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IMPLICATIONS OF THE PHILIPPINES' NEW MARITIME LAWS ON THE SOUTH CHINA SEA DISPUTE

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Abstract

On the November 7th, 2024, Philippines had passed two new maritime and sea lanes laws, namely *The Philippines Maritime Zones Act* and the *Philippine Archipelagic Sea Lanes Act* to safeguard the Philippine water and reinforce their maritime sovereignty in the South China Sea. China has heavily criticised the move and has drawn baselines in the disputed territory as a response to the laws. Malaysia has also protested the laws since they include parts of the Exclusive Economic Zones (EEZ) that Malaysia also claims. The report aims to understand the origins of the conflicts and the actions taken by the Philippines and other Southeast Asian countries to counter the Chinese claim on most parts of the South China Sea. The report also examines the possible impact of these laws on the prolonged conflict and the role that the allies of the Philippines play if the conflict escalates.

The South China Sea has an abundance of natural gas, oil reserves and other natural resources. It holds a geographical advantage in terms of maritime trade. The sea, however, has a prolonged history of disputes and conflicts over claims of islands and their resources. The conflict has affected Malaysia, Vietnam, Taiwan, Indonesia, the Philippines and China. The Philippines, which has been at the tail end of many conflicts with China, passed two new maritime laws. The laws signed by the Philippines' President Ferdinand Marcos to address the security challenges that the country has been facing in the Exclusive Economic Zone in the South China Sea.

Conflict background

China has historically claimed absolute sovereignty over the nine-dash line, which roughly encompasses 62% of the South China Sea.¹ While the concept of the nine-dash line had been floating around in China since 1947, it gained serious attention after China submitted the map consisting of the nine-dash line to the UN in 2009.² China has, since then, continued to assert that

¹Congressional Research Service. (n.d.). South China Sea disputes: Background and U.S. policy. Retrieved from <https://crsreports.congress.gov/product/pdf/IF/IF10607>

²Shanghai, H. B. /. (2016, July 19). Just where exactly did China get the South China Sea Nine-Dash line from? *TIME*. <https://time.com/4412191/nine-dash-line-9-south-china-sea/>

the ocean, islands and the reefs in the nine-dash line belong to China without clarifying the boundaries of the nine-dash line.

A key aspect in understanding the conflict is the role of UNCLOS. The United Nations Convention on the Law of the Sea (UNCLOS) is a multilateral treaty which regulates maritime jurisdiction, clarifies territorial disputes and promotes peaceful and cooperative activities in the ocean.³ Vietnam, the Philippines, Malaysia, Brunei and China are the parties to UNCLOS. It played a significant role in laying down the guidelines for all the countries involved in the dispute in the South China Sea.

The Philippines initiated a case in 2013 against China's activities in the South China Sea to the Permanent Court of Arbitration. The Court, consisting of an arbitration tribunal constituted under the UNCLOS, ruled in favour of the Philippine in July, 2016 declaring that the claims made by China on its maritime boundaries and the nine-dash line were inconsistent with the international law.⁴ Furthermore, the ruling clearly stated that China has been violating the Philippines' sovereign right by conducting land reclamation activities in Philippine territory and trespassing the Exclusive-Economic Zone lines. The ruling further stated that China caused harm to the coral reefs and the marine biodiversity under UNCLOS by creating artificial islands. The ruling also established equal fishing rights to the fishermen of both China and the Philippine around the disputed Scarborough Shoal area.⁵

While the ruling was legally binding to both countries, China has refused to abide by the ruling, calling it null and void.⁶ As a response, Chinese President Xi Jinping declared that the ruling will not affect China's territorial sovereignty.

While the dispute persisted through the years, the tensions escalated over the past year when the Chinese and Philippine vessels collided near the Sabina Shoal and Scarborough Shoal in the

³ *United Nations Convention on the Law of the Sea*. (n.d.). [United Nations Convention on the Law of the Sea](#).

⁴ Permanent Court of Arbitration. (n.d.). *The South China Sea arbitration (The Republic of the Philippines v. The People's Republic of China)*. Retrieved January 13, 2025, from <https://pca-cpa.org/cn/cases/7/>

⁵ Campbell, C., & Salidjanova, N. (2016). *South China sea arbitration ruling: What happened and what's next?* (By U.S.-China Economic and Security Review Commission). [South China Sea Arbitration Ruling: What Happened and What's Next?](#)

⁶ *Statement of the spokesperson of the Chinese Embassy in the Philippines*. (n.d.). [Statement of the Spokesperson of the Chinese Embassy in the Philippines](#).

disputed Spratly Islands.⁷ The Sabina Shoal is an important geographic landmark to the Philippines because of its proximity to the Reed Bank, which has been the fishing ground for the Filipinos for years. The area falls under the Philippines' Exclusive Economic Zone (EEZ), but China also continues to claim sovereignty over that territory. The Philippine even accused the Chinese coastguard of attacking the Philippine troops with water cannons and spears.

Conflict dynamics

The two laws passed by the Philippines deal with enhancing the security of the Philippines' maritime boundaries and protecting marine resources while addressing the possible threats to national security.⁸ The Philippine Maritime Zones Act describes the maritime zones primarily the EEZ, internal waters, archipelagic waters, contiguous zone, continental shelf and the territorial sea of the country. This law enables the Philippines to clearly demarcate its maritime boundaries and establish a concrete, legal foundation over its jurisdiction and sovereign rights over its territory.

The Philippine Archipelagic Sea Lanes Act determines the specific sea lanes for the foreign vessels to pass through Philippine waters. The law regulates the actions and activities of external forces in their territory by regulating their passage. The law institutes stricter surveillance of the Philippine territory and the EEZ through increased patrolling by the Coast Guard. The law also ensures a streamlined movement of maritime traffic and the prevention of marine pollution. There is also a provision of penalties for parties and vessels encroaching the Philippines' boundaries.

Ferdinand Marcos Jr, the President of the Philippines, also plays a key role in determining the dynamics between the Philippines and China. Unlike his predecessor Rodrigo Duterte, Marcos has maintained a strong stance against Chinese assertiveness in the South China Sea⁹. Notably, the Philippines continues to be the oldest and the only Southeast Asian country to be the ally of the USA despite the dependence of the ASEAN countries on China for trade. Marcos Jr realises that political neutrality during Duterte's era did not work in solving maritime disputes or gaining

⁷ Reporter, G. S. (2024, August 19). Chinese and Philippine ships collide near disputed Sabina Shoal in South China Sea. *The Guardian*. <https://www.theguardian.com/world/article/2024/aug/19/china-philippine-ships-crash-sabina-shoal-south-china-sea>

⁸ Senate of the Philippines. (2024, November 11). The recently signed Philippine Maritime Zones Act complements maritime initiatives. Retrieved from https://web.senate.gov.ph/press_release/2024/1111_legarda1.asp

⁹ Kurlantzick, J. (2024, January 29). Marcos Jr. moves the Philippines dramatically closer to the United States. *Council on Foreign Relations*. <https://www.cfr.org/article/marcos-jr-moves-philippines-dramatically-closer-united-states>

fishing rights or oil and gas development deals. On the other hand, the alliance has provided the Philippines with military aid and assistance while also gaining support in the South China Sea dispute.

Over the years, the USA has made substantial investments, signed several military agreements, and conducted military exercises with the Philippine government. Under the Biden administration itself, the USA initiated the \$100 billion Luzon Economic project connecting Subic Bay, Clark, Manila and Batangas.¹⁰ The US had announced a military aid of \$500 million to the Philippines.¹¹ The Presidential Trade and Investment Mission is another such example of trade agreements between the two countries and strengthening the relations beyond the military agreements.¹²

Impact of the news maritime laws: An analysis

The laws which were introduced earlier in 2024, reflected a bipartisan support in Congress showcasing Philippines unified approach on protecting the maritime sovereignty of the country. Ministers from both the House of Representatives and the Senate have unequivocally supported the bill, which has also garnered support from the public.

Through its new maritime laws, the Philippines will be able to assert control over its maritime resources and protect its fisheries and energy reserves. These measures are necessary for the economic growth of the Philippines. However, they have invited tensions from China and might trigger a large-scale confrontation.

The rite of passage over foreign vessels in Philippine territory and exertion of clear set of rights over its waters and airspace laws would successfully give the authority to the Philippines to govern its territory. These laws based on the UNCLOS, seek to legalize Philippines control over the disputed Scarborough Shoal and the Spratly Islands. The laws clearly reject the Chinese claims to

¹⁰ *United States, Philippines, and Japan launch the Luzon Economic Corridor Steering Committee to drive Infrastructure Investment - United States Department of State.* (2024, May 21). United States Department of State. <https://www.state.gov/united-states-philippines-and-japan-launch-the-luzon-economic-corridor-steering-committee-to-drive-infrastructure-investment/>

¹¹ *Marcos vs Duterte: Domestic politics meets grand strategy.* (n.d.). Lowy Institute. <https://www.lowyinstitute.org/the-interpretor/marcos-vs-duterte-domestic-politics-meets-grand-strategy>

¹² *Presidential Trade and Investment Mission: Partnering with the U.S. Private Sector to Deepen U.S.-Philippine Commercial Ties.* (2024, March 12). U.S. Department of Commerce. <https://www.commerce.gov/news/press-releases/2024/03/presidential-trade-and-investment-mission-partnering-us-private-sector>

most of the South China Sea by using the 2016 arbitration ruling as the base.¹³ They embody Manila's stance towards Beijing's expansionist policy in the South China Sea.

China's contempt towards the new maritime laws was evident after China responded by drawing baselines around the disputed Scarborough Shoal in the South China Sea. This was immediately followed by Philippine protests against violating their sovereign territory and summoning the Chinese ambassador to the Philippines. The Chinese ambassador to the Philippines called it a "necessary response" to the maritime law and reiterated China's objections to them. The Ambassador clearly mentioned that China will take necessary actions to protect the sovereignty of China in the South China Sea.¹⁴

Another country unhappy with the new maritime laws is Malaysia, which has protested against the Philippines' claims over the Sabah region and the Borneo Islands, both part of Malaysian territory. The Deputy Foreign Minister of Malaysia revealed that Kuala Lumpur has sent a protest note over the new maritime laws on November 14th, 2024.¹⁵

The new maritime laws have become a catalyst to another confrontation regarding the disputed regions of the Spratly Islands. The conflict over the region had already escalated throughout the year. The Philippines can leverage a stronger role in the South China Sea dispute with the backing of its allies and bilateral treaties. Treaties like Mutual Defence Treaty between the USA and the Philippines will determine the outcome of the scenario. The treaty states that an attack on either country is perceived as an attack on both nations. Such agreements and treaties could deter the Chinese advances in the Philippine territory.

Amidst rising tensions between Philippines and Beijing since last year, Vietnam and Philippines have advanced their military relations and collaboration on maritime security. The two countries

¹³ Strangio, S. (2024, November 11). Philippines' Marcos signs laws aimed at strengthening maritime claims. *The Diplomat*.

<https://thediplomat.com/2024/11/philippines-marcos-signs-laws-aimed-at-strengthening-maritime-claims/>

¹⁴ Reuters. (2024, November 13). China warns Philippines over new maritime laws, "unilateral actions." *Reuters*. <https://www.reuters.com/world/asia-pacific/china-warns-philippines-over-new-maritime-laws-unilateral-actions-2024-11-13/>

¹⁵ *Malaysia protests new Philippine maritime laws that it says infringe on its territory* / AP News. (2024, November 15). AP News. <https://apnews.com/article/malaysia-philippines-south-china-sea-b0cd0fda853cf2d74c7d62188d72c895>

will be signing a defence cooperation deal by the end of the year to further the collaboration.¹⁶ The two countries also emphasised on the need to resolve disputes peacefully and within the framework of law.

The Philippines has also on several occasions highlighted the need for ASEAN intervention in the South China Sea dispute and highlighted the importance the ASEAN could play in managing the conflict. After the conflict between the Philippines and China due to the collision of their vessels escalated, ASEAN Foreign Ministers released a statement on promoting stability in the maritime sphere in Southeast Asia which discussed avoiding any actions which can further complicate the situation and resorting to peaceful ways to resolve the conflict in the South China Sea.¹⁷

While ASEAN has been working on establishing a Code of Conduct, there hasn't been any substantial work towards its progress. The delay in enforcing the COC has limited ASEAN's ability to manage the conflict. Additionally, ASEAN members have not collectively agreed to take a strong stance against China since it is an important trade partner in Southeast Asia and has funded infrastructure projects under BRI in almost every Southeast Asian country.

Another aspect under these laws that Philippines could harness to ensure economic growth is the blue economy. The Philippines has a large coastline and rich marine biodiversity and resources. However, there is a lack of proper infrastructure and modern development strategies to ensure these resources are judiciously used for development.

Conclusion

The new maritime laws are a step forward in protecting Philippine sovereignty and safeguarding their maritime territory from foreign advances. With these laws, Manila has sent a message that they are taking responsibility to protect their territory and enable them to use their maritime resources and further their economic development.

¹⁶ Reuters. (2024, August 30). *Philippines, Vietnam sign defense agreement*. Retrieved January 13, 2025, from <https://www.reuters.com/world/asia-pacific/philippines-vietnam-sign-defence-agreement-2024-08-30/>

¹⁷ ASEAN Foreign Ministers. (2023). *ASEAN Foreign Ministers' statement on Maintaining and Promoting stability in the Maritime sphere in Southeast Asia*. <https://asean.org/wp-content/uploads/2023/12/Final-Draft-ASEAN-FMs-Statement-on-Maintaining-and-Promoting-Stability-in-the-Maritime-Sphere-in-SEA.pdf>

These laws also open up opportunities for the Philippines to form new alliances and military ties with countries that have also had long-standing disputes with China especially in the Indo-Pacific like India or Japan. India has historically maintained a stance of supporting Manila without direct interference. New Delhi- Manila ties have strengthened after India's Act East Policy. Strengthening these ties would prove mutually beneficial to both the countries in furthering their shared maritime interests.¹⁸ Similarly, the Philippines through the USA is also building its ties with Japan. Leaders of the countries recently met at the trilateral summit in Washington where they asserted on bolstering ties amidst growing tensions in the South China Sea.¹⁹ These ties will determine the dynamics of the South China Sea and the future of the conflict.

¹⁸ Sajith, S., & Rs, A. (2024, January 11). India's quiet support of the Philippines in the South China Sea. *The Diplomat*. <https://thediplomat.com/2024/01/indias-quiet-support-of-the-philippines-in-the-south-china-sea/>

¹⁹ Business Standard. (2025, January 13). *US, Japanese, Philippine leaders discuss China's behaviour in S. China Sea*. Retrieved January 13, 2025, from https://www.business-standard.com/world-news/us-japanese-philippine-leaders-discuss-china-s-behaviour-in-s-china-sea-125011300201_1.html