforcement operations were entirely inapplicable, while the exception regarding military activities was partly applicable.

The Tribunal concluded that it lacked jurisdiction over the standoff at Second Thomas Shoal, which it characterized as a “quintessentially military situation,” involving the Armed Forces of the Philippines on one side and China’s Navy, Coast Guard, and other government agencies on the other.³⁰ Conversely, the Tribunal affirmed its jurisdiction over China’s island-building activities in the Spratlys, holding that it “will not deem activities to be military in nature when China itself has consistently resisted such classifications and affirmed the opposite at the highest level.”³¹

5. What were the Tribunal’s rulings on the merits?

The Tribunal issued a unanimous ruling in favor of the Philippines on most of its submissions. (See Appendix A for the Tribunal’s ruling on each submission.)

- a. **China’s nine-dash line and historic rights claims were incompatible with, and superseded by, the rights provided under UNCLOS.**

UNCLOS comprehensively allocates the rights of states in different maritime zones. Pre-existing rights to resources were considered during the negotiations but ultimately excluded from the final text.

In any case, the historical record did not support China’s claim of historic rights. While Chinese fishermen were using the islands and waters of the SCS, they were doing so in the exercise of high seas freedoms, as those waters were part of the high seas prior to UNCLOS. To establish a legitimate “historic right,” China would have had to prove that it exercised exclusive control over the waters or its resources and prevented other states from exploiting the resources therein.

- a. **None of the maritime features subject of the Arbitration are fully entitled islands.**
In Submissions 3 to 7, the Tribunal assessed whether each of the features subject of the Arbitration was:

- 1) A submerged feature, which is underwater during low tide, and which may not be appropriated as territory and generates no independent maritime zones of its own;

³⁰ South China Sea Arbitration, 2016 Award, ¶ 1161.

³¹ South China Sea Arbitration, 2016 Award, ¶¶ 938, 1028, 1164.

- 2) A low-tide elevation (LTE), which is above water at low tide but submerged during high tide. It does not form part of a state's land territory, cannot be legally appropriated, and generates no independent maritime zones of its own. However, its low-water line may be used as a baseline to measure the territorial sea if it is located within 12 nautical miles (nm) of a high-tide feature or mainland. An LTE forms part of the submerged landmass of the state and falls within the legal regimes for the territorial sea or continental shelf, as the case may be;³² and
- 3) An island, which is a piece of land that is above water during both high tide and low tide;

and if it is an island; whether it is:

- a) A fully entitled island, which is capable of either human habitation or an economic life of its own, and which generates a 12 nm territorial sea, as well as an additional 200 nm EEZ and continental shelf; or
- b) A rock, which is capable of neither human habitation nor an economic life of its own, and which generates a 12 nm territorial sea, but not a 200 nm EEZ or continental shelf.³³

The Tribunal's assessment of the status of each feature was based solely on its natural state, prior to significant human modification. The Tribunal made this assessment through a review of technical, scientific, and historical evidence. Its findings are tabulated below.

Feature	Legal Status
Scarborough Shoal	Rock
Cuarteron Reef	Rock
Fiery Cross Reef	Rock
Johnson Reef	Rock

³² South China Sea Arbitration, 2016 Award, ¶ 309.

³³ South China Sea Arbitration, 2016 Award, ¶ 280.

McKenna Reef	Rock
Hughes Reef	LTE
Gaven Reef (North)	Rock
Gaven Reef (South)	LTE
Subi Reef	LTE
Mischief Reef	LTE
Second Thomas Shoal	LTE

Table 2. Legal status of some features in the SCS, as determined in the 2016 Arbitral Award

Feature	Location
Hughes Reef	Lies within 12 nautical miles of the high-tide features on McKenna Reef and Sin Cowe Island ³⁴
Gaven Reef (South)	Lies within 12 nautical miles of the high-tide features at Gaven Reef (North) and Namyt Island ³⁵
Subi Reef	Lies within 12 nautical miles of the high-tide feature of Sandy Cay on the reefs to the west of Thitu ³⁶
Mischief Reef	Located within the EEZ claimed by the Philippines ³⁷
Second Thomas Shoal	Located within the EEZ claimed by the Philippines ³⁸

Table 3. Location of LTEs in the SCS, as determined in the 2016 Arbitral Award

In particular, because Mischief Reef and Second Thomas Shoal were mere LTEs and not rocks, and because Reed Bank was a submerged feature,³⁹ the Tribunal held that these formed part of

³⁴ South China Sea Arbitration, 2016 Award, ¶ 384.

³⁵ South China Sea Arbitration, 2016 Award, ¶ 384.

³⁶ South China Sea Arbitration, 2016 Award, ¶ 384.

³⁷ South China Sea Arbitration, 2016 Award, ¶ 399.

³⁸ South China Sea Arbitration, 2016 Award, ¶ 399.

³⁹ South China Sea Arbitration, 2016 Award, ¶ 1203(A)(3)(c).

the 200 nm EEZ and continental shelf of the Philippines, and were subject to its sovereign rights and jurisdiction as a coastal state.

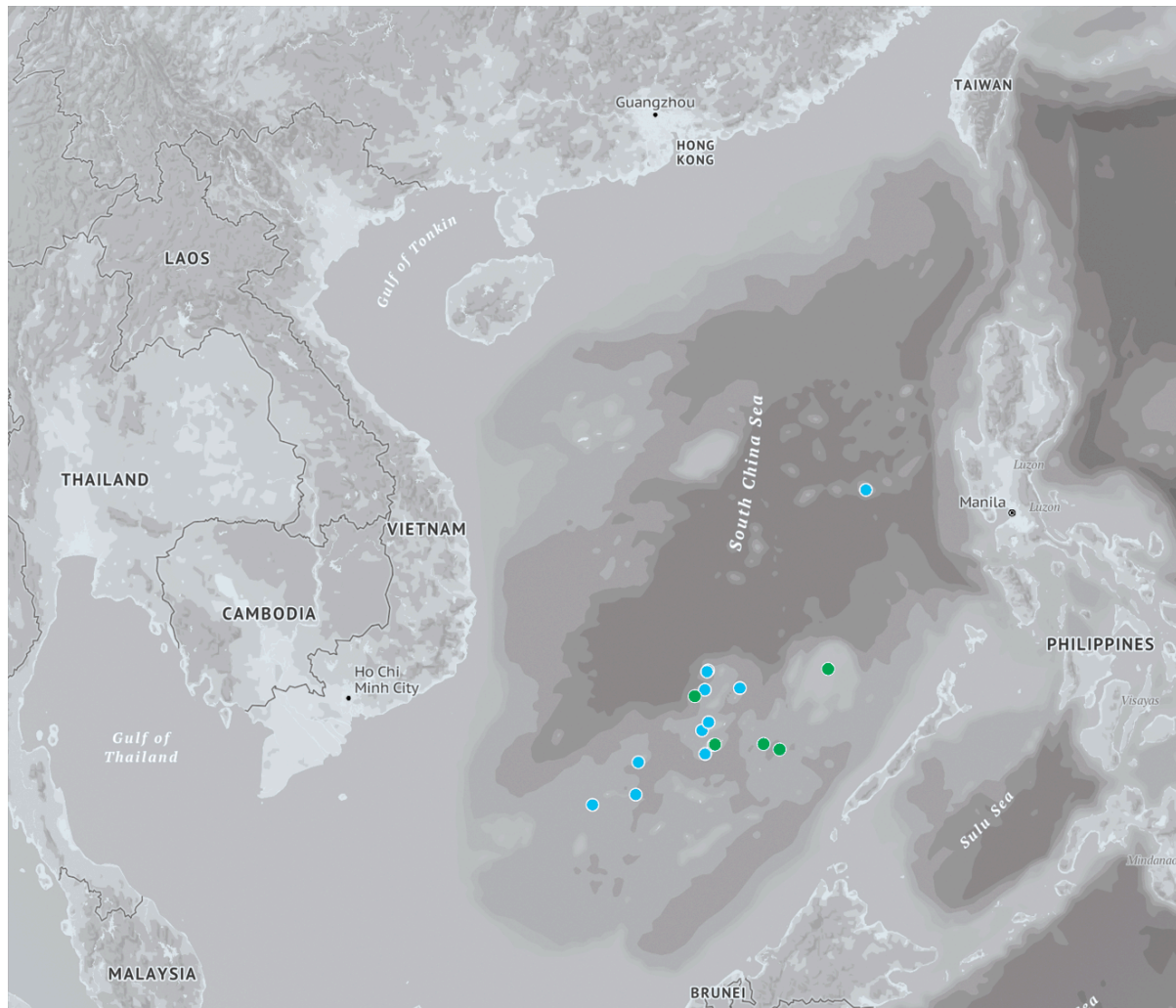


Figure 7. The legal status of features in the SCS as determined in the 2016 Arbitral Award.

Blue dots denote rocks; green dots represent LTEs and submerged features.

Source: Asia Maritime Transparency Initiative⁴⁰

a) China violated the Philippines' sovereign rights and jurisdiction in its EEZ and continental shelf.

Since there were no potential overlapping maritime boundaries in the area subject of the Arbitration, and Mischief Reef, Second Thomas Shoal, and Reed Bank form part of the EEZ and continental shelf of the Philippines, the Tribunal affirmed that the Philippines possesses exclusive sovereign rights over the living

⁴⁰ Asia Maritime Transparency Initiative, The 2016 Arbitration Ruling, map, <https://amti.csis.org/arbitration-map/>.

and non-living resources within this area. Consequently, China violated the sovereign rights of the Philippines through its interference with Philippine petroleum exploration at Reed Bank, its unilateral imposition of a fishing moratorium that extended into the Philippine EEZ, and its toleration and protection of Chinese fishing fleets operating within Mischief Reef and Second Thomas Shoal.⁴¹

Furthermore, because UNCLOS grants the coastal state exclusive jurisdiction over the establishment and use of artificial islands, installations, and structures within its own EEZ and continental shelf, China's unauthorized construction of permanent installations at Mischief Reef was a direct violation of the Philippines' sovereign rights. Moreover, the Tribunal ruled that Mischief Reef, as an LTE, is incapable of appropriation.⁴²

b) China unlawfully prevented Filipino fishermen from engaging in traditional fishing at Scarborough Shoal.

The Tribunal recognized Scarborough Shoal as a shared traditional fishing ground for artisanal fishermen of various nationalities, including the Philippines, China, Taiwan, and Vietnam. Traditional fishing rights are protected, vested rights that belong directly to historic fishing communities rather than to states. Although UNCLOS extinguished historic fishing rights within the newly established EEZ, these rights survived the regime of the Convention within 12 nm of Scarborough Shoal.⁴³ China's exclusion of Filipino fishermen from Scarborough Shoal for extended periods after May 2012 was therefore contrary to international law.⁴⁴

c) China violated its obligations to protect and preserve the marine environment.

The Tribunal clarified that the obligations in relation to the protection and preservation of the marine environment apply to all States in all maritime areas, regardless of outstanding territorial disputes. It evaluated China's extensive dredging, island-building, and construction activities across seven features in the Spratlys, and determined that China caused severe and irreversible harm to the marine environment. The Tribunal further noted that China failed to

⁴¹ South China Sea Arbitration, 2016 Award, ¶¶ 697, 716, 735, 757.

⁴² South China Sea Arbitration, 2016 Award, ¶ 1043.

⁴³ South China Sea Arbitration, 2016 Award, ¶¶ 794, 798, 799, 804, 808.

⁴⁴ South China Sea Arbitration, 2016 Award, ¶ 814.

cooperate or coordinate with neighboring states, as well as conduct and communicate environmental impact assessments for its activities.⁴⁵

Furthermore, the Tribunal ruled that China breached its duty of due diligence by failing to prevent its nationals and flagged fishing fleets from harvesting endangered marine species, including giant clams, sea turtles, and sharks at Scarborough Shoal and the Spratlys, as well as tolerating the use of propeller vessels to harvest giant clams. China was not merely aware of these activities but also protected them.⁴⁶

d) China violated the provisions on navigational safety under UNCLOS.

Chinese law enforcement vessels, within the vicinity of Scarborough Shoal, executed a series of dangerous maneuvers, which included navigating at unsafe speeds, maintaining hazardous distances, and attempting to cross the bow of a Philippine vessel. The Tribunal held that this conduct “created serious risk of collision and danger to Philippine vessels and personnel,” in violation of various rules under the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS), which are incorporated in Article 94 of UNCLOS. As found by the Tribunal, “where Chinese vessels were under an obligation to yield, they persisted; where the regulations called for a safe distance, they infringed it. The actions are not suggestive of occasional negligence in failing to adhere to the COLREGS, but rather point to a conscious disregard of what the regulations require.”⁴⁷

e) China aggravated and extended the disputes.

Under international law, parties to a dispute have a duty to refrain from actions that could aggravate or extend the controversy pending its resolution. China breached this obligation by engaging in large-scale land reclamation and construction of artificial islands on features in the Spratlys while the case was ongoing. These actions permanently altered and destroyed evidence of the natural state of the features and irreversibly destroyed and damaged marine ecosystems in the process of entrenching China’s presence in contested areas, effectively frustrating the dispute resolution process.⁴⁸

⁴⁵ South China Sea Arbitration, 2016 Award, ¶¶ 940, 983, 986, 991.

⁴⁶ South China Sea Arbitration, 2016 Award, ¶ 964, 965, 966.

⁴⁷ South China Sea Arbitration, 2016 Award, ¶ 1105, 1109.

⁴⁸ South China Sea Arbitration, 2016 Award, ¶¶ 1169, 1177–79.

6. Is the 2016 Arbitral Award binding on China?

Yes. Under Article 296 of UNCLOS, “any decision rendered by a court or tribunal having jurisdiction...shall be final and shall be complied with by all the parties to the dispute.” Similarly, Article 11 of Annex VII states that “the award shall be final and without appeal” and “shall be complied with by the parties to the dispute.”

7. What is the effect of the 2016 Arbitral Award?

The 2016 Arbitral Award affirmed the Philippines’ rights to its EEZ and continental shelf. It also significantly narrowed the scope of maritime disputes in the SCS by invalidating China’s nine-dash line claim, which had previously cast a shadow of uncertainty over most of the SCS, and by determining that none of the features in the Spratlys are capable of generating extended maritime zones that would overlap with the Philippines’ EEZ and continental shelf.

8. Did the 2016 Arbitral Award determine who has sovereignty over the features in the South China Sea?

No. The Tribunal explicitly stated that it did not have the jurisdiction to decide which state has sovereignty over the features in the SCS and nowhere in the 2016 Arbitral Award did it adjudicate issues of sovereignty, whether in favor of or against any party. The Tribunal clarified the legal status of the features only for the purpose of determining their maritime entitlements.

9. Did the Arbitration repeal Presidential Decree No. 1596 and nullify our rights to the Kalayaan Island Group?

No. The enactment and repeal of national legislation are acts of state sovereignty that cannot be directly or impliedly affected by the judgment of an international tribunal that has not been given the power to do so. The validity of Presidential Decree (PD) No. 1596 was never placed in issue in the Arbitration, which was focused only on maritime entitlements. As expressly stated by the Tribunal itself, “this Tribunal has not been asked to, and does not purport to, make any ruling as to which State enjoys sovereignty over any land territory in the South China Sea, in particular with respect to the disputes concerning sovereignty over the Spratly Islands or Scarborough Shoal. None of the Tribunal’s decisions in this Award are dependent on a finding of sovereignty, nor should anything in this Award be understood to imply a view with respect to questions of land sovereignty.”⁴⁹ Furthermore, the enactment of PD No. 1596 is evidence of an act of sovereignty over the Kalayaan Islands, not the basis thereof. The law therefore remains valid insofar as the Philippines is concerned, subject only to UNCLOS with respect to the

⁴⁹ South China Sea Arbitration, 2016 Award, ¶ 5.

applicable maritime zones. This is further reinforced by the enactment of the Philippine Maritime Zones Act (Republic Act or RA No. 12064).

10. But what about the boundaries of the Kalayaan Island Group as described in PD No. 1596, were these not abolished by the 2016 Arbitral Award?

No. The 2016 Arbitral Award did not at all mention or discuss PD No. 1596 and the boundaries of the Kalayaan Island Group (KIG). In 2009, RA No. 9522 mandated that the maritime zones of the KIG are to be established in accordance with Article 121 of UNCLOS, which allows for at least a 12 nm territorial sea and 24 nm contiguous zone. The application of Article 121 is consistent with the findings of the Award. In effect, the boundaries drawn by PD No. 1596 now act as lines to define the area within which the Kalayaan Islands, including rocks or high-tide features, and from which their respective maritime zones are drawn, may be found. This is similar to how the original lines in the 1898 Treaty of Paris and 1930 US-UK Convention legally defined the area within which the Philippine Islands were to be located.

11. What rights does the Philippines have in the West Philippine Sea?

The Philippines has absolute sovereignty over its territorial sea, extending 12 nm from the archipelagic baselines of the main archipelago, and 12 nm from the baselines of individual islands and rocks. The Philippines also has exclusive sovereign rights and jurisdiction over its EEZ and continental shelf, extending to 200 nm from the baselines of the main archipelago, which encompass fully submerged features like Reed Bank and LTEs such as Mischief Reef and Second Thomas Shoal. Within this area, the Philippines has sovereign rights for the purpose of exploring, exploiting, conserving, and managing its natural resources, as well as jurisdiction with regard to artificial islands, installations, and structures, marine scientific research, and the protection and preservation of the marine environment.

Beyond the 200 nm continental shelf, the Philippines may also exercise sovereign rights over the resources of the seabed and subsoil of an extended continental shelf (ECS) up to 350 nm, once established based on the recommendations of the Commission on the Limits of the Continental Shelf (CLCS). In 2024, the Philippines made a partial submission to the CLCS to register its claim to an ECS in the West Palawan Region. This marks the country's second ECS submission; its first, made in 2009 for the Benham Rise, now the Philippine Rise, was successfully validated by the CLCS in 2012. This second submission is currently pending with the CLCS.

BAJO DE MASINLOC

National Interests

1. Is Bajo de Masinloc part of the Philippines?

Bajo de Masinloc is an integral part of Philippine territory, being part of the Municipality of Masinloc in the province of Zambales. The term “Bajo de Masinloc,” as it appears on ancient charts, translates to “shoal of Masinloc.”

2. Why is Bajo de Masinloc important for the Philippines?

Philippine interests in Bajo de Masinloc center mainly on national security, environmental sustainability, and food security. Additionally, Bajo de Masinloc’s location west of Luzon, and almost adjacent to the major ports of Manila and Subic, makes it important for purposes of economic security.

From there, one can observe shipping traffic into and out of the two largest ports on that side of the country. In the 1960s, local smugglers frequently used the shoal as a base, prompting the Philippine Navy (PN) on at least two occasions to destroy structures that smugglers had built on the feature.⁵⁰

Being the only large reef structure west of Luzon,⁵¹ Bajo de Masinloc is also important from an ecological perspective. It is located within the 200 nm EEZ and contributes to its rich fisheries. Studies by the Marine Science Institute have recognized its multiple uses, from being a nursing ground and regeneration area, migration path, and essential supply for fisheries in the South China Sea (SCS).⁵² Filipino fishermen, especially those based in Zambales and Pangasinan, have been using the reef as their main offshore fishing area for generations.⁵³

⁵⁰ Bonnet, “Geopolitics of Scarborough Shoal,” 19.

⁵¹ Chen Shijian, ed., *The Collection of Names and Materials on the South China Sea Islands* (Guangdong Atlas Publishing House, 1987), 181 & 345, quoted in Zou Keyuan, “Scarborough Reef,” *IBRU Boundary and Security Bulletin* (1999): 78; see Bonnet, “Geopolitics of Scarborough Shoal”, 3.

⁵² Jay L. Batongbacal, “Bajo de Masinloc (Scarborough Shoal): Less Known Facts vs Published Fiction” (lecture, Cartographic Exhibit Forum, De La Salle University, Manila, September 26, 2014), <https://imoa.ph/bajo-de-masinloc-scarborough-shoal-less-known-facts-vs-published-fiction/>.

⁵³ Shirin Bhandari, “Philippine Fishermen Netted by South China Sea Geopolitics Over Scarborough Shoal: ‘We Are Always Being Harassed,’” Pulitzer Center, October 9, 2023, <https://pulitzercenter.org/stories/philippine-fishermen-netted-south-china-sea-geopolitics-over-scarborough-shoal-we-are>.

3. What resources can be found in Bajo de Masinloc?

The primary resource found in Bajo de Masinloc is its rich marine life, making the shoal an important fishing ground for local fishermen from Zambales, Pangasinan, and Bataan.

Twelve of the thirteen municipalities of Zambales and fourteen of the forty-four municipalities of Pangasinan are coastal, so that for many, fisheries are an important source of livelihood.⁵⁴ A fisheries landing survey from 2017 to 2020 revealed that out of the 2,189 metric tons (mt) of total landed catch in Masinloc, the highest source was Bajo de Masinloc, contributing 679 mt.⁵⁵ The survey also recorded the rich biodiversity in the area, with approximately 87 recorded fish species; among these, mackerel, skipjack tuna, and yellowfin tuna are the types most frequently caught.⁵⁶

While there is little probability of finding any petroleum in Bajo de Masinloc or its immediate vicinity,⁵⁷ geological assessments indicate that the seamounts of the Bajo de Masinloc area may contain mineral deposits, specifically massive sulfides and cobalt-rich crusts.⁵⁸

4. Is Bajo de Masinloc important for security and defense?

Yes, Bajo de Masinloc is important for security and defense due to its proximity to the Philippine archipelago. If it were to become the forward operating base of a foreign power, Bajo de Masinloc would allow it to control access to the Luzon and Mindoro Straits and the routes to Manila and Subic, and to monitor and control the airspace over Luzon, including the Philippine capital, Manila.⁵⁹

⁵⁴ "About Pangasinan," Republic of the Philippines Province of Pangasinan, accessed July 16, 2026, <https://www.pangasinan.gov.ph/the-province/about-pangasinan/>; E. H. Edejer, "Zambales Creates Two Protected Marine Areas to Boost Biodiversity," Philstar, July 14, 2026, <https://www.philstar.com/headlines/climate-and-environment/2026/07/14/2542097/zambales-creates-two-protected-marine-areas-boost-biodiversity>.

⁵⁵ Fisheries Landing Survey: Masinloc, Zambales (2017-2020) (Philippine National Fisheries Research and Development Institute, 2022), 5, https://repository.seafdec.or.th/bitstream/handle/20.500.12067/1858/PH-REP2022Q3_69-Fisheries%20Landing%20Survey%20-%20Masinloc.pdf?sequence=1&isAllowed=y.

⁵⁶ Fisheries Landing Survey, 6.

⁵⁷ Shuan-shi Fan and Ji-yang Wang, "Progress of Gas Hydrate Studies in China," *The Chinese Journal of Process Engineering*, 6. No. 6 (2006): 1000. However, the general area of Macclesfield Bank (known as Zhongsha Islands to the Chinese) west of the shoal is considered as a promising area for gas hydrate deposits.

⁵⁸ Teodoro M. Santos, "Towards the Development of an Archipelagic Policy for the Extraction of Nonliving Resources from the Sea," in *Archipelagic Studies: Charting New Waters*, ed. Jay Batongbacal (Quezon City: UP Systemwide network on Archipelagic and Ocean Studies in cooperation with UP Center for Integrative and Development Studies, 1998), 125.

⁵⁹ Gabriel Honrada, "China Tests Scarborough as Manila Casts beyond US for Help," *Asia Times*, June 26, 2026, <https://asiatimes.com/2026/06/china-tests-scarborough-as-manila-casts-beyond-us-for-help/>; Bonnet, "Geopolitics of Scarborough Shoal."

History and Development

5. How did the Spanish colonial administration first establish and exercise sovereignty over Bajo de Masinloc?

The name Masinloc belongs to the oldest town in Zambales, founded by the Spaniards in 1607. In early Spanish maps of the Philippines (e.g., the 1734 Pedro Murillo Velarde map) (see Figure 8 on page 28), the shoal appears under different names such as “Panacot” and “Baxo de Masinglo,” and was likely also mistaken in various maps to be different reefs with local place names such as “Galit,” “Lumbay,” “Bajo de Bolinao,” and “Bajo de Miravelles.” British surveyors charted the reef and gave it the name Scarborough Reef after the SS Scarborough, a British tea trading ship, ran aground on it in 1748.⁶⁰

In 1792, a Spanish scientific expedition led by Don Alejandro Malaspina and Don José de Bustamante y Guerra accurately charted the shoal’s location, leading to a subsequent survey by the Spanish government in Manila in the 1800s.⁶¹ Spanish cartographers named the feature Maroona when it was surveyed in April 1800 by the Spanish frigate Santa Lucia, dispatched by Admiral Malaspina from Manila.⁶² The results of this survey were published in 1808, wherein Maroona Shoal was renamed Bajo de Masingloc. This was also when the Philippines under Spain began exercising its jurisdiction.⁶³ Thus, records at the turn of the 20th century show that the government of the Philippine Islands had indeed exercised jurisdiction over the reef, particularly in incidents involving maritime navigation.

⁶⁰ Bonnet, “Geopolitics of Scarborough Shoal,” 8.

⁶¹ NAMRIA and UP IMLOS, *Bajo de Masinloc*, 13.

⁶² James Horsburgh, *Memoirs: Comprising the Navigation to and from China, by the China Sea, and through the various Straits and Channels in the Indian Archipelago* (London, 1805), 28 quoted in Bonnet, “Geopolitics of Scarborough Shoal,” 8.

⁶³ Batongbacal, “Less-Known Facts vs Published Fiction.”

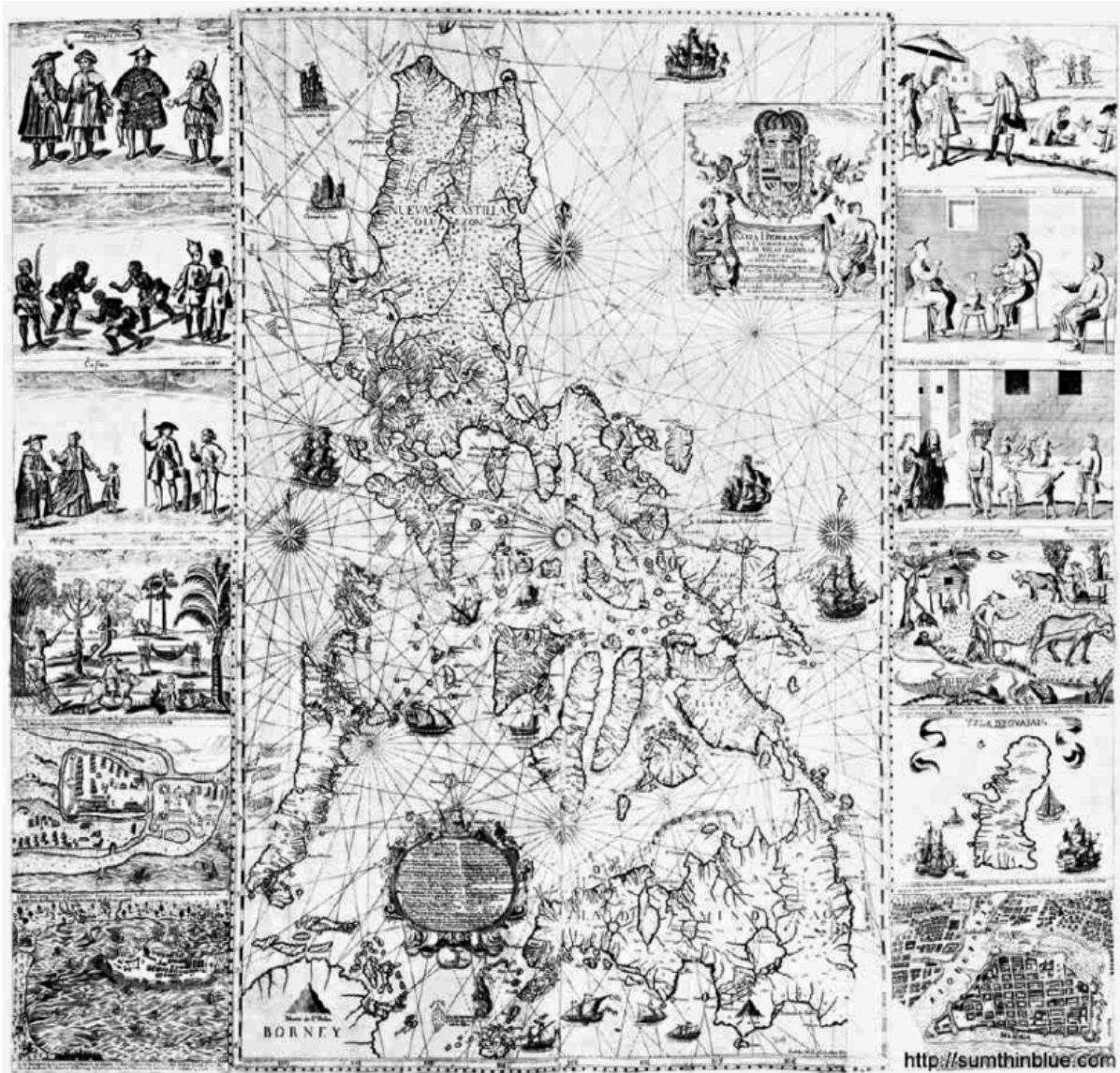


Figure 8. The Murillo Velarde Map, the earliest complete map of the Philippine archipelago published in 1734.

6. How did the American colonial administration manage and exercise authority over Bajo de Masinloc as part of the Philippine Islands?

Upon acquiring the “Philippine Islands” from Spain in the 1898 Treaty of Paris, the United States conducted a census of all islands belonging to the archipelago, and the published report listed “Scarborough Reef” among them. Some confusion about the status of the shoal resulted from the fact that maps of the archipelago marking the Treaty of Paris Limits showed the shoal

as lying outside the Treaty lines. However, Spain and the United States continued to exercise acts of jurisdiction nonetheless.

The American colonial administration continued the exercise of jurisdiction over Bajo de Masinloc. The US Coast Guard exercised jurisdiction over the shoal for purposes of search, rescue, and salvage of ships that were wrecked or stranded there. For instance, in 1913, the Swedish steamship *Nippon*—loaded with copra and other goods bound for Singapore from Manila—was stranded in Bajo de Masinloc and its crew was rescued by the US Coast Guard cutter *Mindoro* which was sent by the Bureau of Navigation from Manila.⁶⁴ When disputes broke out between the salvaging company and the insurance company over the proceeds of the salvaged cargo of copra, the case was heard in the Manila Court of First Instance, then elevated to the Supreme Court of the Philippines.⁶⁵

In 1937, the Commonwealth government under President Manuel L. Quezon, hoping to set up navigational aids on the shoal, had also confirmed with the US State Department in 1937-38 that there were no other ownership claims of sovereignty over the shoal and, with the approval of the United States, took sovereignty over the shoal. This was based on the The 1900 Treaty of Washington, which included in the cession all other islands and places to which Spain had “title” even if they were not between the lines drawn by the Treaty of Paris.⁶⁶ This was the legal basis for the transfer of the shoal from Spain to the US and thereafter the US to the Philippines. It was invoked by both the US Coast and Geodetic Survey and the US State Department as their legal basis for transferring control of Bajo de Masinloc to the Philippines.⁶⁷

⁶⁴ *Erlanger & Galinger vs. The Swedish East Asiatic Co., (Ltd.) et al.*, G.R. No. L-10051 (March 9, 1916) (Phil.) at 178.

⁶⁵ Bonnet, “Geopolitics of Scarborough Shoal,” 9.

⁶⁶ Bonnet, “Geopolitics of Scarborough Shoal,” 11.

⁶⁷ Bonnet, “Geopolitics of Scarborough Shoal,” 12.

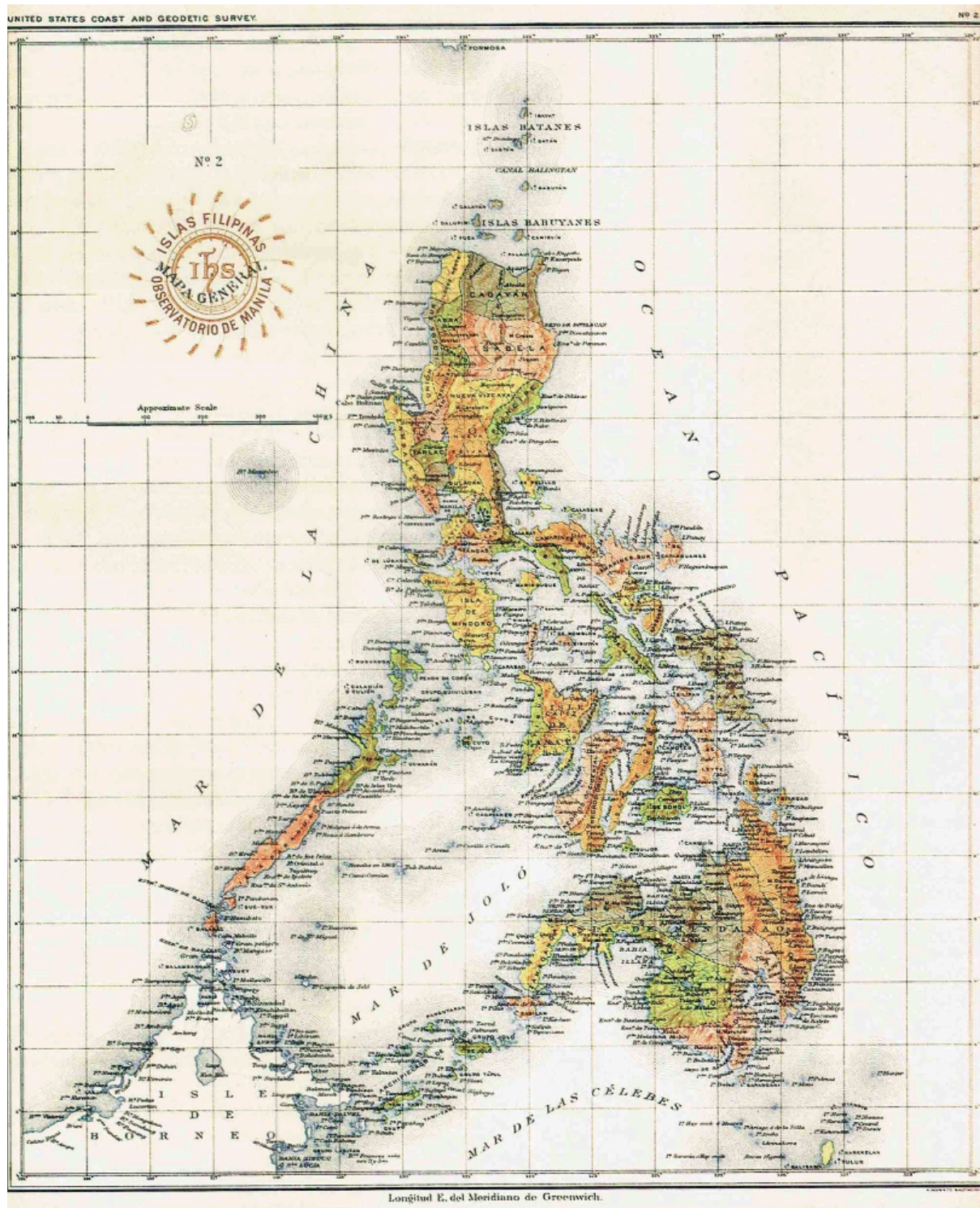


Figure 9. The first official map of the Philippines issued under American colonial rule in 1899. Bajo de Masinloc is marked prominently west of Luzon.

7. How has the Philippines exercised its sovereignty and jurisdiction over Bajo de Masinloc since its independence?

The Philippines has demonstrated jurisdiction on numerous occasions. Bajo de Masinloc was identified as a fishing ground in official maps in 1939.⁶⁸ The Philippine Coast and Geodetic Survey conducted a hydrographic and topographic survey in 1961,⁶⁹ and the PN carried out law enforcement operations against smugglers, including destroying illegal pier facilities and warehouses on the shoal, in 1963.⁷⁰ It must be noted that no other country protested these anti-smuggling activities. In 1968, a 20 nm naval operating area was established around the shoal.⁷¹

A lighthouse and an 8.3-meter high flag pole flying the Philippine colors were built on the feature in 1965,⁷² and another light station in 1991. (See Figure 10 on page 32.) From 1970 to 1980, the Philippines occasionally warned passing ships of live-fire military exercises in the area, including its use as an impact range for Philippine and US air force pilots in the late 1980s.⁷³ Bajo de Masinloc has also been a site of Philippine oceanographic and marine scientific studies.⁷⁴ The PN conducted fisheries law enforcement operations at the shoal as late as the 2000s.

More recent exercises of jurisdiction include the formalization of Bajo de Masinloc's status through domestic law, particularly through the 2009 Baselines Law (Republic Act No. 9522) and the Philippine Maritime Zones Act (Republic Act No. 12064).

⁶⁸ NAMRIA and UP IMLOS, *Bajo de Masinloc*, 66.

⁶⁹ NAMRIA, in a personal communication with the author, n.d.

⁷⁰ NAMRIA and UP IMLOS, *Bajo de Masinloc*, 72.

⁷¹ NAMRIA and UP IMLOS, *Bajo de Masinloc*, 74.

⁷² Department of Foreign Affairs, "Philippine Position on Bajo de Masinloc and the Waters within Its Vicinity," April 18, 2012, <https://beijingpe.dfa.gov.ph/embassy-news/245-philippine-position-on-bajo-de-masinloc-and-the-waters-within-its-vicinity>.

⁷³ *Primer on the South China Sea* (Manila: Philippine Foreign Service Institute, 1999), 7; see Matikas Santos, "Maritime Affairs Expert Separates Facts From Fiction on Scarborough Shoal," *Philippine Daily Inquirer*, October 6, 2014, <https://globalnation.inquirer.net/112114/maritime-affairs-expert-separates-facts-from-fiction-on-scarborough-shoal>.

⁷⁴ *Primer on the South China Sea*, 7.



Figure 10. The automated light station installed by the Philippines on Scarborough Shoal, circa 1991, to replace a lighthouse built earlier.⁷⁵

Source: Philippine Coast Guard

8. When did other countries challenge Philippine sovereignty over Bajo de Masinloc?

No government questioned Philippine activities in and jurisdiction over Bajo de Masinloc until the 1980s. It appears that China and Taiwan began to actively claim Bajo de Masinloc only from 1983 after a hydrographic survey was conducted nearby, and as part of their extensive nine-dash line claim over practically the entire SCS.⁷⁶

In 1997, a Chinese amateur radio association attempted to put up a communication station on the shoal, claiming to have been authorized by the Chinese government. They were expelled by the PN. Filipino fishermen then helped remove the Chinese markers they found on the rocks and hoisted the Philippine flag.⁷⁷ This incident was followed by a notable increase in Chinese fishing activities in the vicinity of the shoal in the following years. Noteworthy were cases of

⁷⁵ The light station was duly listed in the List of Lights, Radio Aids and Fog Signals (Pub. 112) of the US Defense Mapping Agency Hydrographic/Topographic Center. NAMRIA and UP IMLOS, *Bajo de Masinloc*, 83.

⁷⁶ Both the governments of the People's Republic of China and of Taiwan appear to base their claim on a 1947 map which shows Bajo de Masinloc, Kalayaan Island Group and practically 90% of the South China Sea features and waters enclosed in what is now often referred to as the nine-dash line. The meaning of the nine-dash line remains unclarified, and China has yet to explain how its interpretation of its so-called historic rights can be reconciled with its ratification of the Law of the Sea Convention. See Batongbacal, "Less-Known Facts vs Published Fiction."

⁷⁷ Bonnet, "Geopolitics of Scarborough Shoal," 20–21.

the use of illegal fishing methods and capture of endangered species, which sometimes led to arrests and prosecution in Philippine courts.

Attempts by the Philippines to minimize foreign fishing in Bajo de Masinloc led to periodic tensions with China from that time on. In 1999, there was a collision incident involving Chinese fishing boats and a Philippine naval vessel.⁷⁸

The growing tensions culminated in a major maritime standoff in 2012, after which China began efforts to restrict Philippine access to the shoal.

9. What was the standoff with China in April 2012?

In April 2012, a Philippine naval vessel approached a group of Chinese fishing vessels near the shoal and boarded them for inspection. The Chinese fishermen were discovered to have illegally harvested live corals, giant clams, sharks, and other endangered species. Ships of the paramilitary China Marine Surveillance (CMS) agency moved quickly to prevent the PN from apprehending the fishermen. The Philippines withdrew its naval vessel as ships from the civilian Philippine Coast Guard (PCG) and Bureau of Fisheries and Aquatic Resources (BFAR) arrived as part of the country's effort to de-escalate the tensions, even as the Chinese fishermen were extracted by the ships sent by China. At the beginning of the standoff, staff of the Philippine National Museum on board M/Y *Saranggani*, which was to conduct an archaeological survey in the vicinity of Bajo de Masinloc, also reported that they were harassed and intimidated by CMS ships and aircraft.⁷⁹

This incident led to a two-month long standoff between government vessels of both sides, as neither side wanted to leave the shoal. At the height of the standoff in May, more than 80 Chinese vessels had been sighted in Bajo de Masinloc and its vicinity.⁸⁰

The standoff ended when the Philippines pulled its vessels out of the shoal on June 15, pursuant to a US-brokered agreement for both the Philippines and China to withdraw their vessels.⁸¹ China reneged on this agreement and kept its ships at the shoal. This standoff served as the

⁷⁸ "Chinese boat sunk off disputed reef", *BBC News*, May 24, 1999, <http://news.bbc.co.uk/2/hi/asia-pacific/351693.stm>.

⁷⁹ DFA, "Philippine Position on Bajo de Masinloc."

⁸⁰ Ellen Tordesillas, "Bajo de Masinloc Crucial to China's Claim of Whole South China Sea," VERA Files, published on Ellen Tordesillas's blog, January 21, 2013, accessed January 25, 2013, <https://www.ellentordesillas.com/2013/01/22/bajo-de-masinloc-crucial-to-chinas-claim-of-whole-south-china-sea/>.

⁸¹ Michael Green, Kathleen Hicks, Zack Cooper, John Schaus, and Jake Douglas, "Counter-Coercion Series: Scarborough Shoal Standoff," *Asia Maritime Transparency Initiative*, May 22, 2017, <https://amti.csis.org/counter-co-scarborough-standoff/>.

tipping point that led the Philippines to initiate arbitration proceedings against China the following year.

10. What was the situation at Bajo de Masinloc during the pendency of the arbitration proceedings?

Following the 2012 standoff, China prevented Philippine fishing boats from approaching Bajo de Masinloc, rotating vessels to maintain its presence while utilizing sea and air patrols to turn away Filipino fishermen.⁸² In January 2014, China began using water cannons to drive fishermen away from the area.⁸³ In the same year, vessels flanked by the China Coast Guard (CCG) were seen harvesting giant clams and corals.⁸⁴ In February 2015, a CCG vessel rammed small Philippine fishing boats as they sought refuge in the shoal, destroying their boats' outriggers.⁸⁵ This harassment continued in 2016. In March of that year, a fishing boat was repeatedly rammed by a CCG vessel, which engaged the fishermen in a physical "tug-of-war" over a service rope tied to their boat before driving them away the following night using blinding laser devices and powerful lights.⁸⁶

11. What was the situation at Bajo de Masinloc after the issuance of the 2016 Arbitral Award?

The 2016 Arbitral Award was issued a few days into President Duterte's term. President Duterte took an accommodating approach, including downplaying the Award in favor of maintaining economic relations with China. In line with this approach, President Duterte agreed to the creation of a Bilateral Consultation Mechanism with China in 2017, a confidence-building measure for the two countries to address issues of concern and explore collaboration in areas of mutual interest.⁸⁷ Notwithstanding the 2016 Arbitral Award and the softer diplomacy under the

⁸² Tarra Quismundo, "China's surveillance ships back at Scarborough Shoal," *Inquirer*, July 8, 2013, <https://globalnation.inquirer.net/80007/chinas-surveillance-ships-back-at-scarborough-shoal>; Allan Macatuno, "PH Fishers Recount Ordeal Near Shoal," *Inquirer*, May 17, 2015, <https://globalnation.inquirer.net/123060/ph-fishers-recount-ordeal-near-shoal>.

⁸³ Zachary Keck, "China Fires Water Cannons at Philippine Fishermen," *The Diplomat*, February 25, 2014, <https://thediplomat.com/2014/02/china-fires-water-cannons-at-philippine-fishermen/>.

⁸⁴ Nikko Dizon, "Chinese Boats Harvest Giant Clams, Corals," *Inquirer*, March 7, 2014, <https://globalnation.inquirer.net/99921/chinese-boats-harvest-giant-clams-corals>.

⁸⁵ Allan Macatuno, "Chinese ships ram PH fishing boats," *Inquirer*, February 4, 2015, <https://newsinfo.inquirer.net/670244/chinese-ships-ram-ph-fishing-boats>.

⁸⁶ Allan Macatuno, "Chinese Vessels Ram PH Fishers' Boat at Panatag," *Inquirer*, March 20, 2016, <https://globalnation.inquirer.net/137947/chinese-vessels-ram-ph-fishers-boat-at-panatag>.

⁸⁷ Julio S. Amador III, Deryk Matthew N. Baladjay, Florence Principe Gamboa, and Lisa Marie S. Palma, *The Bilateral Consultation Mechanism: An Effective Management of Philippines-China Relations?* (Quezon City: Amador Research Services and FACTS Asia, 2022, 2, https://www.amadorresearchservices.com/_files/ugd/58aa99_8c9d47e8b4ad46da889e044d0658c33a.pdf).

Duterte administration, China continued engaging in conduct violative of its obligations under the United Nations Convention on the Law of the Sea.

After President Duterte's state visit to China in 2016, the two governments reportedly reached a "friendly understanding" to allow the return of Filipino fishermen to the shoal.⁸⁸ However, this was contradicted by photos from the Asia Maritime Transparency Initiative, which showed a CCG vessel stationed at the lagoon's entrance, presumably to block access, while several Philippine fishing vessels were allowed to fish only outside the shoal.⁸⁹ They were not permitted to fish inside the shoal, which was their original fishing ground. There were also reports of CCG personnel boarding Philippine fishing vessels and taking their equipment and catch.⁹⁰

China also continued to condone the poaching of giant clams, according to PCG reports of Chinese fishermen transporting and gathering them in massive piles.⁹¹ The giant clam harvesting disappeared to stop only in 2019 because there was nothing left.⁹² Aside from giant clams, Chinese fishermen were also seen collecting stingrays, puffer fish, top shells, and sea turtles.⁹³

In 2022, a CCG vessel interfered with a marine scientific research activity jointly conducted by the Philippines and Taiwan within the Philippines' EEZ. The CCG vessel maneuvered as close as 2 to 3 nautical miles from the research vessel, which was of particular concern as the latter was towing a streamer cable for scientific measurements.⁹⁴

12. What is the situation at Bajo de Masinloc under the Marcos Jr. administration?

Under President Ferdinand Marcos Jr., Philippine foreign policy on the SCS transitioned from the accommodating approach under the Duterte administration toward a more assertive

⁸⁸ Joanna Tacason, "Pinoy Fishermen Successfully Return from Scarborough Fishing Trip," ABS-CBN News, October 29, 2016, <https://www.abs-cbn.com/news/10/29/16/pinoy-fishermen-successfully-return-from-scarborough-fishing-trip>.

⁸⁹ Paterno R. Esmaguell II, "Photos Show China Blocking Access to Panatag Shoal," Rappler, November 2, 2016, <https://www.rappler.com/philippines/151066-photos-china-blocking-access-panatag-shoal/>.

⁹⁰ Jessica Bartolome, "Pinoy Fishers Lament Chinese Harassment in Scarborough," GMA News Network, June 8, 2018, <https://www.gmanetwork.com/news/topstories/specialreports/656209/para-tayong-magnanakaw-sa-sariling-karagatan-pinoy-fishers-lament-chinese-harassment-in-scarbor/story/>.

⁹¹ Joviland Rita, "Philippines Says China Should Allow Scrutiny of Scarborough Shoal," GMA News Online, May 20, 2024, <https://www.gmanetwork.com/news/topstories/nation/907322/philippines-says-china-should-allow-scrutiny-of-scarborough-shoal/story/#:~:text=Also%20during%20the%20press%20conference,Bajo%20de%20Masinloc%20since%202016>.

⁹² Frances Mangosing, "PCG Bares Photos of China's Harvest of Marine Species," Philippine Daily Inquirer, May 21, 2024, <https://globalnation.inquirer.net/236871/pcg-bares-photos-of-chinas-harvest-of-marine-species>.

⁹³ Mangosing, "PCG Bares Photos."

⁹⁴ Dexter Cabalza, "China Ship 'Shadowing' Research Vessel in WPS," Inquirer, April 9, 2022, <https://newsinfo.inquirer.net/1580444/china-ship-shadowing-research-vessel-in-wps>.

strategy. Central to this new posture is the Transparency Initiative—an information campaign designed to expose China’s aggression by publicizing incidents and embedding reporters on government missions.⁹⁵

This change in strategy came during a surge in China’s assertiveness. In spite of a meeting between President Marcos Jr. and President Xi in January 2023, the CCG used military-grade lasers against a PCG vessel on patrol in the SCS in the following month.⁹⁶ China’s vessel deployments grew in both size and number, and its interception perimeter moved farther out from the shoal. SeaLight’s data from May 2024 to April 2025 revealed that tracked activity from CCG and militia vessels more than doubled compared to the previous year.⁹⁷

China shifted toward more aggressive tactics only under the current administration. In December 2023, CCG ships fired water cannons against BFAR vessels on a mission to distribute fuel subsidies and food supplies to Filipino fishermen, resulting in significant damage to the communication and navigation equipment of one of the vessels.⁹⁸ By April 2024, this tactic escalated dangerously, with the PCG warning that China had increased its water cannon pressure to a “very fatal” level, which in that incident resulted in extensive structural damage to Philippine ships.⁹⁹ In January 2025, Chinese forces used long-range acoustic or sonic devices against Philippine vessels, a development flagged by the PN as a sign of escalating aggression.¹⁰⁰ In August of the same year, Chinese fighter jets deployed flares at a Philippine patrol plane.¹⁰¹

China has continued executing dangerous maneuvers against Philippine vessels and aircraft within the vicinity of Bajo de Masinloc. A Chinese military helicopter flew as close as three

⁹⁵ Raymond M. Powell and Benjamin Goirigolzarri, “Game Changer: The Philippines’ Assertive Transparency Campaign Against China (How the Philippines Rewrote the Counter Gray Zone Playbook)” (special study, Stratbase ADR Institute, Manila, January 2024), 13–14,

<https://adrinstitute.org/wp-content/uploads/2024/01/stratbase-adr-institute-2023-special-study-game-changer-the-philippines-assertive-transparency-campaign-against-china-how-the-philippines-rewrote-the-counter-gray-zone-playbook.pdf>.

⁹⁶ Raymond Carl Dela Cruz, “China Coast Guard Points Laser Light at PCG Ship off Ayungin,” *Philippine News Agency*, February 13, 2023, <https://www.pna.gov.ph/articles/1195090>.

⁹⁷ “China’s Expanding Control over Scarborough Shoal,” SeaLight, last modified May 6, 2025, <https://www.sealight.live/posts/china-s-expanding-control-over-scarborough-shoal>.

⁹⁸ John Eric Mendoza, “China Ship Hits PH Vessels on Humanitarian Drive with Water Cannon in West PH Sea,” *Philippine Daily Inquirer*, December 09, 2023, <https://globalnation.inquirer.net/224018/embargo-china-water-cannon-scarborough-shoal>.

⁹⁹ John Eric Mendoza and Zacarian Sarao, “China Used ‘Very Fatal’ Water Cannon Pressure in Latest Assault—PCG,” *Philippine Daily Inquirer*, May 1, 2024, <https://globalnation.inquirer.net/234072/fwd-pcg-on-latest-chinese-water-cannon-attack-more-fatal>.

¹⁰⁰ Michael Punongbayan, “China’s Sonic Device Use Escalating Tension in West Philippine Sea,” *Philippine Star*, January 29, 2025, <https://www.philstar.com/headlines/2025/01/29/2417655/chinas-sonic-device-use-escalating-tension-west-philippine-sea>.

¹⁰¹ Chi, “Philippines to protest.”

meters to a Philippine patrol aircraft, putting its crew and passengers at risk.¹⁰² In August 2025, a People's Liberation Army Navy warship and a CCG cutter collided with each other while executing reckless maneuvers against a smaller Philippine vessel.¹⁰³ Another incident in September 2025 involving water cannons caused injury to a Filipino crew member.¹⁰⁴

In June 2026, a floating platform, buoy, and antenna was discovered inside the lagoon of the shoal.¹⁰⁵ The structure was later removed following a diplomatic protest by the Philippines.¹⁰⁶ Although its exact purpose remains unverified, the structure was suspected to be for data collection and marine scientific research, or a precursor to more permanent structures in the future.¹⁰⁷

Administratively, China has been weaponizing domestic legal measures to legitimize its actions, such as establishing baselines around Bajo de Masinloc and declaring a nature reserve in the area to create legal pretext for restricting access.¹⁰⁸

¹⁰² Christina Chi, "Philippines to Protest China Military Chopper's 'Dangerous' Actions," *Philippine Star*, February 19, 2025, <https://www.philstar.com/headlines/2025/02/19/2422650/philippines-protest-china-military-choppers-dangerous-actions>.

¹⁰³ Bethena Unite, "Collision of 2 Chinese Ships 'Entirely Resulting from Their Conduct'—NMC," *Manila Bulletin*, August 13, 2025, <https://mb.com.ph/2025/08/13/collision-of-2-chinese-ships-entirely-resulting-from-their-conductnmc>.

¹⁰⁴ "China Coast Guard Water Cannon Attack Injures Philippine Crew Member," *Indo Pacific Defense Forum*, September 17, 2025, <https://ipdefenseforum.com/2025/09/china-coast-guard-water-cannon-attack-injures-philippine-crew-member/#:~:text=September%2017%2C%202025,Sea%20on%20September%2016%2C%202025>.

¹⁰⁵ Bianca Dava, "PCG Gives Details On Chinese 'Floating Structure' Seen Near Bajo de Masinloc," *ABS-CBN News*, June 10, 2026, <https://www.abs-cbn.com/news/nation/2026/6/10/pcg-gives-details-on-chinese-floating-structure-seen-near-bajo-de-masinloc-1301>.

¹⁰⁶ Priam Nepomuceno, "NTF WPS: Chinese Floating Platform Removed from Bajo de Masinloc," *Philippine News Agency*, June 17, 2026, <https://www.pna.gov.ph/articles/1277437>.

¹⁰⁷ Dava, "PCG Gives Details on Chinese 'Floating Structure'"; Gabryelle Dumalag, "PH Protests China over Floating Structure in Scarborough Shoal," *Philippine Daily Inquirer*, June 9, 2026, <https://www.inquirer.net/477288/philippines-protests-china-over-floating-structure-in-scarborough-shoal/>.

¹⁰⁸ Pia Lee-Brago, "PH Files Diplomatic Protest Versus China's Panatag Baseline Declarations," *One News PH*, November 13, 2024, https://www.onenews.ph/articles/phl-files-diplomatic-protest-versus-china-s-panatag-baseline-declarations#google_vignette; Reuters, "China to Establish Nature Reserve at Scarborough Shoal," *GMA News Online*, September 10, 2025, <https://www.gmanetwork.com/news/topstories/world/958745/china-to-establish-nature-reserve-at-scarborough-shoal/story/>.

THE KALAYAAN ISLAND GROUP

National Interests

1. What is the legal status of the KIG?

The Kalayaan Island Group (KIG) was officially incorporated as the Municipality of Kalayaan in 1978 under Presidential Decree (PD) No. 1596. This decree asserted sovereignty over a polygon in the South China Sea (SCS), claiming all enclosed islands, reefs, waters, seabed, and airspace.¹⁰⁹

To align this claim with international law, particularly the United Nations Convention on the Law of the Sea (UNCLOS), the Philippines enacted Republic Act (RA) No. 9522 in 2009. Section 2 of RA No. 9522 provides that the baselines of KIG shall be determined in accordance with the Regime of Islands under UNCLOS, wherein its maritime entitlements would be determined strictly based on individual features rather than an arbitrary box.

This amendment was recently reiterated under the Philippine Maritime Zones Act (RA No. 12064).¹¹⁰ Under this current statutory framework, the original PD No. 1596 polygon describes the area within which specific high-tide features belonging to the Philippines may be found, with each feature generating its own distinct, maritime zones measured in accordance with UNCLOS.

2. Is our claim of sovereignty over the KIG affected by the fact that parts of it sit outside our maritime zones?

No. The foundational principle is that land dominates the sea, not the other way around. The location of high-tide features relative to a state's maritime zones does not determine sovereignty. Sovereignty over land features, such as Pag-asa (Thitu), Likas (West York), or Lawak (Nanshan) Islands, is acquired through the actual, continuous, and effective exercise of state authority.

¹⁰⁹ Declaring Certain Area Part of the Philippine Territory and Providing for their Government and Administration, Pres. Dec. No. 1596, § 1 (Jun. 11, 1978) (Phil.), <https://www.officialgazette.gov.ph/1978/06/11/presidential-decree-no-1596-s-1978/>.

¹¹⁰ Philippine Maritime Zones Act, § 3.

Low-tide elevations (LTE), however, follow a distinct legal regime under UNCLOS Article 13. As a general rule, LTEs cannot be subject to sovereignty claims.¹¹¹ However, LTEs may serve as a baseline for a mainland or an island if they are located within the territorial sea of that mainland or island.¹¹² Beyond this, an LTE within a state's exclusive economic zone (EEZ) or continental shelf is deemed part of that maritime zone and falls under the sovereign rights and jurisdiction of the coastal state.¹¹³ Panganiban Reef (Mischief Reef) and Ayungin Shoal (Second Thomas Shoal) are LTEs within 200 nautical miles (nm) from Palawan and beyond the territorial sea of any nearby island. Therefore, they are considered part of the Philippines' exclusive economic zone (EEZ) and continental shelf and cannot be legally occupied or appropriated as sovereign territory by any foreign state.

3. Why is the KIG important to the Philippines?

The KIG and its surrounding waters are vital to the national security and socio-economic well-being of the Philippines.

National Security

The KIG is critical to Philippine territorial integrity and security against external threats, keeping in mind the country's strategic location, its history of foreign invasions, and a fragmented geographic configuration that leaves it vulnerable to intrusion from the seas. During the Second World War, Ligaw Island (Itu Aba) was used by the Japanese to launch aggression against the Philippines and other Southeast Asian nations.¹¹⁴

Economy and Food Security

Beyond its military significance, the KIG is also important to the Philippines' economic and food security because of its rich fisheries and fish breeding areas. Filipino scientists believe its ecosystem is linked to the Sulu Sea and other marine ecosystems of the archipelago, assisting in the regeneration of living marine resources. This makes the fisheries resources in these areas deeply interconnected.¹¹⁵ The livelihood and economic welfare, especially of our coastal communities, are tied to these marine waters.

¹¹¹ Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment, ICJ Reports 2012 (International Court of Justice 2012), 641, ¶ 25, <https://www.icj-cij.org/sites/default/files/case-related/124/124-20121119-JUD-01-00-EN.pdf>, cited in *South China Sea Arbitration*, 2016 Award, ¶ 309.

¹¹² United Nations Convention on the Law of the Sea (UNCLOS), art. 13(1), opened for signature Dec. 10, 1982, 1833 U.N.T.S. 397 (entered into force Nov. 16, 1994) [hereinafter UNCLOS].

¹¹³ *South China Sea Arbitration*, 2016 Award, ¶ 309.

¹¹⁴ Chin Yoon Chin, "Potential for Conflict in the Spratly Islands" (Master's thesis, Naval Postgraduate School, 2003), 13, <https://apps.dtic.mil/sti/tr/pdf/ADA420221.pdf>.

¹¹⁵ Domingo C. Ochavillo, "Kalayaan Island Reefs as Larval Source"; also Marla A. Endriga, "Water Circulation Patterns Influence Population Structuring in Fish," in *The Kalayaan Islands: Our Natural Heritage*, ed. Porfirio M. Alino & Miledel Christine C. Quibilan (Quezon City: Marine Science Institute, University of the Philippines Diliman, 2003).

Energy Potential

Furthermore, the KIG is important to energy security since it is known to have largely untapped petroleum reserves as well as mineral deposits. Geological studies show that the area of the KIG (also known as “Dangerous Grounds”), Palawan, the Recto (Reed) Bank, and the Calamianes all form part of a single micro-continent.¹¹⁶ According to studies conducted in 1988 and 1989, the nature and characteristics of the seabed under and around the KIG are similar to those of the seabed elsewhere in the Philippine continental shelf, showing that KIG is a submerged natural prolongation of Palawan.¹¹⁷ Under UNCLOS, these form part of the continental shelf over which the Philippines holds exclusive sovereign rights to petroleum, mineral, and other non-living resources.

Ecological Biodiversity and Maritime Support

The KIG also offers significant potential for tourism, which remains largely underdeveloped despite its extensive coral reefs.¹¹⁸ Pag-asa Island, the largest feature in the KIG, is very rich in marine life and is known to have giant clams, sea turtles, and a rare species of land crab found nowhere else in the country.¹¹⁹ Likas Island is a sea turtle sanctuary,¹²⁰ while Lawak Island is a bird sanctuary.¹²¹ Game fishing, swimming, snorkeling, frontier and scuba diving, and fish feeding are among the activities that can attract local as well as foreign tourists to Pag-asa.¹²²

Aside from the clear economic benefits, the features in the KIG can also serve as fisherfolk’s shelters during storms, refueling and naval stations, meteorological stations, and bases from which to conduct marine biodiversity research.

4. How important is the KIG to the marine environment and fisheries of the Philippines?

The KIG is very important to the Philippine environment because it is a coral-rich region with a reef area of about 1000 square kilometers that hosts breeding grounds and shelters for fish and

¹¹⁶ K. Hinz and H.U. Schlüter, “Geology of the Dangerous Grounds, South China Sea, and the Continental Margin off Southwest Palawan: Results of SONNE cruises SO-23 and SO-27 (Proceedings of the Second EAPI/CCOP Workshop),” *Energy*, 10, nos. 3-4 (March-April 1985): 297, [https://doi.org/10.1016/0360-5442\(85\)90048-9](https://doi.org/10.1016/0360-5442(85)90048-9).

¹¹⁷ Report on Oceanographic Cruises to Kalayaan Island Group (1988-1989), (National Committee on Marine Sciences, Department of Foreign Affairs, 1989) quoted in Ruben C. Carranza Jr., “The Kalayaan Islands Group: Legal Issues and Problems for the Philippines,” *The World Bulletin* 10, nos. 5 & 6 C (1994): 50.

¹¹⁸ Samonte-Tan and Armedilla, *Economic Valuation of Philippine Coral Reefs*, 10.

¹¹⁹ B.J. Gonzales, ed., *Resource Assessment, Kalayaan Island Group, Kalayaan, Palawan (Final Report)* (2008), 52.

¹²⁰ *Kalayaan: History, Geography and Profile* (Department of Interior and Local Government Palawan Provincial Office, 2003), 2.

¹²¹ *Kalayaan: History, Geography and Profile*, 2.

¹²² *Kalayaan: History, Geography and Profile*, 2.

other marine organisms.¹²³ Through years of research, Filipino marine scientists have found that the marine species found in the KIG and Sulu Sea are genetically linked. This points to a clear connection between the marine resources of the KIG and of the country's archipelagic waters. It is believed that these areas exchange and replenish each other's living marine resources on account of the constant and seasonal interchange of seawater between them. The marine biodiversity in the KIG could account for the richness of the marine waters west of Palawan and the Sulu Sea.¹²⁴ (See Figure 11 on page 42.) This is one of the reasons why some members of the Philippine and international scientific communities have proposed that the KIG and its surroundings be declared a "Spratly Island Marine Park," a proposal that will benefit many countries of the region.¹²⁵

A high degree of fish diversity and biomass was also reported in the KIG.¹²⁶ In 2020, a study extrapolated that the potential fishery yield for the whole KIG was at 61,556 to 90,850 metric tons per year for spearfishing and hook-and-line fishing, suggesting that reef fisheries within the area comprises 3% to 5% of the total annual output of the country's marine capture fisheries.¹²⁷

¹²³ The Kalayaan Islands, 28.

¹²⁴ Bureau of Agricultural Statistics (BAS), 1992-1995 Commercial Fisheries Production of the Philippines quoted *The Kalayaan Islands*, 28.

¹²⁵ J.W. McManus and LAB Meñez, "The proposed international Spratly island marine park: ecological considerations," *Proceedings of the 8th International Coral Reef Symposium Vol. 2*, (Smithsonian Tropical Research Institute, Panama, 1997), 1943-1948.

¹²⁶ Renalyne P. Acosta, Rene Zaldy Porlaje, Alfonso dela Torre, et al., "Coral Reef Habitat and Associated Reef Fishes in the Kalayaan Island Group, West Philippine Sea," *Philippine Journal of Fisheries* 32 no. 1.

¹²⁷ Hazel O. Arceo, Joey P. Cabasan, Rhea Mae A. Luciano, Lovely Joy D. Heyres, Samuel S. Mamauag, and Porfirio M. Aliño, "Estimating the Potential Fisheries Production of Three Offshore Reefs in the West Philippine Sea, Philippines," *Philippine Journal of Science* 149 no. 3: 653.

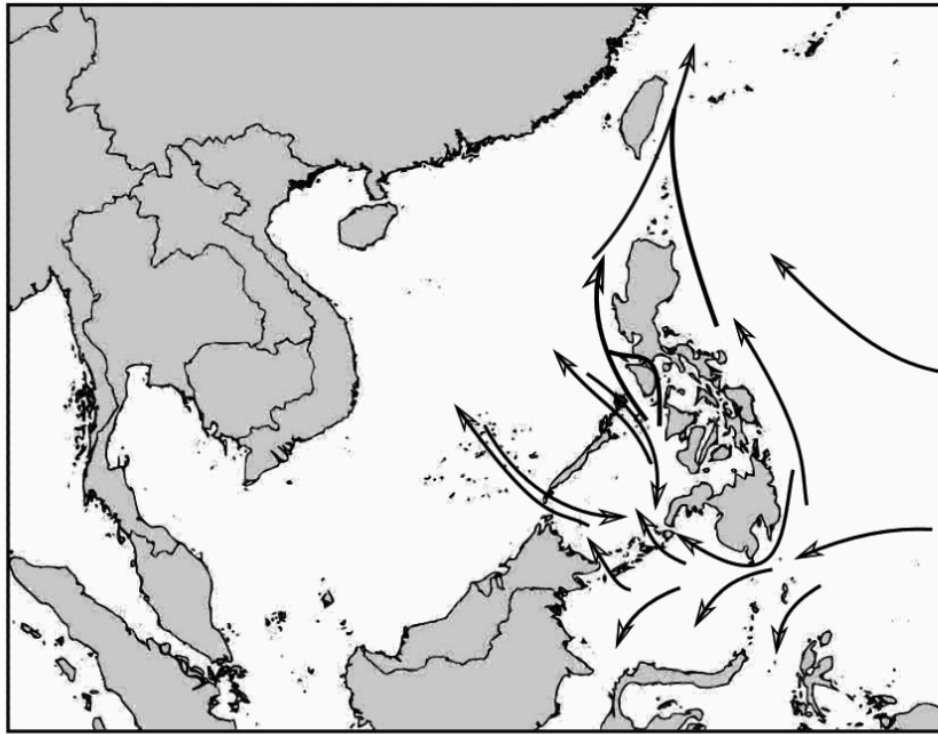


Figure 11. Migratory routes of some tuna species passing through the Philippines.

Source: *Atlas for Marine Policy in Southeast Asian Seas*¹²⁸

5. Is it true that oil and gas deposits can be found in the KIG and the West Philippine Sea? What is their potential economic value?

Based on the fact that many offshore oil and gas deposits have already been discovered in the South China Sea coastal areas,¹²⁹ it is believed that there may also be significant deposits in the Spratlys area, including the KIG. However, because this area is heavily disputed, no commercial drilling has taken place to confirm actual reserves, and the available data are merely estimates. The KIG sits on the South China platform, where the US Geological Survey estimates undiscovered resources ranging from 0.9 to 3.0 billion barrels of oil and up to 16.2 trillion cubic feet of natural gas.¹³⁰

Of the Philippines' 16 sedimentary basins, or potential areas where hydrocarbon deposits could be found, three are located in the West Philippine Sea (WPS): Northwest Palawan, Southwest Palawan, and Recto Bank.¹³¹ The Northwest Palawan and Recto Bank basins are where

¹²⁸ Joseph R. Morgan and Mark J. Valencia, eds., *Atlas for Marine Policy in Southeast Asia* (1983).

¹²⁹ "South China Sea," U.S. Energy Information Administration, last modified March 24, 2024, https://www.eia.gov/international/analysis/regions-of-interest/South_China_Sea.

¹³⁰ US Energy Inf. Adm., "South China Sea."

¹³¹ Eduardo Hernandez, "Accelerating Investment in Oil and Gas Exploration and Development" PowerPoint Presentation, 2008 Philippine Energy Summit, January 29–31, 2008.

significant discoveries have already been made and where the country is most likely to find petroleum resources, especially natural gas, in the near future.¹³²

There are only a few available estimates of the potential economic value of its oil and gas resources. The Department of Energy (DOE) estimates that the broader WPS sedimentary basins hold up to 6.2 billion barrels of total oil resources and 12.1 trillion cubic feet of gas resources.¹³³ Beyond monetary values, their worth can be measured in national self-sufficiency, particularly in finding a replacement for the depleting Malampaya field, stabilizing electricity prices, and decreasing reliance on energy imports. This is not to say, however, that direct government revenues are insignificant. The Malampaya Deepwater Gas-to-Power Project, which is the first, and so far only, major local source of natural gas, is estimated to have brought over USD 14 billion in gas royalties since operations commenced in 2002.¹³⁴

6. Is the Philippines currently exploring and exploiting these oil and gas deposits in the West Philippine Sea?

Yes. These activities have been concentrated in the near-shore areas of the West Palawan region since the mid-1960s. From the introduction of the Service Contract system in 1973, extensive exploration has resulted in several oil and gas discoveries, though many were not of commercial value and some were rapidly depleted. The Nido-1 was the country's first commercial oil discovery in 1976¹³⁵ and operated for 40 years before being decommissioned in 2019 after yielding only 12.5 million barrels of petroleum.¹³⁶ Other discoveries include Cadlao, West Linapacan, Matinloc, and Malampaya.

¹³² E.F. Durkee, "Oil, geology, and changing concepts in the Southwest Philippines (Palawan and the Sulu Sea)", paper presented to the Geological Society of Malaysia - Circum-Pacific Council for Energy and Mineral Resources, November 27-December 2, 1992. Accessed 13 February 2026 from https://gsm.org.my/wp-content/uploads/gsm_file_2/702001-101009-PDF.pdf.

¹³³ Zacarian Sarao, "Gatchalian files resolution seeking to unlock gas potential in West PH Sea," *Philippine Daily Inquirer*, October 16, 2022, <https://globalnation.inquirer.net/207788/gatchalian-files-resolution-seeking-to-unlock-gas-potential-in-west-ph-sea>.

¹³⁴ Beatriz Marie D. Cruz, "Malampaya revenue proposed as buffer if gov't forgoes fuel taxes," *BusinessWorld*, April 16, 2026, <https://bworldonline.com/economy/2026/04/16/743543/malampaya-revenue-proposed-as-buffer-if-govt-forgoes-fuel-taxes/>.

¹³⁵ Hernandez, Research Note; correspondence with authors, January 2013.

¹³⁶ Alena Mae S. Flores, "First two PH oilfields closed down," *Manila Standard*, November 11, 2019, <https://manilastandard.net/index.php/business/power-technology/309775/first-two-ph-oilfields-closed-down.html>.

The Malampaya Deepwater Gas-to-Power Project is the country's first major natural gas production facility.¹³⁷ It is located close to the shores of Palawan, adjacent to Recto Bank. However, Malampaya's output has entered a critical period of decline. While the recent discovery of Malampaya East-1 reserve will extend its operational lifespan, it cannot avert the looming energy crisis that will arise on account of increasing demand.¹³⁸

For decades, the Philippines had explored Recto Bank and drilled wells in the area without official protest from any country, until an incident in March 2011, when Chinese vessels intercepted and interrupted a survey by M/V *Veritas Voyager*, a vessel conducting a survey under a Philippine service contract.¹³⁹

In 2005, the Philippines, China, and Vietnam, through their respective state-owned oil corporations, entered into a Joint Marine Seismic Undertaking (JMSU) which carried out petroleum surveys in the area of the KIG. A 2023 decision of the Supreme Court declared the JMSU unconstitutional.¹⁴⁰ The Court classified the JMSU as resource exploration because it was executed for the purpose of determining if petroleum existed in the area. Under the Constitution, such activity must be conducted under the full control and supervision of the State, through any of the prescribed modes in Article XII, Section 2.¹⁴¹ Of these modes, only one, the Financial or Technical Assistance Agreement (FTAA), permits the participation of foreign-owned corporations; the Court held that the JMSU also failed to qualify under this mode. First, the JMSU was not an FTAA as costs were shared equally and there was no provision for technical assistance. Second, it was not a service contract as commonly understood, where a contractor provides service and technology while the government finances and keeps the extracted oil. Even assuming that it was a service contract, it did not meet the safeguards under the Constitution: it did not follow a uniform general law and it was

¹³⁷ Hernandez, Research Note, 14–15. The Malampaya gas field is the biggest hydrocarbon discovery in Philippine history to date. It was developed by a Shell-led consortium and fed power plants constructed by NPC and First Gas with an aggregate capacity of 2,700 megawatts. At a total capital cost of USD 4.5 billion, it is the single largest capital infrastructure project of the country to date; see Katherine Adraneda, "RP natural gas project wins award in South Africa," *Philippine Star*, September 3, 2002.

¹³⁸ JC Punongbayan, "Natural Gas in the Philippines: A Test Case for Southeast Asia's Energy Transition," *FULCRUM*, February 19, 2026, <https://fulcrum.sg/natural-gas-in-the-philippines-a-test-case-for-southeast-asias-energy-transition/>.

¹³⁹ *The South China Sea Arbitration*, 2016 Award, ¶ 656.

¹⁴⁰ *Ocampo v. Macapagal-Arroyo*, G.R. No. 182734 (Jun. 27, 2023) (Phil.), <https://sc.judiciary.gov.ph/wp-content/uploads/2023/03/182734.pdf>.

¹⁴¹ "The State may undertake such activities through the following modes: (1) Directly; (2) Co-production, joint venture or production-sharing agreements with Filipino citizens or qualified corporations; (3) Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens; and (4) For the large-scale exploration, development and utilization of minerals, petroleum and other mineral oils, the President may enter into agreements with foreign-owned corporations involving technical or financial assistance." *Ocampo v. Macapagal-Arroyo* at 22.

not signed by the President. Lastly, the parties' joint ownership of the data compromised the control and supervision of the State over such information.¹⁴²

While the Philippine government continues to recognize service contracts issued to local and foreign firms within the KIG—inventoried globally for decades in maps and resources like the International Petroleum Encyclopedia—active exploration in this area remains at a standstill. Even the Bilateral Consultation Mechanism that was set up with China in 2017 to explore joint oil and gas development failed to produce concrete results after multiple rounds of talks.¹⁴³

7. What hinders the Philippines from more active petroleum exploration and exploitation in the KIG?

China's interference due to the unresolved territorial and maritime disputes, lack of capital and investment, red tape, and lack of political will are the main factors that have hindered further exploration and exploitation of these resources.

Although the Philippines had been exploring the waters around Palawan since the 1970s, the lack of capital and investment hindered the acceleration and expansion of such efforts. The country has to drill more wells in order to enhance its prospectivity which would, in turn, enable it to attract new investors. The dearth of reliable seismic studies contributed to the failure to develop commercial oil production.¹⁴⁴

The situation was worsened by Chinese interference by the late 2000s, which included intimidation of survey vessels contracted by the DOE in 2011 after objecting to the Philippines' issuance of service contracts over its continental shelf.¹⁴⁵ This hindered Philippine efforts to obtain more data on the non-living resources of its continental shelf in the WPS. In 2022, China interfered with the implementation of Service Contract 72 in Recto Bank.¹⁴⁶

Petroleum exploration and exploitation is also hindered by governance factors. The country must develop a sound fiscal regime, strong links between the public and private sectors, and stable investment and revenue policies for the petroleum sector commensurate with its

¹⁴² *Ocampo v. Macapagal-Arroyo* at 24, 29.

¹⁴³ Lye Liang Fook, "The China-Philippines Bilateral Consultation Mechanism on the South China Sea: Has it Worked for China?," *ISEAS Perspective*, no. 2024/26 (Apr. 9, 2024), 5, https://www.iseas.edu.sg/wp-content/uploads/2024/03/ISEAS_Perspective_2024_26.pdf.

¹⁴⁴ Earl M. Irving, "Geological History and Petroleum Possibilities of the Philippines," *Bulletin of the American Association of Petroleum Geologists* 36 (March 1952): 475, <https://doi.org/10.1306/3D93440F-16B1-11D7-8645000102C1865D>.

¹⁴⁵ *The South China Sea Arbitration*, 2016 Award, ¶¶ 656, 661–667.

¹⁴⁶ "Update: China Blocks Another Philippine Resupply Mission," *Asia Maritime Transparency Initiative*, July 27, 2022, <https://amti.csis.org/three-rounds-of-coercion-in-philippine-waters/>.

geological potentials.¹⁴⁷ It can take as long as twenty years for a petroleum project to move from the exploration to the production phase, but in the Philippine experience, there have been frequent changes in leadership priorities, complicated regulations by various government agencies, and unwieldy local requirements for petroleum projects. The attitudes of various stakeholders, such as local government units, mass media, church, and environmental groups, also have an effect on the investment climate in the country.¹⁴⁸

8. Are there sources of mineral wealth other than oil and gas in the surrounding seas?

Yes. The KIG is known to be rich in phosphates and guano deposits, and the seabed is a possible source of manganese nodules that yield magnesium, cobalt, nickel, and molybdenum. Experts have also listed beach to shallow shelf placers of gold, tin titaniferous magnetite, zircon, monazite, phosphate, quartz sand, chromite sands, etc.; polymetallic massive sulfide deposits, and rare-earth bearing monazite placers as being present in the WPS and North Palawan coastal areas.¹⁴⁹ The deep waters may also be suitable for the formation of gas hydrates and clathrates.

History and Development

9. When did the Philippines establish a permanent presence in the KIG?

The Philippines posted troops on Lawak island in 1970, followed by Loaita (Kota), Likas, Pag-asa, and Parola (Northeast Cay) islands in 1971. The Philippines lost one feature to the Vietnamese in 1975, then occupied two more in 1978. A weather station was established on Pag-asa, along with a fishery research unit and a laboratory. Likewise, a modest runway for logistics support craft, a lighthouse, an air force unit, and a naval station were constructed. The Armed Forces of the Philippines' Western Command, which has jurisdiction over the Kalayaan Islands, was activated as a unified military unit on March 12, 1976.

After China installed structures on Panganiban Reef in 1995 and then fortified them in 1999, the Philippine Navy (PN) stationed the BRP *Sierra Madre* on Ayungin Shoal, one of the reefs closest to Panganiban Reef. Ayungin Shoal is located within the Philippine EEZ about 120 nm from

¹⁴⁷ Hernandez, "Accelerating Investment in Oil and Gas," slide 9.

¹⁴⁸ Hernandez, Correspondence with authors. January 2013.

¹⁴⁹ Balce, "Mineral Resources of the West Philippine Sea," n.d., slide 23.

Palawan. The ship ran aground on the shoal, and since then has been used to monitor activities around Panganiban Reef and to try to discourage any further incursions into Philippine waters.

10. How did the KIG officially become part of the Philippines?

From the end of the Second World War and through the 1950s, private citizens attempted to establish a permanent presence in the KIG. In the late 1960s and early 1970s, the Philippines decided to occupy the largest features and later formally established the Municipality of Kalayaan through PD No. 1596 signed on June 11, 1978. PD No. 1596 reaffirmed and formalized the long standing interest of the country in the KIG.

11. What activities did Filipinos undertake with regard to the KIG prior to its establishment as a municipality?

The Philippines has demonstrated long-standing interest in the KIG over many decades and even preceding formal independence.

In the 18th and 19th centuries, the Spanish made cartographic maps and nautical charts of the area which indicate that they had conducted and/or commissioned hydrographic surveys of the area.¹⁵⁰

In 1933, legislators led by Senator Isabelo de los Reyes, who were then negotiating the transition to independence with the American colonial government, proposed the inclusion of nine features of the KIG (at that time known as “Las Corales”) that lay near Palawan into Philippine territory.¹⁵¹ In 1937, Interior Secretary Elpidio Quirino filed a claim on the Philippines’ behalf with the US State Department, citing national defense and geographical proximity as grounds.¹⁵² The country’s security worries were validated when Japan annexed the features and placed them under the Shinnan Gunto administrative region in 1939, and later used Ligaw Island as a base from which it launched attacks on the Philippines, Indonesia, and Malaysia.¹⁵³

In 1946, Quirino as Secretary of Foreign Affairs reiterated Philippine interests in the KIG in a letter to General Douglas MacArthur. In 1947, Quirino’s successor Carlos P. Garcia demanded

¹⁵⁰ Antonio T. Carpio, *The South China Sea Dispute: Philippine Sovereign Rights and Jurisdiction in the West Philippine Sea* (Antonio T. Carpio, 2017).

¹⁵¹ François-Xavier Bonnet, “The Spratlys: A Past Revisited,” *World Bulletin* 23 (July-December 2004): 18. Bonnet made reference to a Letter from Senator Isabelo De los Reyes, to Governor General Frank Murphy, Bureau of Insular Affairs (August 12, 1933).

¹⁵² Bonnet, “The Spratlys,” 19. This official filing of claim was reported in a US review, *Pacific Affairs* (XIV), in 1941.

¹⁵³ Isidro T. Perfecto Jr., “The Philippines’ Kalayaan Island,” *Foreign Service Institute (FSI) Record* (June 1980): 36.

that the features be turned over to the Philippines as a security guarantee.¹⁵⁴ With Japan's defeat, the negotiations for the 1951 San Francisco Peace Treaty resulted in Japan's renunciation of its claims to the Spratlys and Paracels without specifying who would obtain control.

Filipino navigator Tomas Cloma claimed to have found the reefs and islands unoccupied in 1948. He took an active personal interest in the area and set out with associates on a 38-day expedition in 1956. A farewell dinner for the expedition party was attended by Vice President Carlos P. Garcia and Senator Lorenzo Tañada, among other officials.¹⁵⁵ The Philippine government's position at the time was that the islands were under *de facto* trusteeship of the Allied Powers, but were open for economic exploitation.¹⁵⁶ Cloma's efforts to develop the area for phosphate mining were however countered by military forces from Taiwan.¹⁵⁷

The Philippines started sending troops to the area in 1968, and the issue did not come into prominence again until 1971, when the Philippines officially announced through a Presidential Communiqué that it had occupied several of the features now known as the KIG, for reasons of national security and "to protect the interest of the state and its citizens."¹⁵⁸

12. What rekindled Philippine interest in the KIG under the Marcos Sr. administration?

A confluence of regional and global geopolitical developments at the time may have prompted the Marcos Sr. government to take a more active stance in the KIG.

In 1968, the Economic Commission for Asia and the Far East reported that the SCS' continental shelf may contain oil and gas deposits.¹⁵⁹ This was followed by claimant states unilaterally drawing maritime boundaries which overlapped with one another, and deploying troops on

¹⁵⁴ Gerardo Martin Valero, *Spratly Archipelago: Is The Question Of Sovereignty Still Relevant*, A Roundtable Discussion (Quezon City: Institute of International Legal Studies, University of the Philippines Diliman, 1993), 15-16.

¹⁵⁵ Juan M. Arreglado, *Kalayaan: Historical, Legal and Political Background* (Philippine Foreign Service Institute, 1982), 2.

¹⁵⁶ Juan M. Arreglado, "Statement of Ambassador Juan M. Arreglado Re Philippine Position on Spratly Islands and Freedomland before the Committee on National Territory of the 1971 Constitutional Convention" (November 15, 1971), quoted in Arreglado, *Kalayaan*, 47-48 (Appendix T). "The Philippines being one of the wartime Allied Powers which defeated Japan in the Second World War, and a signatory party to the Japanese Peace Treaty of September 8, 1951, its nationals in common with the nationals of the other Allied Powers have therefor an equal right and freedom to land, settle, undertake and engage in any individual economic activities or pursuits in the Spratly islands without the necessity of obtaining permission from the political authorities of any other power, much less from the Government of Nationalist China which is not a party to the Japanese Peace Treaty, as long as those activities are not directed against the political security or integrity of any State..."

¹⁵⁷ Arreglado, *Kalayaan*, 9.

¹⁵⁸ Arreglado, *Kalayaan*, 45-46 (Appendix S).

¹⁵⁹ Larry C.H. Chow and Wing-yin Lo, "Chinese Offshore Oil Production: Hopes and Reality," *Journal of International Development and Cooperation* 7, no. 2 (2001): 92.

various maritime features. Amid major discoveries of offshore petroleum reserves and the 1970s oil crisis and price hikes, most countries began to search for indigenous or alternative sources of energy, further fueling the contest in the SCS. Vietnam, Malaysia, and Indonesia all began offshore oil exploration.¹⁶⁰ The Philippines awarded petroleum concession areas on Recto Bank sometime between 1971 to 1974.¹⁶¹ In March 1976, after 80 years of unsuccessful commercial petroleum exploration in the Philippines, a significant quantity of oil was finally discovered in offshore northwest Palawan, reigniting national interest in the KIG.¹⁶²

Security concerns also apparently persuaded the Marcos Sr. government to take action. In July 1971, Taiwan troops on Ligaw Island were reported to have fired upon a boat carrying then-Congressman Ramon Mitra. The Philippine government sent a diplomatic note asking Taiwan to withdraw its military garrison on Ligaw Island, arguing that the presence of Chinese forces constituted a threat to the security of the Philippines.¹⁶³

13. What acts of governance have been undertaken in the KIG since the 1970s?

Since 1971, the Philippines has engaged in normal civilian exercise of sovereignty and state administration in the KIG, including the conduct of local elections, the establishment of and exercise of functions by a municipal government with main and satellite offices, the settlement of a small population on the KIG, and the conduct of development and research activities.

Administrative milestones in Pag-asa Island include the establishment of a weather station in 1979, the conduct of local elections, the construction of a lighthouse in 1993, and the development of essential municipal infrastructure such as a municipal hall, health center, water filtration and solar power units, and cold storage facilities to support local fishing and animal husbandry.¹⁶⁴

¹⁶⁰ Khu'o'ng Hu'u Diê'u, "1968: The Very Beginning of Vietnam's Off-Shore Oil & Gas Development," *Saigon Management Magazine* (October 1974): 1, <http://huongduongtxd.com/offshoreoilexploration.pdf>.

¹⁶¹ Jay L. Batongbacal, "The Kalayaan Islands and the American Asia-Pacific Order Under Challenge: Retrospective and Prospects", in *Selected Papers of the 24th Annual Manila Studies Conference*, De La Salle University-College of St. Benilde, August 27-28, 2015, ed. Marya Svetlana T. Camacho (Manila: Manila Studies Association, 2016), 266.

¹⁶² Diane C. Drigot, "Oil Interests and the Law of the Sea: The Case of the Philippines," *Ocean Development & International Law* 12, nos. 1-2 (1982): 23.

¹⁶³ Communiqué issued by Pres. Ferdinand E. Marcos (read during a press conference in Malacanang on July 10, 1971) quoted in Arreglado, *Kalayaan*, 45-46 (Appendix S). The Philippine government also requested for the withdrawal of the Chinese Nationalist garrison in Ligaw on the basis that the said structure "was established on the island without the permission and consent of the allies" (referring to the victorious Allies of World War II, which include the Philippines).

¹⁶⁴ Dina M. Balofinos, Municipal Planning and Development Coordinator, Kalayaan Municipal Government, Palawan.

In recent years, the Philippines has significantly modernized this presence. A beaching ramp and sheltered port were completed in 2020, facilitating the transport of passengers and cargo,¹⁶⁵ while the rehabilitation of the runway was finished in 2025, enabling it to cater to larger aircraft.¹⁶⁶ To further strengthen local governance and security, the national government has committed substantial infrastructure funding for the municipality. From the 2025 national budget, Congress earmarked PHP 1.65 billion for the development and extension of the airfield on Pag-asa Island, alongside PHP 300 million for the expansion of its sheltered port. The government also allotted PHP 1.08 billion for the second phase of the sheltered port on Lawak Island.¹⁶⁷

The Philippine government has also granted permits for exploration for petroleum resources, commercial fishing activities, and scientific studies on the islands and surrounding waters.



Figure 12. Official marker of the Municipality of Kalayaan on Pag-asa Islands.

Source: Jay Batongbacal

¹⁶⁵ Frances Mangosing, "Pag-asa gets upgrade amid China objection," *Philippine Daily Inquirer*, June 13, 2020, <https://globalnation.inquirer.net/188510/pag-asa-gets-upgrade-amid-china-objection>.

¹⁶⁶ OnePH, "AFP: Runway extension on Pag-asa Island now complete | The Big Story," YouTube video, June 4, 2025, <https://www.youtube.com/watch?v=wzLP45-4884>.

¹⁶⁷ Dexter Cabalsa, "More infra projects eyed in Kalayaan Island Group," *Philippine Daily Inquirer*, February 19, 2026, <https://newsinfo.inquirer.net/2183910/more-infra-projects-eyed-in-kalayaan-island-group>.

14. How was China able to encroach into the KIG?

In 1988, following a bloody clash with Vietnam over Mabini (Johnson South) Reef, the People's Liberation Army Navy (PLAN) of China placed troops on five other nearby unoccupied features, namely, Zamora (Subi) Reef, Kagitingan (Fiery Cross) Reef, Calderon (Cuarteron) Reef, Burgos (Gaven) Reefs, and Burunyugan Reef 4 (Hughes Reef).¹⁶⁸ Small, concrete platforms on stilts were built thereon. They were also garrisoned by small detachments of soldiers with basic radar and communication equipment.

After the dismantling of the US bases in Subic and Clark, in late 1994, Chinese forces carried out a clandestine operation to place habitable structures on Panganiban Reef.¹⁶⁹ The Philippines discovered these structures already manned by troops in 1995, but the Chinese government claimed them to be merely fishermen's shelters. In 1999, on the pretext of repairing the structures, China replaced them with a multi-story concrete fortress.

China undertook a massive reclamation and island-building campaign from May 2014, transforming all seven of its occupied features into artificial islands. It constructed extensive military infrastructure on three major outposts—Kagitingan Reef, Zamora Reef, and Panganiban Reef. (See Figures 13, 14, and 15 on pages 52–53.) This includes runways, hangars, missile shelters with retractable roofs, intelligence, surveillance, and reconnaissance and electronic warfare facilities, and point-defense towers around each base equipped with large anti-aircraft guns and close-in weapons systems.¹⁷⁰ Support facilities such as headquarters, barracks, and underground storage bunkers were also built.¹⁷¹ The four other outposts feature scaled-down infrastructure, including helipads, small loading docks, perimeter point-defenses, and administrative buildings.¹⁷²

These developments have significant implications on China's ability to project power in the SCS,¹⁷³ and are particularly alarming for the Philippines given its close proximity to these

¹⁶⁸ "China Island Tracker," Asia Maritime Transparency Initiative, n.d., accessed July 13, 2026, <https://amti.csis.org/island-tracker/china/>; see also M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflict in China's Territorial Disputes* (Princeton, NJ: Princeton University Press, 2008).

¹⁶⁹ *Journey on the South China Sea*, documentary, CCTV 4, aired December 24–31, 2013. Highlights of the documentary are detailed in a report by GMA News. Michaela del Callar, "China reveals rare videos of its South China Sea territorial battle," GMA News, July 11, 2014, <https://www.gmanetwork.com/news/topstories/specialreports/369788/china-reveals-rare-videos-of-its-south-china-sea-territorial-battle/story/#:~:text=Contrary%20to%20Chinese%20assurances%20at%20the%20time,Oil%2C%20gas%2C%20resources%2C%20territory%20and%20China's%20security.>

¹⁷⁰ "China Island Tracker."

¹⁷¹ "China Island Tracker."

¹⁷² "China Island Tracker."

¹⁷³ See "By Air, Land and Sea: China's Maritime Projection Network," Asia Maritime Transparency Initiative, last updated September 15, 2021, <https://amti.csis.org/power-projection-network/>.

outposts. In particular, Panganiban Reef sits 130 nm from Palawan, well within the Philippine EEZ, while Zamora Reef is only 12 to 14 nm away from Pag-asa Island.



Figure 13. Satellite images of Kagitingan Reef in 2006 (left) and in 2022 (right).

Source: Asia Maritime Transparency Initiative¹⁷⁴



Figure 14. Satellite images of Zamora Reef in 2012 (left) and in 2020 (right).

Source: Asia Maritime Transparency Initiative¹⁷⁵

¹⁷⁴ “Fiery Cross Reef,” Asia Maritime Transparency Initiative, n.d., accessed July 13, 2026, <https://amti.csis.org/fiery-cross-reef/>.

¹⁷⁵ “Subi Reef,” Asia Maritime Transparency Initiative, n.d., accessed July 13, 2026, <https://amti.csis.org/subi-reef/>.



Figure 15. Satellite images of Panganiban Reef in 2012 (left) and in 2020 (right).

Source: Asia Maritime Transparency Initiative¹⁷⁶

15. Have there been confrontations between China and the Philippines in the KIG?

Yes. The initial confrontations between the Philippines and China involved Panganiban Reef in 1995. There was a brief standoff between a PN ship conducting law enforcement operations and two Chinese fishing vessels reportedly backed up by PLAN frigates in May 1995.¹⁷⁷

In March 2011, a seismic survey vessel conducting Philippine-authorized oil and gas exploration was harassed by two Chinese patrol vessels. The Chinese vessels actively shadowed, executed dangerous maneuvers, and threatened to ram the survey ship, forcing it to suspend operations and pull back despite the emergency deployment of Philippine military aircraft.¹⁷⁸

Ayungin Shoal, in particular BRP Sierra Madre, is another flashpoint in the KIG. China has employed various methods of intercepting and blocking missions to rotate troops and resupply the detachment, with the methods increasing in severity beginning 2021. Methods include using water cannons and military grade lasers, as well as shadowing, aggressively maneuvering, ramming, and swarming with vessels. In June 2024, vessels belonging to PLAN, China Coast Guard (CCG), and Chinese Maritime Militia (CMM) rammed and towed PN boats conducting a rotation and resupply mission.¹⁷⁹ The CCG personnel also boarded the boats,

¹⁷⁶ “Mischief Reef,” Asia Maritime Transparency Initiative, n.d., accessed July 13, 2026, <https://amti.csis.org/mischief-reef/>.

¹⁷⁷ David Wroe and National Security Correspondent, “Making Mischief in the South China Sea,” *The Sydney Morning Herald*, July 15, 2016, <https://www.smh.com.au/politics/federal/making-mischief-in-the-south-china-sea-20160715-gq6knp.html>.

¹⁷⁸ *The South China Sea Arbitration*, 2016 Award, ¶ 656.

¹⁷⁹ Bea Cupin, “‘Ramming and towing’: Philippines says China disrupted mission to Ayungin Shoal,” *Rappler*, June 17, 2024, <https://www.rappler.com/philippines/philippines-says-china-disrupted-mission-ayungin-shoal-june-2024/>.

punctured them using bladed weapons, and seized firearms belonging to PN personnel.¹⁸⁰ The incident resulted in damage reportedly amounting to PHP 60 million and serious injury to a Filipino serviceman.¹⁸¹

In the same year, Chinese vessels hardened its presence around Escoda (Sabina) Shoal, a feature within the Philippine EEZ located 75 nm from Palawan. In August 2024, a CCG vessel repeatedly rammed the BRP *Teresa Magbanua*, the Philippine Coast Guard (PCG) vessel assigned to monitor and patrol the shoal, leaving a hole in its hull. CCG vessels also prevented resupply vessels from reaching the BRP *Teresa Magbanua* until it was forced to withdraw from the shoal. After their ordeal, a number of sailors were hospitalized due to dehydration and other health conditions.¹⁸²

China's aggressive actions have also expanded to include other tactics such as releasing flares near the flight path of a PCG aircraft conducting a maritime domain awareness flight over the KIG.¹⁸³

Aside from actions directed at military and law enforcement units, China has also carried out aggressive actions against ordinary civilian fisherfolk and government livelihood support missions. In June 2019, a Chinese fishing trawler rammed and sank the anchored, stationary Philippine vessel F/B *Gem-Ver 1* at Recto Bank and fled the scene, abandoning 22 Filipino fishermen to the open sea.¹⁸⁴ In October 2025, CCG vessels deployed water cannons and deliberately rammed the stern of a Bureau of Fisheries and Aquatic Resources vessel near Pag-asa Island, interrupting a government-backed livelihood and distribution program for local fishers.¹⁸⁵ In December of the same year, CCG and CMM vessels swarmed approximately 20 artisanal Filipino fishing boats, utilizing water cannons and deploying rigid-hull inflatable boats to deliberately sever the fishers' anchor lines at Escoda Shoal.¹⁸⁶

¹⁸⁰ Bea Cupin, "Chinese coast guard boarded PH ship, seized rifles, punctured boats off Ayungin Shoal, says Brawner," *Rappler*, June 19, 2024,

<https://www.rappler.com/philippines/chinese-coast-guard-boarded-philippine-ship-says-brawner/>.

¹⁸¹ John Eric Mendoza, "West Philippine Sea: Navy's June 17 encounter with CCG incurs P60M damage," *Inquirer*, July 4, 2024, <https://www.inquirer.net/408020/west-ph-sea-navys-june-17-encounter-with-ccg-incurs-p60m-damage/>.

¹⁸² Bea Cupin, "View from Manila: In Escoda Shoal, China's cruelty was too much for BRP *Teresa Magbanua*," *Rappler*, Sep 16, 2024, <https://www.rappler.com/philippines/view-manila-china-cruelty-teresa-magbanua-escoda-2024/>; Bea Cupin, "Why is the China Coast Guard's biggest ship still in Escoda Shoal?," *Rappler*, Jul 17, 2024, <https://www.rappler.com/newsbreak/explainers/why-china-coast-guard-biggest-ship-still-escoda-shoal-july-2024/>.

¹⁸³ Bianca Dava, "Chinese forces fire flares near PCG aircraft over Mischief Reef," *ABS-CBN News*, March 20, 2026, <https://www.abs-cbn.com/news/nation/2026/3/20/chinese-forces-fire-flares-near-pcg-aircraft-over-mischief-reef-2033>.

¹⁸⁴ Frances Mangosing, Jeannette I. Andrade, and Marlon Ramos, "Chinese vessel abandons PH boat after collision," *Inquirer*, June 13, 2019, <https://globalnation.inquirer.net/176216/chinese-vessel-abandons-ph-boat-after-collision>.

¹⁸⁵ Dexter Cabalza, Dianne Sampang, and Jane Bautista, "PH to protest China's attack on BFAR vessel," *Inquirer*, October 13, 2025, <https://www.inquirer.net/457638/ph-to-protest-chinas-attack-on-bfar-vessel/>.

¹⁸⁶ Ghio Ong, "Filipino Fishermen Hurt, Boat Damaged By China In West Philippine Sea," *One News PH*, December 14, 2025, <https://www.onenews.ph/articles/filipino-fishermen-hurt-boat-damaged-by-china-in-west-philippine-sea>.

THE SEARCH FOR SOLUTIONS

1. Are the Philippine positions in the West Philippine Sea supported by international law?

Yes. The Philippines' position on the Kalayaan Island Group (KIG), Bajo de Masinloc (Scarborough Shoal), and the West Philippine Sea (WPS) are consistent with international law. Its territorial sovereignty and jurisdiction over the islands and rocks of Bajo de Masinloc and the KIG were established in accordance with customary international law through effective occupation and the exercise of acts consistent with sovereignty. Its maritime sovereignty, sovereign rights, and jurisdiction over adjacent waters are being exercised in accordance with treaty law, particularly the United Nations Convention on the Law of the Sea (UNCLOS), as affirmed in the 2016 Arbitral Award.

2. Is it true that a delay in naming the legal rocks and high tide elevations in the West Philippine Sea and in publishing their coordinates renders our sovereignty over them ineffective?

No. Naming *per se* is not the basis of sovereignty. Sovereignty is established and proven through effective occupation and administration, not by the mere assignment of names or publication of locations. Like mapping, naming is ultimately self-serving. Thus, the mere publication of maps, names, and coordinates do not create legal sovereignty where none exists. In turn, delay in naming and publication of coordinates by themselves do not affect sovereignty that is already effective.

3. Do we need to designate specific coordinates or submit a map for our maritime entitlements in the West Philippine Sea to be valid?

No. The validity of a maritime claim is determined by its conformity with international law, principally UNCLOS. The purpose of depositing charts and lists of coordinates with the United Nations (UN) is to give due publicity to a state's maritime zones, while submitting charts to the International Hydrographic Organization (IHO) is a practical measure to ensure the safety of navigation. Neither body has the authority to approve or disapprove the limits of a country's maritime zones. According to the Division for Ocean Affairs and the Law of the Sea under the Office of the UN Secretary-General, the deposit of charts and maps to the UN Secretary-General "does not imply a judgement by the Secretariat on the nature of the instrument, the status of a party, or any similar question." Further, "its action does not confer on the instrument the status

of a treaty or an international agreement if it does not already have that status and does not confer on a party a status which it would not otherwise have.”¹⁸⁷ The IHO, in turn, states explicitly in its Special Publication No. 23, titled “Limits of Oceans and Seas,” that the published limits “have no political significance whatsoever.”¹⁸⁸ These clearly mean that such deposit and submission either to the UN or the IHO have no legal effect.

4. What diplomatic actions has the Philippines taken to manage the disputes and protect its interests in the West Philippine Sea?

The Philippines has led regional initiatives to establish crisis management and trust-building frameworks. Chief among these was the 1992 ASEAN Declaration on the South China Sea,¹⁸⁹ which established principles for conflict avoidance, followed by a 1995 proposal for freezing the status quo and demilitarizing features. Following China’s occupation of Panganiban (Mischief) Reef, bilateral dialogue and agreements were concluded with China and Vietnam. These agreements called for the peaceful settlement of disputes in accordance with recognized principles of international law, urged parties to undertake confidence-building measures while refraining from the use or threat of force, and expressed the need to cooperate for the protection and conservation of maritime resources.¹⁹⁰

The Philippines also played a key role in the successful negotiation of the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC). Although not legally binding, the 2002 DOC commits the parties to consultative and peaceful processes of dispute settlement. It also calls for the exercise of self-restraint; a halt to new occupations; voluntary mutual notification of military exercises; and the extension of humanitarian treatment to all persons in situations

¹⁸⁷ United Nations, Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea, “Maritime Space: Maritime Zones and Maritime Delimitation: Introduction,” last updated April 24, 2026, ¶ 10, <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/introduction.htm>.

¹⁸⁸ International Hydrographic Organization, preface to *Limits of Oceans and Seas*, Special Publication No. 23, 3rd ed. (Monte Carlo: International Hydrographic Organization, 1953). In the preface to the draft revised version dated 2002, it was more strongly stated that the limits “have no legal or political significance whatsoever.”

¹⁸⁹ Association of Southeast Asian Nations (ASEAN), *Declaration on the South China Sea*, Manila, Philippines, July 22, 1992, Centre for International Law, National University of Singapore, <https://cil.nus.edu.sg/wp-content/uploads/2017/07/1992-ASEAN-Declaration-on-the-South-China-Sea.pdf>.

¹⁹⁰ Aileen S.P. Baviera, “Bilateral Confidence Building with China in Relation to the South China Sea Dispute: A Philippine Perspective” (paper prepared for the International Security Research and Outreach Programme, Department of Foreign Affairs and International Trade, Canada, February 2001), academia.edu, https://www.academia.edu/2467965/Bilateral_confidence_building_with_China_in_relation_to_the_South_China_Seas_dispute_A_Philippine_perspective.

of danger or distress in the area.¹⁹¹ The Philippines has also been moving for the conclusion of a legally-binding Code of Conduct (COC) among the parties concerned.¹⁹²

Parallel to these regional efforts, the Philippines maintained active bilateral ties with China. As noted by the Tribunal in the 2015 Award on Jurisdiction, the two states held regular bilateral discussions on mutual issues of concern, supplemented by working groups on confidence-building measures, meetings between high-level officials, and constant communication through their respective foreign ministries and embassies.¹⁹³

During and after the standoff at Bajo de Masinloc in 2012, the Philippines extensively engaged in bilateral diplomatic exchanges with China, issuing notes verbales and hosting high-level consultations to defuse the crisis and demand the withdrawal of Chinese vessels pursuant to a US-mediated mutual withdrawal arrangement.

Currently, the Philippines continuously utilizes formal bilateral channels, such as the China-Philippines Bilateral Consultation Mechanism and diplomatic protests, to contest Chinese actions.

5. What is the role of ASEAN in managing the West Philippine Sea disputes?

The Association of Southeast Asian Nations (ASEAN) was founded in 1967 to help ensure that peace and stability prevails in Southeast Asia, primarily through economic cooperation and integration. The South China Sea (SCS) is a shared maritime space among China and member states of ASEAN. Among the six claimant states in the Spratlys and KIG, four are in ASEAN: Brunei, Malaysia, the Philippines, and Vietnam.

Rather than directly solving conflicts among regional states, however, ASEAN's approach has been to introduce principles and behavioral norms that guide inter-state relations, such as eschewing the threat of force or use of force to resolve disputes. The 1992 ASEAN Declaration on the South China Sea, the 2002 DOC, and ongoing efforts to negotiate with China a legally binding COC, all result from the patient, gradualist, multilateral diplomacy that has become the hallmark of ASEAN.

¹⁹¹ Declaration on the Conduct of Parties in the South China Sea, ASEAN-China, November 4, 2002, ASEAN, <https://asean.org/declaration-on-the-conduct-of-parties-in-the-south-china-sea-2/>.

¹⁹² Amando Doronila, "Aquino's Balance of Power Diplomacy Over Spratlys | Inquirer Opinion," *Inquirer.net*, October 3, 2011, <https://opinion.inquirer.net/13297/aquino%E2%80%99s-balance-of-power-diplomacy-over-spratlys>.

¹⁹³ South China Sea Arbitration, 2015 Award on Jurisdiction and Admissibility, ¶ 348.

ASEAN also encourages inclusive dialogue and consultations which contribute to confidence building and mutual assurance among regional states, including parties in dispute. Through the ASEAN +1, ASEAN +3, ASEAN Regional Forum, the East Asia Summit, and various official and unofficial mechanisms, it has successfully engaged the major powers, in effect making them stakeholders in Southeast Asia's prosperity, security, and progress.¹⁹⁴

Maritime security is one of the important areas of cooperation that ASEAN has pursued. The Philippines hopes that cooperation among the four ASEAN claimant states and the unity and solidarity of ASEAN as a whole can facilitate the early and fair resolution of the territorial and remaining maritime disputes.

6. What is the proposed ASEAN-China Code of Conduct in the South China Sea?

As of July 2026, ASEAN and China are still working toward a COC intended to establish conditions conducive to the peaceful and durable settlement of disputes. Although a COC may help in conflict prevention and crisis management, it will not resolve the sovereignty claims and delimitation of maritime boundaries in the SCS.¹⁹⁵ These issues can only be settled by the claimant states. The Code is meant to guide the actions of all parties within the disputed area pending such a resolution.

Although the need for a COC was agreed upon in 1996, ASEAN and China began substantive discussions on the COC only in 2014 and negotiations in 2018.¹⁹⁶ Significant hurdles continue to prevent its finalization, including disagreements over its legal status and binding force, its governing framework, its geographical scope, and its relationship with the 2002 DOC.¹⁹⁷

¹⁹⁴ Hidetaka Yoshimatsu, "ASEAN and Great Power Rivalry in Regionalism: From East Asia to the Indo-Pacific," *Journal of Current Southeast Asian Affairs* 42 (2023): 42, <https://doi.org/10.1177/18681034221139297>.

¹⁹⁵ South China Sea Expert Working Group, "A Blueprint for a South China Sea Code of Conduct," Asia Maritime Transparency Initiative, Center for Strategic and International Studies, October 11, 2018, <https://amti.csis.org/blueprint-for-south-china-sea-code-of-conduct/>.

¹⁹⁶ Joanne Lin and Pou Sothirak, "The Elusive Code: Why ASEAN Needs a New Playbook for the South China Sea," *ISEAS Perspective*, no. 2025/39 (May 28, 2025), 3, https://www.iseas.edu.sg/wp-content/uploads/2025/05/ISEAS_Perspective_2025_39.pdf.

¹⁹⁷ Ian Storey, "The Code of Conduct for the South China Sea: Movement in lieu of Progress," *Fulcrum*, July 20, 2023, <https://fulcrum.sg/the-code-of-conduct-for-the-south-china-sea-movement-in-lieu-of-progress/>; Joanne Lin and Pou Sothirak, "The Elusive Code: Why ASEAN Needs a New Playbook for the South China Sea," *ISEAS Perspective*, no. 2025/39 (May 28, 2025), 7, https://www.iseas.edu.sg/wp-content/uploads/2025/05/ISEAS_Perspective_2025_39.pdf.

7. What international legal actions has the Philippines pursued to secure its maritime entitlements in the West Philippine Sea?

In 2013, the Philippines initiated an arbitration proceeding under Part XV and Annex VII of UNCLOS that, among other issues, questioned the validity of China's maritime claims to the extent of the nine-dash line. In 2024, the Philippines also made a partial submission for an Extended Continental Shelf (ECS) in the West Palawan Region, which is currently pending before the Commission on the Limits of the Continental Shelf.

8. Has China complied with the 2016 Arbitral Award?

Under UNCLOS, the parties are bound by the results of the compulsory dispute settlement proceedings under Part XV and are required to negotiate on their implementation. Despite its being a party to UNCLOS, China refuses to recognize the arbitration proceedings initiated by the Philippines and has not complied with the 2016 Arbitral Award.

China has continued to assert its excessive maritime claims even though these were declared invalid by the Tribunal. Thus, it has continued to engage in conduct in breach of its obligations under UNCLOS, including denying Filipino fishermen access to traditional fishing grounds at Bajo de Masinloc, interfering with the country's sovereign rights to explore resources within its exclusive economic zone (EEZ) and continental shelf, engaging in poaching and destructive fishing activities, and using dangerous maneuvers against Philippine vessels in the guise of law enforcement. It has also escalated the situation by committing further breaches of international law, such as using military-grade lasers, water cannons, and flares against Philippine vessels and aircraft, and fully militarizing artificial islands on features in the Spratlys.

More recently, China has also attempted to extend its domestic laws over the SCS. In 2021, it enacted a new China Coast Guard Law, and in 2024, issued regulations to implement it, purporting to authorize maritime law enforcement, including the use of force, against foreign vessels in its claimed jurisdictional waters.

The Philippines considers these acts of China to be invalid and illegal since they constitute continuing infringements of the country's sovereign rights to its EEZ and continental shelf.

9. What has the Philippines done to implement the 2016 Arbitral Award?

The Philippines has been fulfilling its obligations as a party to UNCLOS to implement the 2016 Arbitral Award. It enacted the Philippine Maritime Zones Act (Republic Act No. 12064), which

incorporates the Award into national legislation and provides a clear basis for law enforcement activities in its maritime zones, and it has exercised its sovereignty and its sovereign rights and jurisdiction as clarified by the 2016 Arbitral Award.

The Philippines exercises and protects its rights through the conduct of maritime patrols and maritime domain awareness operations. Actions by China that violate international law, including the Award, or are otherwise coercive in nature are met with diplomatic protests and publicized before the international community through the Transparency Initiative. In multiple international fora, the Philippines has also reaffirmed the authority of the ruling, while rejecting China's claims.¹⁹⁸

The Philippines also implements the Award not only by defending its current maritime jurisdiction, but also by pursuing its full legal entitlements, as demonstrated by its submission for an ECS in the West Palawan Region in 2024.

Various branches of the Philippine government have institutionalized the Award through their public policy programs.¹⁹⁹ This embeds the issues in the WPS into the national consciousness, aligning the country's maritime claims with broader strategic objectives and a unified national identity.

10. What other options are available to the Philippines in view of China's non-compliance with the 2016 Arbitral Award?

There are a number of diplomatic and legal options available to the Philippines to address China's non-compliance with the Award.

¹⁹⁸ Priam Nepomuceno, "Duterte Affirms Arbitral Ruling on SCS Before UN General Assembly," *Philippine News Agency*, September 23, 2020, <https://www.pna.gov.ph/articles/1116296>; Joyce Ann L. Rocamora and Priam Nepomuceno, "9 Years After Arbitral Win: PH Reaffirms Commitment to Defend WPS," *Inquirer.net*, July 12, 2025, <https://www.inquirer.net/449185/9-years-after-arbitral-win-ph-reaffirms-commitment-to-defend-wps/>; Mikhail Flores, "Philippines Rejects Beijing's Claim to Sovereignty Over Entire South China Sea," *Reuters*, March 16, 2026, <https://www.reuters.com/world/china/philippines-rejects-beijings-claim-sovereignty-over-south-china-sea-2026-03-16/>; Marita Moaje, "PH Urges Respect for Int'l Law in ASEAN-China COC Talks," *Philippine News Agency*, April 14, 2025, <https://www.pna.gov.ph/articles/1248039>.

¹⁹⁹ Rachel P. Ganancial, "WPS Victory Day to Raise Awareness Among Palawenos," *Philippine Information Agency*, July 15, 2024, <https://pia.gov.ph/news/wps-victory-day-to-raise-awareness-among-palawenos/>; Panti, "West Philippine Sea Day.," Pia Piquero, "Cebu City Backs Observance of 'WPS Victory Day' on July 12," *Cebu Daily News*, Jun24, 2026, <https://cebudailynews.inquirer.net/741183/cebu-city-backs-observance-of-wps-victory-day-on-july-12>; Dennis Gasgonia, "West Philippine Sea to Be Included in Araling Panlipunan for Grade School Students," *ABS-CBN News*, September 11, 2025, <https://www.abs-cbn.com/news/nation/2025/9/11/west-philippine-sea-to-be-included-in-araling-panlipunan-for-grade-school-students-1702>.

Pursuant to UNCLOS, the Philippines may initiate an exchange of views with China on the implementation of the Award.²⁰⁰ Should China refuse, the Philippines may seek a clarificatory judgment from the Tribunal concerning the implementation of the Award, or it may, with China's concurrence, seek a judgment from another tribunal.²⁰¹ Likewise with the consent of both parties, they may seek a judgment from the International Court of Justice or from another tribunal under international law.

In addition to these legal remedies, the Philippines may also avail of diplomatic solutions. Among other options, the Philippines may bring the issue to the UN General Assembly and seek a Resolution enjoining China to comply with the Award and to enter into good faith consultations on its implementation. The Philippines can frame China's non-compliance as an ongoing threat to international law, as well as international peace and order.

The Award can also be leveraged by the Philippines in its relations with China and with other states. It is important that the Philippines consistently internalize and invoke the specific findings of the ruling in its engagements with China, whether negotiating long-term settlements or provisional arrangements.²⁰² The Award can also be used by the Philippines to mobilize support from the international community and generate collective pressure against China's unlawful actions, as well as secure strategic partnerships. Notably, the finality and binding nature of the Award have been explicitly recognized by a formidable global coalition—including the United States, Australia, Canada, Japan, the United Kingdom, the United States, and several European states—and complemented by the collective backing of the European Union.²⁰³ Vietnam and Malaysia have also implicitly adopted the legal reasoning in the Award in their respective ECS submissions.²⁰⁴

²⁰⁰ UNCLOS art. 283.

²⁰¹ UNCLOS annex VII, art. 12.

²⁰² Diane A. Desierto, "Enforcement Options and Paths to Compliance: Disputants and Global Stakeholders in *Philippines v. China*," *Asian Journal of International Law* 8, no. 1 (2018): 64.

²⁰³ U.S. Department of State, Office of the Spokesperson, "Joint Statement on the Tenth Anniversary of the Philippines-China South China Sea Arbitral Tribunal Award," July 11, 2026, <https://www.state.gov/releases/office-of-the-spokesperson/2026/07/joint-statement-on-the-tenth-anniversary-of-the-philippines-china-south-china-sea-arbitral-tribunal-award>; European External Action Service, "South China Sea: Statement by the High Representative on Behalf of the European Union on the Tenth Anniversary of the Arbitral Award Between the Philippines and China," July 13, 2026, https://www.eeas.europa.eu/delegations/china/south-china-sea-statement-high-representative-behalf-eu-tenth-anniversary-arbitral-award-between_en#:~:text=The%20EU%20reaffirms%20its%20unwavering,seas%20must%20be%20carried%20out.

²⁰⁴ Socialist Republic of Viet Nam, *Partial Submission Made by the Socialist Republic of Viet Nam to the Commission on the Limits of the Continental Shelf in Respect of the Central Area (VNM-C): Executive Summary*, UN Commission on the Limits of the Continental Shelf (July 17, 2024), https://www.un.org/depts/los/clcs_new/submissions_files/vnm95_24/Vnm952024-EXECUTIVE_SUMMARY.pdf; Government of Malaysia, *Partial Submission to the Commission on the Limits of the Continental Shelf in the South China Sea*:

Furthermore, China's current global foray as the future leader of the international community is dependent on its reputation.²⁰⁵ By consistently highlighting this defiance of international law, the Philippines can amplify the reputational costs of China's behavior.

11. What are the possible options for addressing territorial disputes?

Territorial disputes are normally addressed through various approaches. (See Appendix B for examples.)

Most countries resort to bilateral diplomatic negotiations in search of a political settlement. Such processes may take decades to conclude, and always entail efforts to achieve a win-win solution, thus ultimately requiring compromise.

Some countries opt for conciliation or mediation involving third parties, such as a neutral government or organization playing the role of an honest broker, while others prefer resolution through arbitration by an international court or arbitral panel. The outcomes of conciliation, mediation, or arbitration may not always be entirely satisfactory to either disputing party, but they may help defuse tensions and preserve normal ties.

Yet another approach, as seen from history, including when negotiations or other modes have failed, is to resolve a dispute by the use of force, which the international community naturally frowns upon. The UN Charter considers the use or threat of force to settle international disputes to be illegal.

In some instances, disputing countries opt not to address the sovereignty question directly but merely try to "manage" rather than "resolve" disputes through pragmatic arrangements. In cases where the territorial disputes are complicated by competition for resources (e.g., oil and fisheries), joint development has been used by disputing states as a means to cooperate in the exploitation of much-needed resources while setting aside sensitive questions of sovereignty and ownership.

Although all these approaches remain open in the case of the KIG, the situation is complicated by the fact that six countries claim different portions of the Spratlys.

Executive Summary, UN Commission on the Limits of the Continental Shelf (December 12, 2019), https://www.un.org/depts/los/clcs_new/submissions_files/mys85_2019/20171128_MYS_ES_DOC_001_secured.pdf.

²⁰⁵ Jay L. Batongbacal, "Into Stormy Seas Ahead," ASEANFocus, Special Issue on the South China Sea Arbitration (July 2016), 11–12, <https://law.upd.edu.ph/wp-content/uploads/2020/07/ASEANFocusSouthChinaSeaArbitration.pdf>.

12. Can we bring the territorial and the remaining maritime disputes to an international court or tribunal for resolution?

Yes. Under international law, or “the law of nations” that governs the relations between all states, taking any dispute before an international court is based ultimately upon the consent of states. This consent is usually expressed in an international agreement, such as a *compromis d'arbitrage* or agreement for arbitration, or a dispute settlement mechanism in a broader treaty or convention to which the state has expressly given consent by ratification or accession.²⁰⁶

Part XV of the UNCLOS provides for dispute settlement mechanisms in cases of maritime disputes or disputes over the interpretation and application of the Convention. These range from bilateral modes such as fact-finding and negotiations, to those involving third parties like good offices, conciliation, arbitration, and adjudication. By ratifying UNCLOS, the Philippines, China, and other claimants to various parts of the SCS accepted that these mechanisms should be used to resolve maritime disputes that may arise between them.

Disputes over land territory, however, are not covered by UNCLOS, but may be resolved in accordance with Chapter VI of the UN Charter, which all the claimant countries in the SCS have ratified.²⁰⁷ Chapter VI also obliges all members of the UN to resort to peaceful modes of dispute settlement especially in cases where the disputes may endanger the maintenance of international peace and security. Like UNCLOS, these modes include arbitration and adjudication. Since all claimant countries are also parties to the UN, they are also deemed to have committed to use these peaceful modes of dispute settlement in cases of territorial disputes.

²⁰⁶ Loretta Malintopi, “Methods of Dispute Resolution in Inter-State Litigation: When States Go to Arbitration Rather Than Adjudication,” in *New International Tribunals and New International Proceedings*, ed. Angela De Vecchio, (Milan: Giuffrè Editore, 2006), 49-60; Richard Bilder, “Adjudication: International Arbitral Tribunals and Courts,” in *Peacemaking in International Conflict: Methods and Techniques*, eds. I. William Zartman and J. Lewis Rasmussen (Washington, DC: United States Institute of Peace Press, 1997), 155-90; Ian Brownlie, “The Peaceful Settlement of International Disputes,” *Chinese Journal of International Law* 8, no. 2 (2009): 267-83; Shabtai Rosenne, “An Introduction to International Litigation,” *IBRU Boundary and Security Bulletin*, Spring 1998, accessed July 13, 2013, https://www.durham.ac.uk/media/durham-university/research-/research-centres/ibru-centre-for-borders-research/maps-and-databases/publications-database/boundary-amp-security-bulletins/bsb6-1_rosenne.pdf; Karin Oellers-Frahm, “Arbitration – A Promising Alternative of Dispute Settlement under the Law of the Sea Convention?,” *Heidelberg Journal of International Law* 55 (1995): 457-78.

²⁰⁷ The Carter Center, “Approaches to Solving Territorial Conflicts: Sources, Situations, Scenarios, and Suggestions,” (Atlanta: The Carter Center, May 2010), https://ciaotest.cc.columbia.edu/wps/carter/0021690/f_0021690_17937.pdf; Bilder, “Adjudication,” 160.

GOVERNANCE

1. Which inter-agency bodies currently coordinate government actions in the West Philippine Sea?

The challenges in the West Philippine Sea (WPS) are multifaceted and require a whole-of-government approach. In response, the government has established inter-agency bodies to formulate and execute unified strategies.

National Maritime Council

Under Executive Order (EO) No. 57 (2024), the National Maritime Council (NMC, formerly the National Coast Watch Council), is the inter-agency body tasked with “formulating policies and strategies to ensure a unified governance framework for the country’s maritime security and domain awareness.” EO No. 57 (2024) built on the bodies established under the earlier EO No. 57 (2011), with a few structural changes.

The NMC’s member and support agencies were expanded, and the former National Coast Watch Council Secretariat was reconstituted into the Presidential Office for Maritime Concerns (POMC). The secretariat’s leadership was elevated from an Executive Director to a cabinet-level official—the Presidential Assistant for Maritime Concerns (PAMC)—authorized to report directly to the President on urgent maritime security issues. The National Maritime Center, formerly the National Coast Watch Center, was retained as the primary operational and information-gathering arm.²⁰⁸

National Task Force for the West Philippine Sea

The National Task Force for the West Philippine Sea (NTF-WPS), established in 2016 under Memorandum Circular No. 94, is responsible for the coordination and implementation of operations specifically in the WPS. It utilizes Area-level and Tactical-level Task Forces to coordinate assets and personnel on the water.²⁰⁹ Under EO No. 57 (2024), the NTF-WPS is now formally attached to the NMC and receives policy guidance from the President through the Council, with the PAMC sitting in the task force as the NMC’s representative.²¹⁰

National Security Council

²⁰⁸ Office of the President, Strengthening the Philippines’ Maritime Security and Maritime Domain Awareness, Exec. Ord. No. 57, § 3 (Mar. 25, 2024) (Phil.), <https://www.officialgazette.gov.ph/2024/03/25/executive-order-no-57-s-2024/>.

²⁰⁹ Office of the President, Creating the National Task Force for the West Philippine Sea, Mem. Circ. No. 94, § 2 (March 17, 2016) (Phil.), <https://www.officialgazette.gov.ph/2016/03/17/memorandum-circular-no-94-s-2016/>.

²¹⁰ Exec. Ord. No. 57 (2024), § 8.

The National Security Council (NSC) is an inter-agency advisory body for coordinating and formulating policies with implications on national security.²¹¹ It ensures that the actions taken in the WPS align with the country's broader national security goals. The NSC's work is supported by a permanent Secretariat, headed by the National Security Adviser (NSA). The NSA represents the NSC in the NMC. The NSA also co-chairs the NTF-WPS, with the NSC providing the essential administrative and technical support.²¹²

2. What is the role of the Department of Foreign Affairs?

Under the Constitution, “[t]he State shall pursue an independent foreign policy. In its relations with other states, the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination.”²¹³ In connection with this, the Department of Foreign Affairs (DFA) is the frontline agency of the government in securing recognition of Philippine positions before the international community. This is especially important in the context of the 2016 Arbitral Award, which ruled overwhelmingly in favor of the Philippines. The DFA plays a critical role in asserting Philippine claims and ensuring the primacy of the Award.

The DFA is also the primary body responsible for foreign relations and is tasked to negotiate agreements with other countries and organizations.²¹⁴ Among the agreements and proposals negotiated by the DFA in relation to the WPS issues are: the 1992 ASEAN Declaration on the South China Sea, the 1995 bilateral agreement with China on principles for a code of conduct, a similar 1997 bilateral agreement with Vietnam, and the ASEAN-China talks leading to the 2002 Declaration of Conduct of Parties in the South China Sea. Currently, the DFA is negotiating a Code of Conduct in the South China Sea with ASEAN Member States and China.

3. What is the role of the Department of National Defense?

The primary mandate of the Department of National Defense (DND) is to guard “against external and internal threats to national peace and security and provide support for social and economic development.”²¹⁵ To fulfill this mandate, the DND exercises supervision and control over the Armed Forces of the Philippines (AFP).²¹⁶

²¹¹ Office of the President, Instituting the “Administrative Code of 1987,” Exec. Ord. No. 292, Title VIII, chap. II, § 3. (Jul. 25, 1987) (Phil.), <https://www.officialgazette.gov.ph/1987/07/25/executive-order-no-292-s-1987/>.

²¹² Mem. Circ. No. 94, § 1.

²¹³ CONST. (1987), art. II, § 7 (Phil.).

²¹⁴ Exec. Ord. No. 292, title I, § 3.

²¹⁵ Exec. Ord. No. 292, title VIII, subtitle II, chap. 1, § 15.

²¹⁶ Exec. Ord. No. 292, title VIII, subtitle II, chap. 1, § 17.

The DND leads the formulation of national defense policies and programs and the development of innovative security strategies.²¹⁷ In 2024, Secretary of National Defense Gilbert Teodoro announced the military's adoption of the Comprehensive Archipelagic Defense Concept (CADC).²¹⁸ This strategy shifts focus from internal security to the external defense of the country's maritime domain, with emphasis on safeguarding resources in the exclusive economic zone (EEZ).²¹⁹ In 2026, Secretary Teodoro announced the Archipelagic Sentinel Doctrine to complement the CADC and to connect it with the collective defense of the international order.²²⁰

The DND is also responsible for defense procurement and serves as the administrator of the Revised AFP Modernization Program.²²¹ Furthermore, under Republic Act No. 12024, it is mandated to formulate and implement a Self-Reliant Defense Posture program that would revitalize the domestic defense industry, prioritize purchases from local enterprises, and secure resilient supply chains of materiel vital to national security.²²²

In connection with the DND's role in implementing the country's international defense and security commitments,²²³ it works with the DFA to establish defense agreements and strategic partnerships with international allies. The DND ensures that the country's external defense policies are coordinated with the DFA's diplomacy.

4. What is the role of the Armed Forces of the Philippines?

As stated in the Constitution, "[t]he Armed Forces of the Philippines (AFP) is mandated to be "the protector of the people and the state. Its goal is to secure the sovereignty of the state and

²¹⁷ Office of the President, Re-Directing the Functions and Operations of the Department of National Defense, Exec. Ord. No. 112, "Re-Directing the Functions and Operations of the Department of National Defense" (June 18, 1999), sec. 2.

²¹⁸ Priam Nepomuceno, "'Comprehensive Archipelagic Defense' to Help PH Explore EEZ Resources," *Philippine News Agency*, January 24, 2024, <https://www.pna.gov.ph/articles/1217527>.

²¹⁹ Sushmita Sihwag, "'Comprehensive Archipelagic Defence Concept' (CADC) of the Philippines and Opportunities for India Arising Therefrom," *National Maritime Foundation*, 2025, https://maritimeindia.org/comprehensive-archipelagic-defence-concept-cadc-of-the-philippines-and-opportunities-for-india-arising-therefrom/#_ftn3.

²²⁰ Gilberto Teodoro Jr., remarks during the Sixth Plenary Session, "Evolving Security Partnerships in a Fragmenting World" (speech, 23rd IISS Shangri-La Dialogue, International Institute for Strategic Studies, May 31, 2026), transcript, https://www.iiss.org/globalassets/media-library---content--migration/files/shangri-la-dialogue/2026/transcripts/p6/gilbertoteodorojr_asdelivered.pdf.

²²¹ An Act Amending Republic Act No. 7898, Establishing the Revised AFP Modernization Program and for Other Purposes, Rep. Act No. 10349 (2012), § 4 (Dec. 11, 2012) (Phil.), <https://www.officialgazette.gov.ph/2012/12/11/republic-act-no-10349/>.

²²² An Act Revitalizing and Strengthening the Self-Reliant Defense Posture Program and Promoting the Development of a National Defense Industry Pursuant Thereto and Providing Funds Therefor, Rep. Act No. 12024 § 7 (Oct. 8, 2024) (Phil.), <https://www.officialgazette.gov.ph/2024/10/08/republic-act-no-12024/>.

²²³ Office of the President, Re-Directing the Functions and Operations of the Department of National Defense, Exec. Ord. No. 112, § 2 (June 18, 1999) (Phil.), <https://www.officialgazette.gov.ph/1999/06/18/executive-order-no-112-s-1999/>.

the integrity of the national territory.”²²⁴ Inherent to the constitutional mandate of the AFP is the maintenance of control over the national territory, airspace, and maritime domain. The maritime and archipelagic nature of the country poses major challenges to its security.

During peacetime, the AFP is tasked with supporting the national government’s socio-economic and development programs through activities such as maritime patrols, coastal surveillance, and survey and mapping. It also has an important role in responding to humanitarian assistance and disaster relief when necessary. Notably, the entry into force of UNCLOS in November 1994, establishing the 200 nautical mile EEZ, has significantly expanded the coastal surveillance needs of the country.²²⁵

Capability-building also serves broader maritime security objectives, including enabling better performance in search and rescue, anti-piracy operations, disaster response, and environmental management. The support of traditional allies, as well as other security partners, is being maximized toward these ends.

5. What is the role of the Philippine Coast Guard?

The Philippine Coast Guard (PCG), under the Department of Transportation, is one of the frontline civilian agencies in the WPS. It is mandated to ensure compliance with maritime safety standards, conduct search and rescue operations, implement marine environmental protection laws and response capabilities, assist in maritime law enforcement, and provide defense support.²²⁶ It is a member agency of the NTF-WPS,²²⁷ a support agency of the NMC,²²⁸ and the head of the National Maritime Center.²²⁹

The PCG is central to our compliance with our international obligations, including UNCLOS, the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention for the Safety of Life at Sea (SOLAS). As a civilian maritime law enforcement agency, it is among the means by which the Philippines exercises jurisdiction and authority over its maritime spaces and activities.

²²⁴ CONST. (1987), art. II § 3 (Phil.).

²²⁵ Alfredo G. Ramirez, “Maritime Air Surveillance for the Philippines: Protecting the Exclusive Economic Zone and the Kalayaan Island Group,” *Air Force Review* 1, no. 1.

²²⁶ An Act Establishing the Philippine Coast Guard as an Armed and Uniformed Service Attached to the Department of Transportation and Communications, Thereby Repealing Republic Act No. 5173, as Amended, and for Other Purposes, Rep. Act No. 9993 §§ 2-3 (Feb. 12, 2010) (Phil.), <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/17034>.

²²⁷ Mem. Circ. No. 94, § 1.

²²⁸ Exec. Ord. No. 57 (2024), § 6.

²²⁹ Exec. Ord. No. 57 (2024), § 5.

APPENDIX A

QUICK GUIDE TO THE SOUTH CHINA SEA ARBITRATION AWARD

PH Submissions	Ruling	Basis
1. China's maritime entitlements in the SCS, like those of the PH, may not extend beyond those permitted by UNCLOS	Granted	¶261, ²³⁰ ¶262 ²³¹
2. China's claims to sovereign rights and jurisdiction, and to "historic rights" with respect to the maritime areas of the SCS encompassed by the so-called "nine-dash line" are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the UNCLOS	Granted	¶246 ²³² , ¶247 ²³³

²³⁰ Par. 261. For all of the reasons discussed above, the Tribunal concludes that China's claim to historic rights to the living and non-living resources within the 'nine-dash line' is incompatible with the Convention to the extent that it exceeds the limits of China's maritime zones as provided for by the Convention. This is apparent in the text of the Convention which comprehensively addresses the rights of other States within the areas of the exclusive economic zone and continental shelf and leaves no space for an assertion of historic rights. It is also reinforced by the negotiating record of the Convention where the importance of adopting a comprehensive instrument was manifest and where the cause of securing the rights of developing States over their exclusive economic zone and continental shelf was championed, in particular, by China.

²³¹ Par. 262. Accordingly, upon China's accession to the Convention and its entry into force, any historic rights that China may have had to the living and non-living resources within the 'nine-dash line' were superseded, as a matter of law and as between the Philippines and China, by the limits of the maritime zones provided for by the Convention. This should not be considered exceptional or unexpected. The Convention was a package that did not, and could not, fully reflect any State's prior understanding of its maritime rights. Accession to the Convention reflects a commitment to bring incompatible claims into alignment with its provisions, and its continued operation necessarily calls for compromise by those States with prior claims in excess of the Convention's limits.

²³² Par. 246. China has stated its view that its "relevant rights in the South China Sea, formed in the long historical course" are "protected under international law including the United Nations Convention on the Law of the Sea (UNCLOS)." ²³³ Insofar as China's relevant rights comprise a claim to historic rights to living and non-living resources within the 'nine-dash line', partially in areas that would otherwise comprise the exclusive economic zone or continental shelf of the Philippines, the Tribunal cannot agree with this position. The Convention does not include any express provisions preserving or protecting historic rights that are at variance with the Convention. On the contrary, the Convention supersedes earlier rights and agreements to the extent of any incompatibility. The Convention is comprehensive in setting out the nature of the exclusive economic zone and continental shelf and the rights of other States within those zones. China's claim to historic rights is not compatible with these provisions.

²³³ Par. 247. The Tribunal considers the text and context of the Convention to be clear in superseding any historic rights that a State may once have had in the areas that now form part of the exclusive economic zone and continental shelf of another State. There is no ambiguity here that would call for the Tribunal to have recourse to the supplementary means of interpretation set out in Article 32 of the Vienna Convention. Nevertheless, in light of the sensitivity of the matters at issue in these proceedings, the Tribunal considers it warranted to recall the origin of and purpose behind the Convention's provisions on the exclusive economic zone and continental shelf.

3. Scarborough Shoal generates no entitlement to an exclusive economic zone (EEZ) or continental shelf (CS).	Granted: rock	¶554 ²³⁴ , ¶556 ²³⁵
4. Mischief Reef, Second Thomas Shoal, and Subi Reef are low-tide elevations that do not generate entitlement to a territorial sea, EEZ or CS, and are not features that are capable of appropriation by occupation or otherwise. (3 claims)		
a. Mischief Reef	Granted: LTE	¶377 ²³⁶ , ¶378 ²³⁷
b. Second Thomas Shoal	Granted: LTE	¶380 ²³⁸ , ¶381 ²³⁹
c. Subi Reef	Granted: LTE	¶368 ²⁴⁰ , ¶373 ²⁴¹

²³⁴ Par. 554. In the Tribunal's view, Scarborough Shoal is a "rock" for purposes of Article 121(3).

²³⁵ Par. 556. On any account, the protrusions above high tide at Scarborough Shoal are minuscule. This is confirmed by photographs in the record. They obviously could not sustain human habitation in their naturally formed state; they have no fresh water, vegetation, or living space and are remote from any feature possessing such features. Scarborough Shoal has traditionally been used as a fishing ground by fishermen from different States, but the Tribunal recalls that economic activity in the surrounding waters must have some tangible link to the high tide feature itself before it could begin to constitute the economic life of the feature (see paragraph 503 above). There is no evidence that the fishermen working on the reef make use of, or have any connection to, the high-tide rocks at Scarborough Shoal. Nor is there any evidence of economic activity beyond fishing. There is, accordingly, no evidence that Scarborough Shoal could independently sustain an economic life of its own.

²³⁶ Par. 377. Despite the absence of any reference to a high-tide feature at Mischief Reef, the Tribunal notes the reference to a drying rock with a height of five feet above Mean Low Water Springs in HMS Herald's description of the reef. China's Chart No. 18500 similarly depicts a height of one metre above Mean Sea Level in the location of that rock. Either measurement would at least be close to the expected level of high water. The Tribunal notes, however, that it does not have direct evidence of tidal conditions at Mischief Reef and concludes that the clear evidence from direct observations—to "drying rocks" by HMS Herald and to rocks exposed "during half-tide" in the Chinese sailing directions—is more convincing. In light, in particular, of the amount of time spent by HMS Herald in surveying Mischief Reef and the knowledge of tidal conditions apparent in the above description, the Tribunal considers it inconceivable that a high-tide rock or feature could have been overlooked or gone unmentioned.

²³⁷ Par. 378. Accordingly, the Tribunal concludes that Mischief Reef is a low-tide elevation.

²³⁸ Par. 380. The Tribunal notes in particular the description of rocks that "are almost certain to be visible at low water" and takes this as an indication that no rocks on the reef would be visible at high water. The Tribunal is also unaware of any more recent evidence suggesting a high-tide feature on Second Thomas Shoal, including in Chinese Chart No. 18500 or the Chinese Navy Headquarters sailing directions.

²³⁹ Par. 381. Accordingly, the Tribunal concludes that Second Thomas Shoal is a low-tide elevation.

²⁴⁰ Par. 368. The same conclusion follows from the depiction of Subi Reef in U.S. Defense Mapping Agency Chart No. 93061, although the Tribunal notes that this chart is a reissued version of U.S. Hydrographic Office Chart No. 2786, which was simply a copy in 1911 of British Admiralty Chart No. 1201, which was in turn based the 1867 survey data. No high-tide feature on Subi Reef is depicted on British Admiralty Chart No. 1201 either, and the Tribunal is unable to identify any source suggesting a rock or cay above high water on Subi Reef. Accordingly, the Tribunal concludes that Subi Reef is a low-tide elevation.

²⁴¹ Par. 373. With respect to satellite imagery, the Tribunal remains unconvinced that reliable conclusions can be drawn from EOMAP's satellite-derived bathymetry. Moreover, in contrast to a rock or coral boulder, it is possible that a sand

5. Mischief Reef and Second Thomas Shoal are part of the EEZ and CS of the PH. (2 claims)		
a. Mischief Reef	Granted: LTE	¶290 ²⁴² , ¶646 ²⁴³ , ¶647 ²⁴⁴
b. Second Thomas Shoal	Granted: LTE	¶290 ²⁴⁵ , ¶646 ²⁴⁶ , ¶647 ²⁴⁷
6. Gaven Reef and McKennan Reef (including Hughes Reef) are LTEs that do not generate entitlement to a TS, EEZ or CS, but their low-water line may be used to determine the baseline from which the breadth of the TS of Namyit and Sin Cowe, respectively, is measured. (2 claims)		

cay may be dispersed by storm action and reform in the same location after a short while. The absence of a sand cay at a particular point in time is thus not conclusive evidence of the absence of a high-tide feature. In this instance, the Tribunal considers that the strong historical evidence of a sand cay on the reefs west of Thitu is to be preferred, even if the presence of Sandy Cay over time is intermittent. As Subi Reef lies within 12 nautical miles of the reef on which Sandy Cay is located, it could serve as a basepoint for the territorial sea of Sandy Cay. The Tribunal also notes, however, that even without a high-tide feature in the location of Sandy Cay, Subi Reef would fall within the territorial sea of Thitu as extended by basepoints on the low-tide elevations of the reefs to the west of the island. Accordingly, the significance of Sandy Cay for the status of Subi Reef is minimal.

²⁴² Par. 290. Mischief Reef and Second Thomas Shoal are both coral reefs located in the centre of the Spratly Islands, to the east of Union Bank and to the south-east of Tizard Bank. Mischief Reef is known as “Meiji Jiao” (美济礁) in China and “Panganiban” in the Philippines. It is located at 09° 54’ 17” N, 115° 31’ 59” E and is 125.4 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 598.1 nautical miles from China’s baseline point 39 (Dongzhou (2)) adjacent to Hainan. Second Thomas Shoal is known as “Ren’ai Jiao” (仁爱礁) in China and “Ayungin Shoal” in the Philippines. It is located at 09° 54’ 17” N, 115° 51’ 49” E and is 104.0 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 616.2 nautical miles from China’s baseline point 39 (Dongzhou (2)) adjacent to Hainan.

²⁴³ Par. 646. Based on the considerations outlined above (see paragraphs 374 to 381), the Tribunal concludes that Mischief Reef and Second Thomas Shoal are both low-tide elevations that generate no maritime zones of their own. The Tribunal also concludes that none of the high-tide features in the Spratly Islands are capable of sustaining human habitation or an economic life of their own within the meaning of those terms in Article 121(3) of the Convention. All of the high-tide features in the Spratly Islands are therefore legally rocks for purposes of Article 121(3) and do not generate entitlements to an exclusive economic zone or continental shelf. There is, accordingly, no possible entitlement by China to any maritime zone in the area of either Mischief Reef or Second Thomas Shoal and no jurisdictional obstacle to the Tribunal’s consideration of the Philippines’ Submission No. 5.

²⁴⁴ Par. 647. With respect to the Philippines’ Submission No. 5, the Tribunal concludes that both Mischief Reef and Second Thomas Shoal are located within 200 nautical miles of the Philippines’ coast on the island of Palawan and are located in an area that is not overlapped by the entitlements generated by any maritime feature claimed by China. It follows, therefore, that, as between the Philippines and China, Mischief Reef and Second Thomas Shoal form part of the exclusive economic zone and continental shelf of the Philippines.

²⁴⁵ See above.

²⁴⁶ See above.

²⁴⁷ See above.

a. Gaven Reef (North)	Denied: High Tide Feature	¶365 ²⁴⁸
b. Gaven Reef (South)	Granted- LTE	¶366 ²⁴⁹
c. McKennan Reef	Denied	¶353 ²⁵⁰
d. Hughes Reef	Granted- LTE	¶358 ²⁵¹
7. Johnson Reef, Cuarteron Reef, and Fiery Cross Reef generate no entitlement to an EEZ or CS. (3 claims)		
a. Johnson Reef	Granted	¶644 ²⁵²
b. Cuarteron Reef	Granted	¶644 ²⁵³

²⁴⁸ Par. 365. The Tribunal therefore considers that it is faced not with uniform evidence concerning the status of Gaven Reef (North), but with a 20th century Japanese survey depicting a sand cay on the reef and a 19th century British survey indicating no such feature. As between the two, the Tribunal considers that the Japanese evidence is to be preferred and sees no more recent evidence that would disprove the existence of a sand cay on Gaven Reef (North). Accordingly, the Tribunal concludes that Gaven Reef (North) is a high-tide feature.

²⁴⁹ Par. 366. The Tribunal has seen no evidence in any of the sources discussed above that would suggest the existence of a high-tide feature on Gaven Reef (South) and notes the description to the contrary in the Chinese sailing directions. The Tribunal concludes that Gaven Reef (South) is a low-tide elevation.

²⁵⁰ Par. 353. The Philippines argues that the “[c]harts produced by China, the Philippines, the UK and U.S. and Japan all depict McKennan Reef as a low-tide elevation.” The Tribunal notes, however, that this statement is not wholly correct. China’s Chart No. 18400 depicts Union Bank at 1:250,000 scale but does not support the position advocated by the Philippines. Although the chart does not include any symbol for a rock or island on the reef platform of McKennan Reef itself, a height of “(2.3)” metres above Mean Sea Level is indicated directly adjacent to McKennan Reef, with a notation that corresponds to that used on Chinese charts for features that do not cover at high water. Such a height would be well above high water against any datum. While the absence of any symbol on the reef platform itself might, at first glance, call this height into question, the Tribunal notes that the same pattern of notation (an apparently bare reef platform with an adjacent height) is used on the same chart to depict Namyt Island on Tizard Bank, where a high-tide feature unequivocally does exist, and also Johnson Reef on Union Bank. The source key to Chart No. 18400 indicates that certain areas of the Chart were surveyed by China between 1989 and 2001 and that the data for Union Bank were derived from “1984, 1982 version of nautical chart.”

²⁵¹ Par. 358. In light of all of the evidence, the Tribunal concludes that Hughes Reef is a low-tide elevation. Although the Japanese chart does appear to indicate a high-tide feature, no height is given for this feature (in contrast to the depiction of a sand cay on Gaven Reef (North) on the Japanese chart of Tizard Bank) and the observation is not corroborated by any other evidence before the Tribunal. Nor does it appear in the most recent Chinese chart.

²⁵² Par. 644. Based on the considerations outlined above (see paragraphs 335 to 351), the Tribunal finds with respect to the Philippines’ Submission No. 7 that Johnson Reef, Cuarteron Reef, and Fiery Cross Reef contain, within the meaning of Article 121(1) of the Convention, naturally formed areas of land, surrounded by water, which are above water at high tide. However, for purposes of Article 121(3) of the Convention, the high-tide features at Johnson Reef, Cuarteron Reef, and Fiery Cross Reef are rocks that cannot sustain human habitation or economic life of their own and accordingly shall have no exclusive economic zone or continental shelf.

²⁵³ See above.

c. Fiery Cross Reef	Granted	¶644 ²⁵⁴
8. China has unlawfully interfered with the enjoyment and exercise of the sovereign rights of the PH with respect to the living and non-living resources of its EEZ and CS.	Granted	¶716 ²⁵⁵
9. China has unlawfully failed to prevent its nationals and vessels from exploiting the living resources in the EEZ of the PH	Granted	¶756 ²⁵⁶ , ¶757 ²⁵⁷
10. China has unlawfully prevented PH fishermen from pursuing their livelihoods by interfering with traditional fishing activities	Granted	¶812 ²⁵⁸ , ¶813 ²⁵⁹ , ¶814 ²⁶⁰

²⁵⁴ See above.

²⁵⁵ Par. 716. Based on the considerations outlined above, the Tribunal finds that China has, through the operation of its marine surveillance vessels with respect to M/V Veritas Voyager on 1 to 2 March 2011 breached Article 77 of the Convention with respect to the Philippines' sovereign rights over the non-living resources of its continental shelf in the area of Reed Bank. The Tribunal further finds that China has, by promulgating its 2012 moratorium on fishing in the South China Sea, without exception for areas of the South China Sea falling within the exclusive economic zone of the Philippines and without limiting the moratorium to Chinese flagged vessels, breached Article 56 of the Convention with respect to the Philippines' sovereign rights over the living resources of its exclusive economic zone.

²⁵⁶ Par. 756. The obligation to have due regard to the rights of the Philippines is unequivocally breached when vessels under Chinese Government control act to escort and protect Chinese fishing vessels engaged in fishing unlawfully in the Philippines' exclusive economic zone.

²⁵⁷ Par. 757. Based on the considerations outlined above, the Tribunal finds that China has, through the operation of its marine surveillance vessels in tolerating and failing to exercise due diligence to prevent fishing by Chinese flagged vessels at Mischief Reef and Second Thomas Shoal in May 2013, failed to exhibit due regard for the Philippines' sovereign rights with respect to fisheries in its exclusive economic zone. Accordingly, China has breached its obligations under Article 58(3) of the Convention.

²⁵⁸ Par. 812. In the Tribunal's view, it is not necessary to explore the limits on the protection due in customary international law to the acquired rights of individuals and communities engaged in traditional fishing. The Tribunal is satisfied that the complete prevention by China of fishing by Filipinos at Scarborough Shoal over significant periods of time after May 2012 is not compatible with the respect due under international law to the traditional fishing rights of Filipino fishermen. This is particularly the case given that China appears to have acted to prevent fishing by Filipinos, specifically, while permitting its own nationals to continue. The Tribunal is cognisant that April and May 2012 represented a period of heightened tensions between the Philippines and China at Scarborough Shoal. China's dispute with the Philippines over sovereignty and law enforcement at Scarborough Shoal, however, was with the Philippine Government. The Tribunal does not see corresponding circumstances that would have justified taking action against Filipino fishermen engaged in their traditional livelihood or that would have warranted continuing to exclude Filipino fishermen from Scarborough Shoal for months after the Philippines had withdrawn its official vessels. The Tribunal notes, however, that it would have reached exactly the same conclusion had the Philippines established control over Scarborough Shoal and acted in a discriminatory manner to exclude Chinese fishermen engaged in traditional fishing.

²⁵⁹ Par. 813. With respect to the Philippines' claim that China's actions at Scarborough Shoal represented a specific failure to fulfil its duties pursuant to Article 2(3) of the UN Charter and Article 279 of the Convention to settle disputes by peaceful means, the Tribunal notes that both Parties found fault with the other in their handling of the standoff and that both found cause to allege breaches of the UN Charter. The Tribunal does not find the record before it sufficient to support such a claim in respect of either Party.

²⁶⁰ Par. 814. Based on the considerations outlined above, the Tribunal finds that China has, through the operation of its official vessels at Scarborough Shoal from May 2012 onwards, unlawfully prevented Filipino fishermen from engaging

at Scarborough Shoal and at Mischief Reef and Second Thomas Shoal		
11. China has unlawfully prevented PH fishermen from pursuing their livelihoods by interfering with traditional fishing activities at Scarborough Shoal and at Mischief Reef and Second Thomas Shoal. (3 claims)		
a. Scarborough Shoal	Granted	¶964 ²⁶¹
b. Second Thomas Shoal	Granted	¶964 ²⁶²
12. China's occupation and construction activities on Mischief Reef (a) violate the provisions of the Convention concerning artificial islands (b) violate China's duties to protect and preserve the marine environment under the Convention, and (c) constitute unlawful acts of attempted appropriation in violation of the Convention. (3 claims)		
a. China's occupation and construction activities on Mischief Reef violate the provisions of the Convention concerning artificial islands	Granted	¶1043 ²⁶³
b. China's occupation and construction activities on Mischief Reef violate China's duties to protect and preserve the marine environment under the Convention	Granted	¶992 ²⁶⁴ , ¶993 ²⁶⁵

in traditional fishing at Scarborough Shoal. The Tribunal records that this decision is entirely without prejudice to the question of sovereignty over Scarborough Shoal.

²⁶¹ Par 964. Despite the reference to "legitimate fishing activities", the photographic evidence of endangered species, including giant clams and sharks, on board the vessels in question indicates China must have known of, and deliberately tolerated, and protected the harmful acts. Similarly, with respect to the May 2013 incident in the vicinity of Second Thomas Shoal, the Tribunal accepts, on the basis of the photographic and contemporaneous documentary evidence, that Chinese naval and CMS vessels were escorting Chinese fishing vessels in gathering clams. The Tribunal therefore has no hesitation in finding that China breached its obligations under Articles 192 and 194(5) of the Convention, to take necessary measures to protect and preserve the marine environment, with respect to the harvesting of endangered species from the fragile ecosystems at Scarborough Shoal and Second Thomas Shoal.

²⁶² See above.

²⁶³ Par. 1043. The Tribunal finds that China has, through its construction of installations and artificial islands at Mischief Reef without the authorisation of the Philippines, breached Articles 60 and 80 of the Convention with respect to the Philippines' sovereign rights in its exclusive economic zone and continental shelf. The Tribunal further finds that, as a low-tide elevation, Mischief Reef is not capable of appropriation.

²⁶⁴ Par 992. The Tribunal finds that China has, through its toleration and protection of, and failure to prevent Chinese fishing vessels engaging in harmful harvesting activities of endangered species at Scarborough Shoal, Second Thomas Shoal and other features in the Spratly Islands, breached Articles 192 and 194(5) of the Convention.

²⁶⁵ Par 993. The Tribunal further finds that China has, through its island-building activities at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, Subi Reef and Mischief Reef, breached Articles 192, 194(1), 194(5), 197, 123, and 206 of the Convention.

c. China's occupation and construction activities on Mischief Reef constitute unlawful acts of attempted appropriation in violation of the Convention	Granted	¶1040 ²⁶⁶ , ¶1042 ²⁶⁷
13. China has breached its obligations under the Convention by operating its law enforcement vessels in a dangerous manner causing serious risk of collision to PH vessels navigating in the vicinity of Scarborough Shoal	Granted	¶1105 ²⁶⁸ , ¶1109 ²⁶⁹
14. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things (a) interfering with the PH rights of navigation in the waters at, and adjacent to, Second Thomas Shoal (b) preventing the rotation and resupply of PH personnel stationed at Second Thomas Shoal, and (c) endangering the health and well-being of PH personnel stationed at Second Thomas Shoal, and conducting dredging, artificial island building and construction activities at Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef, and Subi Reef (10 claims)		

²⁶⁶ Par 1040. The Tribunal recalls, first, that Mischief Reef is incapable of appropriation. As the Tribunal has already concluded at paragraphs 307 to 309 above, low-tide elevations “do not form part of the land territory of a State in the legal sense.” Rather, such features form part of the submerged landmass of a State and, in the case of Mischief Reef, fall within the legal regime for the continental shelf. In consequence, low-tide elevations, as distinct from land territory, cannot be appropriated. As the Tribunal has now found, Mischief Reef is a low-tide elevation; it follows from this that it is incapable of appropriation, by occupation or otherwise.

²⁶⁷ Par. 1042. Having established that Mischief Reef is not capable of appropriation and addressed the effect of China's actions on the Philippines' sovereign rights, the Tribunal sees no need to address Submission No. 12(c).

²⁶⁸ Par. 1105. The Tribunal considers China to have repeatedly violated the Rules of the COLREGS over the course of the interactions described by the crew of the Philippine vessels and as credibly assessed in the two expert reports. Where Chinese vessels were under an obligation to yield, they persisted; where the regulations called for a safe distance, they infringed it. The actions are not suggestive of occasional negligence in failing to adhere to the COLREGS, but rather point to a conscious disregard of what the regulations require. The various violations are underscored by factors such as the large disparity in size of the Chinese and Philippine vessels, the shallow waters in which the incidents took place, and the creation of a two-metre-high wake causing additional risk to the Philippines' crews.

²⁶⁹ Par. 1109. Based on the considerations outlined above, the Tribunal finds that China has, by virtue of the conduct of Chinese law enforcement vessels in the vicinity of Scarborough Shoal, created serious risk of collision and danger to Philippine vessels and personnel. The Tribunal finds China to have violated Rules 2, 6, 7, 8, 15, and 16 of the COLREGS and, as a consequence, to be in breach of Article 94 of the Convention.

a. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by , among other things interfering with the PH rights of navigation in the waters at, and adjacent to, Second Thomas Shoal	No Ruling - No Jurisdiction	¶1161 ²⁷⁰ , ¶1162 ²⁷¹
b. . . . preventing the rotation and resupply of PH personnel stationed at Second Thomas Shoal	No Ruling - No Jurisdiction	¶1161 ²⁷² , ¶1162 ²⁷³
c. . . . endangering the health and well-being of PH personnel stationed at Second Thomas Shoal	No Ruling - No Jurisdiction	¶1161 ²⁷⁴ , ¶1162 ²⁷⁵
d. . . . conducting dredging, artificial island building and construction activities at Mischief Reef	Granted	¶1181 ²⁷⁶

²⁷⁰ Par. 1161. The Tribunal finds that the essential facts at Second Thomas Shoal concern the deployment of a detachment of the Philippines' armed forces that is engaged in a stand-off with a combination of ships from China' s Navy and from China' s Coast Guard and other government agencies. In connection with this stand-off, Chinese Government vessels have attempted to prevent the resupply and rotation of the Philippine troops on at least two occasions. Although, as far as the Tribunal is aware, these vessels were not military vessels, China' s military vessels have been reported to have been in the vicinity. In the Tribunal' s view, this represents a quintessentially military situation, involving the military forces of one side and a combination of military and paramilitary forces on the other, arrayed in opposition to one another. As these facts fall well within the exception, the Tribunal does not consider it necessary to explore the outer bounds of what would or would not constitute military activities for the purposes of Article 298(1)(b).

²⁷¹ Par. 1162. Accordingly, the Tribunal finds that it lacks jurisdiction to consider the Philippines' Submissions No. 14(a) to (c).

²⁷² See above.

²⁷³ See above.

²⁷⁴ See above.

²⁷⁵ See above.

²⁷⁶ Par. 1181. Based on the considerations outlined above, the Tribunal finds that China has in the course of these proceedings aggravated and extended the disputes between the Parties through its dredging, artificial island-building, and construction activities. In particular, while these proceedings were ongoing:

- (a) China has aggravated the Parties' dispute concerning their respective rights and entitlements in the area of Mischief Reef by building a large artificial island on a low-tide elevation located in the exclusive economic zone of the Philippines.
- (b) China has aggravated the Parties' dispute concerning the protection and preservation of the marine environment at Mischief Reef by inflicting permanent, irreparable harm to the coral reef habitat of that feature.
- (c) China has extended the Parties' dispute concerning the protection and preservation of the marine environment by commencing large-scale island-building and construction works at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, and Subi Reef.
- (d) China has aggravated the Parties' dispute concerning the status of maritime features in the Spratly Islands and their capacity to generate entitlements to maritime zones by permanently destroying evidence of the natural condition of Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, and Subi Reef.

e. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by , among other things conducting dredging, artificial island building and construction activities at Cuarteron Reef	Granted	¶1181 ²⁷⁷
f. . . conducting dredging, artificial island building and construction activities at Fiery Cross Reef	Granted	¶1181 ²⁷⁸
g. . . conducting dredging, artificial island building and construction activities at Gaven Reef	Granted	¶1181 ²⁷⁹
h. . . conducting dredging, artificial island building and construction activities at Johnson Reef	Granted	¶1181 ²⁸⁰
i. . . conducting dredging, artificial island building and construction activities at Hughes Reef	Granted	¶1181 ²⁸¹
j. . . conducting dredging, artificial island building and construction activities at Subi Reef	Granted	¶1181 ²⁸²
15. China shall respect the rights and freedoms of the PH under the Convention, shall comply with its duties under the Convention, including those relevant to the protection and preservation of the marine environment in the SCS, and shall exercise its rights and freedoms in the SCS with due regard to those of the PH under the Convention	Granted – Both Parties Must Comply	¶1201 ²⁸³

²⁷⁷ See above.

²⁷⁸ See above.

²⁷⁹ See above.

²⁸⁰ See above.

²⁸¹ See above.

²⁸² See above.

²⁸³ Par 1201. The Tribunal considers it beyond dispute that both Parties are obliged to comply with the Convention, including its provisions regarding the resolution of disputes, and to respect the rights and freedoms of other States under the Convention. Neither Party contests this, and the Tribunal is therefore not persuaded that it is necessary or appropriate for it to make any further declaration

APPENDIX B

CASE STUDIES: WHAT ARE THE POSSIBLE OPTIONS STATES MAY RESORT TO FOR ADDRESSING TERRITORIAL AND MARITIME DISPUTES?

Options Involving Third Parties

Beagle Channel dispute between Argentina and Chile (1977)

In the 1970s, a dispute arose between Argentina and Chile over islands, features, and waters in the eastern Beagle Channel located at the extreme end of the South American continent. In 1971, both countries agreed to bring the matter to international arbitration, a decision of which came out in 1977 recognizing Chilean sovereignty over all the disputed islands. However, Argentina considered the award as null and void, and mobilized its military forces to challenge Chile.

In 1979, both countries requested the Holy See to act as mediator in their dispute. In 1980, a papal proposal for a dispute resolution process was produced. In January 23, 1984, the two signed a joint declaration of peace and friendship, reaffirming their interest to resolve their dispute submitted to papal mediation without delay and in November 29, 1984, a more binding Treaty was signed defining their boundaries and their rights over the sea, seabed and subsoil in their disputed southern zone.

The 1984 Treaty created a joint Permanent Conciliation Commission and provided for arbitral procedures to resolve incidents and disputes that may arise after the Treaty came into effect. It also accorded navigational rights for vessels of both countries via designated shipping routes.

Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia) (2002)

In 1998, Indonesia and Malaysia brought before the International Court of Justice (ICJ) their sovereignty dispute over the islands of Sipadan and Ligitan. This notice was preceded by an agreement between the two countries signed in 1997 and ratified in 1998 submitting the case for arbitration. The dispute, which began in 1969, arose largely from their differing interpretations of Article IV of the 1891 Convention between Great Britain (the former colonizer of Malaysia) and Netherlands (the former colonizer of Indonesia) demarcating their colonial possessions in Borneo.

In 2002, ICJ ruled in favor of Malaysia, granting it sovereignty over the two islands on the basis of Malaysia's effective occupation and administration, including the passing of legislative, administrative, and quasi-judicial measures regulating economic activities and environmental

preservation in the islands, as well as the construction of lighthouses.

The Minquiers and Ecrehos Case (United Kingdom v. France) (1953)

In 1950, Great Britain and France agreed to bring their competing sovereignty claims over the Minquiers and Ecrehos groups for arbitration, notice of which was transmitted to ICJ in 1951. The two groups are made up of mostly small and largely uninhabited features in the English Channel. Evidence presented in the Court included medieval period grants, local legal proceedings, fishing regulations, sanitary edicts, and criminal inquests. ICJ gave little weight to indirect deductions from ancient title claims, but instead looked at activities that demonstrated actual possession of the contested groups.

In 1953, the Court ruled in favor of the United Kingdom. The Court inferred that the case was not one of acquisition of sovereignty over *terra nullius*. In its decision, the Court placed great importance on evidence of continued exercise of British jurisdiction and administration over the two groups by way of Jersey, part of the Channel Islands, from the 17th to the 20th centuries. These include inquests on corpses found in the features, inclusion of the names of temporary residents of the features to a parish in Jersey, and their payment of property taxes for the huts and houses they built on the features which they used during the fishing season, census, registration of contracts, sale of real estate property, establishing of customs house and construction projects (e.g., slipway, mooring buoy, beacons), all of which were sanctioned by local authorities from Jersey.

Sovereignty and Maritime Delimitation in the Red Sea (Eritrea/Yemen) (1998 & 1999)

The Eritrea/Yemen case was among the noteworthy cases in the history of international arbitration. The decision was unanimously rendered by an Arbitral Tribunal in two Awards—Territorial Sovereignty and Scope of the Dispute Award (Phase I) in 1998 and the Maritime Delimitation Award (Phase II) in 1999. Prior to this, in 1996, both parties entered into an Arbitration Agreement, which, in turn, was preceded by an Agreement on Principles signed in Paris and witnessed by the Governments of France, Ethiopia, and Egypt, as well as a concurrent Joint Statement of the two parties stressing their desire to settle the dispute, normalize relations, and contribute to regional peace and stability. The area under dispute between the two countries covers the southern Red Sea features and their surrounding waters which are located strategically in the southern approaches to the Suez Canal, an important international waterway.

The Award affirmed the pre-eminence of actual and effective occupation over claims on the basis of historic titles. The geographical proximity argument (i.e., appurtenance to the closest coast) was used by the Tribunal in the absence of a superior title presented by another party.

In relation to the subsequent maritime boundary delimitation, an equidistant median line was drawn between the opposite coastlines of the two disputants using normal baselines (low-water line) as reference points. The Tribunal, however, reminded both parties about their international obligation to ensure freedom of navigation for international commerce in the area. The Tribunal avoided the question of mineral resources straddling the demarcated maritime boundary between the two parties, although parties were encouraged to inform and consult one another and consider the possibility of joint or unitized exploitation of such resources. It also provided for “perpetuation of the traditional fishing regime in the region including free access and enjoyment for the fishermen of both Eritrea and Yemen” for areas awarded to Yemen.

Maritime Delimitation in the Black Sea (Romania v. Ukraine) (2009)

Romania and Ukraine entered into a treaty as the Treaty on Good Neighborliness and Co-operation. This treaty was referenced by an Additional Agreement regarding the delimitation of the continental shelf and the exclusive economic zones of Romania and Ukraine in the Black Sea. The Additional Agreement provided that if negotiations for a delimitation agreement were not concluded within a reasonable time, but not exceeding two years, and the Treaty on the regime of the State border between Romania and Ukraine entered into force, then the two countries would bring the problem of delimitation to the ICJ. Romania filed a case against Ukraine in the ICJ in 2004, charging that no delimitation agreement had been reached and that the Court had jurisdiction.

The Court exercised jurisdiction and resolved the dispute by applying the three-step approach to maritime delimitation. In the first step, the Court established a provisional, equidistance line based purely on the configurations of the adjacent mainland coasts. The Court excluded Serpents’ Island as a base point because its isolated position meant that it was not part of the mainland’s fringe of islands and because its coastline was extremely short. In the second step—the adjustment phase—the Court assessed whether any “relevant circumstances” required shifting this line to achieve an equitable result. The Court held that Serpents’ Island did not constitute a relevant circumstance warranting a shift in the boundary, reasoning that allowing such a minor feature to adjust the line would give it a highly disproportionate effect on the delimitation. It ruled instead that the island’s presence was already sufficiently accounted for by its own 12 nautical mile territorial sea envelope. Finally, in the third step, the Court applied the disproportionality test, confirming that the finalized line did not lead to any marked disproportion between the ratio of the parties’ coastal lengths and the ratio of their allocated maritime areas.

Timor Sea Conciliation (Timor-Leste v. Australia) (2018)

In the aftermath of the passage of the Certain Maritime Arrangements in the Timor Sea (CMATS or Timor Gap) Treaty which included a moratorium on the settlement of permanent maritime boundaries, Timor-Leste instituted compulsory conciliation under United Nations Convention on the Law of the Sea (UNCLOS) in 2016, the first time in history in which compulsory conciliation was invoked under UNCLOS. The purpose of conciliation was not for the constituted conciliation body to render a decision, but for the parties to come to an agreement, keeping in mind the recommendations made by the body.

On March 6, 2018, the parties came to an agreement based on the recommendations of the Conciliation Commission and signed the 2018 Maritime Boundary Treaty. The agreement set a permanent maritime boundary between the two countries that followed the median line principle, giving Timor-Leste the sovereignty it had sought for decades. As to the dispute over the seabed resources in a defined area, the countries agreed to a so-called “Special Regime” where the resources are jointly-managed. Instead of extending the dispute, they agreed to share the revenue. The revenue sharing is decoupled from the physical location of the gas. If the gas is piped to Timor-Leste for processing, Timor-Leste receives 70% of the upstream revenue. If the gas is piped to Australia, Timor-Leste receives 80% of the revenue to compensate for the lack of “downstream” economic benefits like jobs and infrastructure. The deal ensured that existing projects, like the Bayu-Undan field, would continue to operate smoothly under the new legal framework without discouraging investors. Because the eastern boundary potentially overlaps with Indonesia’s claims, the agreement includes a possible adjustment mechanism.

Compulsory Conciliation between Cambodia and Thailand (ongoing)

Thailand and Cambodia have had a long-running maritime boundary dispute in the Gulf of Thailand, over an overlapping claims area (OCEA) of 26,000 square kilometers and estimated to hold substantial reserves of oil and gas. A 2001 Memorandum of Understanding had guided bilateral negotiations and resource sharing, but this was terminated in May 2026. The following month, Cambodia formally initiated compulsory conciliation under UNCLOS Part XV to provide recommendations for a negotiated settlement of the dispute. Thailand accepted the referral to conciliation. As of this writing, the conciliation proceedings are in progress.

Functional Options (Negotiated Settlement)

Nigeria-Sao Tome & Principe Joint Development Zone (2000)

As a result of deadlock in their bilateral maritime boundary delimitation beginning 1998, the two countries signed a Joint Development Treaty in their disputed exclusive economic zones (EEZ) in 2000, which entered into force in 2003. The Treaty created a Joint Development

Authority to administer the Joint Development Zone (JDZ) in 2002.

The two countries agreed to a 60/40 sharing of costs and benefits, with Nigeria getting 60% and Sao Tome & Principe (STP) receiving 40%. Nigeria agreed to provide “economic assistance” to STP in the form of refinery and crude oil allocation, working interest in a block, establishing a port/logistic facility, and equipping and training STP’s coast guard. Joint development of fisheries resources is also very promising as the two countries’ EEZs are among Africa’s most productive fishing grounds. To this end, cooperation with the Norwegian government was made to conduct a marine resource survey of the JDZ.

Thailand-Malaysia Joint Development Area (1979, 1990)

In 1972, Thailand and Malaysia entered into a territorial sea and continental shelf boundary delimitation by drawing equidistant lines. However, a dispute arose concerning the effect of a geographic feature, Ko Losin, in the demarcation. To address the dispute, the two sides agreed to enter into a provisional arrangement on their overlapping maritime claims in 1979. It created a Joint Development Authority to govern the exploration and exploitation of oil and gas resources in the seabed and subsoil of the Joint Development Area (JDA).

The Memorandum of Understanding (MOU) provides for unitization, maintaining that in the event that oil and gas deposits are found in a structure or field that extends beyond the confines of the JDA (either to the side of Malaysia or Thailand), both parties will endeavor to reach an agreement on the appropriate manner by which such resource will be exploited. It also stipulates that the Joint Authority recognizes the rights of the national authorities of both countries in relation to fishing, navigation, conduct of oceanographic and hydrographic surveys, combating marine pollution, and related concerns.

In 1990, the Agreement on the Constitution of the JDA was approved and by 1992, the Joint Development Authority Headquarters was set up in Kuala Lumpur. In 1994, the first Production Sharing Contract was signed and the first gas flowed in 2005. Both parties agree to equally share costs incurred and benefits derived from hydrocarbon resources extracted from the area. Royalty, petroleum profit (under a 50/50 sharing), and income tax is remitted to both governments. In relation to dispute settlement, the MOU encourages both parties to peacefully consult or negotiate with one another on the “basis of good neighbourliness and conformity with international law.” The Thai-Malaysian JDA was the first significant joint development undertaking in the Gulf of Thailand, which set the tone for later similar JDAs in the area, including the one between Cambodia and Vietnam (1982), Malaysia and Vietnam (1992), and a tripartite deal between Malaysia, Vietnam and Thailand (1999).

Tonkin Gulf Agreement on Fishery Cooperation (2000)

The Tonkin Gulf is a rich traditional fishing ground for many Chinese and Vietnamese fishermen. In recognition of its great economic importance to thousands of its fisherfolk, China insisted on linking its maritime boundary delimitation negotiations with Vietnam over the area to the access and management of these fisheries resources. China also proposed a wider subject area and no time limit for the cooperation. Vietnam's position, on the other hand, was for fisheries cooperation on the basis of the results of the delimitation, a limited cooperation zone, and a defined time limit, which was renewable upon negotiation.

Maritime boundary negotiations occurred in three phases: in 1974, 1977-78 and 1992-2000. The first two were unproductive because of poor bilateral ties between the two countries then, but the third phase was more fruitful following the normalization of relations in 1991. In 1993, both parties reached a general agreement on the principles to be adopted for settling their land and maritime boundary disputes. Both countries eventually signed the Boundary and Fishery Agreements simultaneously and exchanged instruments of ratification respectively in 2004. Delayed ratification of both Agreements was attributed to lingering issues arising from fisheries management.

The Fishery Agreement would be managed by a Joint Fishery Committee. Both countries agreed to cooperate in the granting of licenses and labelling authorized fishing vessels, conduct of fishery scientific research, preservation of living marine resources and joint monitoring and inspection. The Agreement aimed to address overexploitation and promote sustainable fisheries management. It established a Common Fishery Zone, a buffer zone for small fishing vessels, and a transitional zone.

The success of the Fishery Agreement can be attributed to the good will and compromise between the two parties, agreement on the identification of contested areas, and common delimitation rules. It also adopted a simpler regulatory structure and a short duration period to assess feasibility. In addition, prior to the 2000 Fishery Agreement, there were already precedents of fisheries cooperation between the two countries.

ACKNOWLEDGMENTS

Acknowledgments from the First Release (15 April 2013) and Updated Version (15 July 2013) of the Primer

This project would not have been possible without the active participation of concerned stakeholders and resource persons who provided information and insights on the various aspects of Philippine interests and policies on the West Philippine Sea. Earlier drafts of this Primer were discussed and critiqued during two workshops and circulated by email for comment. We would like to thank the following, and many others who remain unnamed here, for their assistance and cooperation. The authors take responsibility for any errors in fact and interpretation.

- Atty. Eduardo F. Hernandez – President, Petroleum Association of the Philippines
- Augusto Natividad – President, Frabelle Fishing Corp., Member, Federation of Fishing Association of the Philippines (FFAP)
- Capt. Nichols Driz – Deputy, Office of the Assistant Chief of Naval Staff for Intelligence (O/N2), Philippine Navy
- Capt. Opiniano M. Jayme Jr. – Director, Center for Naval Leadership and Excellence, Philippine Navy
- Capt. Ronnie Gil Gavan – Philippine Coast Guard
- Cdr. Teddy Quinzon – Executive Officer, Office of the Assistant Chief of Naval Staff for Plans (Ex-O/N5), Philippine Navy
- Col. Herminigildo Aquino (INF) GSC PA – Chief, Office of Strategic Studies (OSS), Armed Forces of the Philippines
- Comm. (ret.) Carlos Agustin – former Commandant, Philippine Coast Guard
- Department of Interior and Local Government Region IV-B (Anonas, Quezon City)
- Dina M. Balofinos – Municipal Planning and Development Coordinator, Kalayaan, Palawan
- Franz Ludwig N. Bernardo – Intern, OSS-AFP
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- Lt. Col. Charlemagne F. Batayolo Jr. (CAV) PA – Division Chief, Strategic and Special Studies Division, OSS-AFP
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- Nancy Rhoena R. Aguda – Geologist and Consultant, University of the Philippines Geoscience Foundation Inc.
- Nino Rey C. Estoya – Project Development Officer II, Palawan Council for Sustainable Development Staff
- Prof. Benito Lim – Chinese Studies Program, Ateneo de Manila University
- Prof. Rommel Banlaoi – Executive Director, Philippine Institute for Peace, Violence and Terrorism Research
- Sec. Raphael Perpetuo M. Lotilla
- Tomas Justine M. Falconitin – Defense Researcher/Analyst, Strategic and Special Studies Division, OSS-AFP

