ARBITRATION UNDER ANNEX VII OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA



REPUBLIC OF THE PHILIPPINES

V.

PEOPLE'S REPUBLIC OF CHINA

MEMORIAL OF THE PHILIPPINES

VOLUME VI ANNEXES

30 MARCH 2014

ARBITRATION UNDER ANNEX VII OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

REPUBLIC OF THE PHILIPPINES

 \mathbf{v}_{\bullet}

PEOPLE'S REPUBLIC OF CHINA

MEMORIAL OF THE PHILIPPINES

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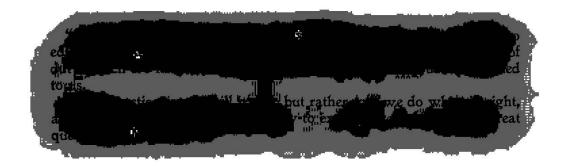
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WHAT HAS BEEN DONE IN THE THILIPPINES.

A PECONO CE DINCTICAL ACCOUNTS SHIMENTS UNDER CIVIL GOVERNMENT.





36 WHAT HAS BEEN DONE IN THE PHILIPPINES

This <u>wo</u>rk tie Survey are indispe Ge de to sat in nay tion. pub^k as T mat on uest a $\mathsf{th} \epsilon$ ney are in where nee is in ts have Anticities. of the service at a nigh degree of efficiency through the aid of the coast-guard vessels.

COAST-GUARD SERVICE.

The coast-guard service, maintained by the insular government, is used in correspond to the service in the service is a service in the service is permission on these ressels. The service is permission of the service is permission.

HEALTH AND SANITATION

There is a board of health in the Philippine Islands, consisting of a COL in ditte me, are to make in labe eating the y and inv ordi Linto of pro the ed. of ini LETE OF THE e adna псе от inc laws go ctice o de me surger y, an upon s law necicin the re. n the urgery, and TH thi od by law to be a civil engineer. aned municipal boards of health, subordinate to There are a to ma vincial boards. insular board of health acts as the health board of the city of Maë is maintained a civil hospital for furnishing ad att e treatment, and when the demands upon it permit, civilians



7837

[...]

Ministry of Foreign Relations

- - -

Notice regarding the occupation of certain islands by French naval units

The French government had naval units proceed to occupy the islands and islets described below:

1. Spratly Island, located at 8°39' north latitude and 111°55' east longitude, as well as its dependent islets.

(Possession taken on 13 April 1930)

2. Amboyna Cay Island, located at 7°53' north latitude and 112°55' east longitude, as well as its dependent islets.

(Possession taken on 7 April 1933)

3. Itu Aba Island, located at 10°22' north latitude and 114°21' east longitude, as well as its dependent islets.

(Possession taken on 10 April 1933)

4. Groupe de Deux-Iles [North Danger Reef], located at 11°29' north latitude and 114°21' east longitude, as well as its dependent islets.

(Possession taken on 10 April 1933)

5. Loaita Island, located at 10°42' north latitude and 114°25' east longitude, as well as its dependent islets.

(Possession taken on 11 April 1933)

6. Thi Tu Island, located at 11°7' north latitude and 114°16' east longitude, as well as its dependent islets.

(Possession taken on 12 April 1933)

The abovementioned islands and islets henceforward come under French sovereignty.

(This notice invalidates the previous notice that appeared in the *Official Gazette* dated 25 July 1933, page 7794).

[...]

Nominations à des emplois réservés.

MINISTÈRE DES FINANCES

Par arrêté du directeur général des contri-Par arrêté du directeur général des contri-butions directes, a été nommé commis litu-laire de se classe, M. Hérard, candidat mili-taire bénéficiaire du paragraphe 12 de l'ar-ticle 2 de la loi du 30 janvier 1923, modifié par celle du 21 juillet 1928, actuellement vé-rificateur de culture de 8º classe à la direc-tion de Périgueux, à la direction du dépar-tement de l'Aisne (4º tour, loi du 30 janvier 4923).

PARTIE NON OFFICIELLE

AVIS & COMMUNICATIONS

Ministère des affaires étrangères.

Avis relatif à l'occupation de certaines îles par des unités navales françaisès.

Le Gouvernement français a fait procéder par des unités navales à l'occupation des fles et flots définis cl-dessous:

4° L'île Sprafly, situde par 8°39' latitude Nord et 111°55' longitude Est Greenwich, ainsi que les flots qui en dépendent. (La prise de possession à eu lieu le 43 avril

(La prise de pussession de 1930.)

2º Hot Caye-d'Amboine, situé par 7º52', latitude Nord et 412º55' longitude Est Greenwich, ainsi que les flots qui en dépendent.
(La prise de possession a eu lieu le 7 avril 4033.)

4933.)
3º Ilot Itu-Aha, silué par 10º22' lalitude Nord
et 114º21' longitude Est Greenwich, ainsi que
les flois qui en dépendent.
(La prise de possession à eu lieu le 10 avril

4º Groupe de Deux-Hes, situé par 11º20' lati-tude Nord et 114º21' longitude Est Greenwich, ainsi que les flots qui en dépendent. (Ja prise de possession a eu lleu le 10 avril 4933.)

4933.)

5º Hot Losito, situé par 40°42' latitude Nord et 14'925' longitude Est Greenwich, ainsi que les ilots qui en dépendent.

(La prise de possession à eu lieu le 11 avril 4933.)

6º He Thi-Tu, située par 41°7' latitude Nord et 14'916' longitude Est Greenwich, ainsi que les flots qui en dépendent.

(La prise de possession à cu lieu le 12 avril 4933.)

Les ites et flots susindiqués relèvent désormais de la souveraineié française.

(Cat avis appule la précédent inséré au

(Cet avis annule le précédent, inséré au Journal officiel en date du 25 juillet 1933, page 7794.)

Ministère de la marine.

Avis de concours pour le recrutement d'agents techniques du service hydrographique.

Un concours pour deux emplois d'agents techniques du service hydrographique de la marine (dessinateurs) séra ouvert le 2 octobre 4933, à Paris, dans les ports militaires, dans les forces navales métropoillaines et à bord des bâtiments hydrographes.

Pour être admis à concourlr, les candidats étrangers, à la marine devront justifier:

1º Qu'ils sont Français jouissant de tous jeurs droits.

2º Qu'ils ont accompil la métale Maria de la contraction de la composition de la contraction de la contra

2º Qu'ils ont accompli la période légale de bervice militaire ou qu'ils ont suivi les cours de l'école des dessinateurs géographes du ser-vice géographique de l'armée;

3º Qu'ils pourront avoir complété, à l'âge de 60 ans, 30 années de service effectif pour la refraite.

Les demandes de ces candidats doivent être adressées sur papier timbré au ministre de la marine, 43, rue de l'Université, à Paris, avant le 10 septembre 1933. Chaque candidat devra joindre à sa de-

1º Une expédition de son acte de naissance;
2º Un relevé de ses services militaires;
3º Un extrait de son caster judiciaire n'ayant
pas plus d'un mois de date;
4º Un certificat de bonne conduite (s'il y a

pas plus d'un mois de date;

4º Un certificat de bonne conduite (s'il y a lieu);

5º Les diplômes ou brevets qui lui auront été délivrés, ou des copies dûment certifiées de ces pièces;

6º Un certificat médical, n'ayant pas plus d'un mois de date, constatant que le candidat n'est atteint d'aucune affection organique ni d'aucune infirmité le rendant impropre au service des bureaux;

7º Une note indiquant s'il désire subir une épreuve (facultative) sur les langues anglaise, allemande, espagnole, italienne ou russe.

Les candidats seront soumis, avant leur nomination, à une contre-visite passée par un médecin de la marine.

Pourront prendre part à ce concours, les officiers mariniers, quariters maitres et marins, d'ament autorisés.

Leurs demandes devront être adressées au

Leurs demandes devront être adressées au ministre de la marine (bureau des équipages de la flotte) avant le 10 septembre 1933. Elles seront accompagnées des pièces sul-vantes:

4º Un état signalótique et des services (nº 1440); 2º Un relevé des punitions (nº 1441 bis); 3º Un certificat médical analogue à cèlul qui est exigé des candidats étrangers à la

Les candidats subissent les épreuves de la 1º série dans les centres sulvants: Paris, Cherbourg, Brest, Lorient, Rochefort, Toulon et Bizerle, dans les forces navales métropolitaines, et à bord des hâtiments hydrographes. Ces candidats seront appelés, le cas échéant, à Paris, pour y subir les épreuves de la 2º série (épreuves obligatoires) et les épreuves facultatives.

Le programme et les conditions du concours sont déterminés par l'arrêté ministériel du 24 février 1923 ,publié au Journal officiel du 28 février 1923 (p. 1930); modifié par l'arrêté du 31 mars 1928, inséré au Journal officiel du 5 avril 1928 (erratum au Journal officiel du 6 avril 4931)

5 avril 1928 (erratum au Journal officiel du 6 avril 1928). Des traitements alloués aux agents tech-niques du service hydrographique varient actuellement de 41.50c fr. à 33.000 fr. par échelons de 3.800 fr. Ces agents bénéficient en outre de l'indem-nité de résidence à Paris (2.240 fr.): ainsi que des indemnités pour charges de famillo.

ACADÉMIE DE MÉDECINE

Séance du mardi 25 juillet 1933.

PRÉSIDENCE DE M. SONQUES .

M. Charles Massias présente l'observation d'une malade atteinte de flèvre puerpérale très grave avec complications multiples (néphrite, myocardite, congestion pulmonaire double) avec hémoculture positive (streptocoque hémolytique). Cotte malade a guéri très rapidement par les injections de serum Vincent.

cent.

Un second cas: phlegmon profond du cou considéré comme mortel malgré le traitement chirurgical, a été traité et guéri par la même méthode.

Après avoir pris connaissance du rapport de M. Lormand sur l'emploi du sulture de carbone pour la désintection des denrées alimentaires, l'académie de médecine, sur la demande du ministère de la santé publique, désigne M. Ponchet pour procéder dans les laboratoires de l'académie à de nouvelles expériences.

CHARLES BILLIAU.

Chemins de fer de l'Etat.

Cartes d'abonnement du dimanche.

Avec la carle d'abonnement valable les di-manches et jours de fête légale on peut cir-culer sur toutes les lignes banlieue et de Pa-ris-Saint-Lazare à Achères du réseau de l'Elat. Ces cartes sont délivrées pour trois ou six mois

Trois mois. — 1^{r6} classo, 110 fr.; 2° classe, 30 fr. Slx mols. — 1^{r0} classe, 200 fr.; 2° classe,

150 fr. Renselgnements dans les gares du réseau de l'Etal.

Chemin de fer du Nord.

Service Micheline » Beauvais, Saint-Omer-en-Chau see, Amiens.

La compagnio du Nord informe les voya-geurs que l'autopneu Michelin, mis en ser-vice les jours de semaine, actuellement, des-sert Saint-Omer-en-Chaussée, Crèvecœur-le-Grand, Fontaine-Bonneleau et Conty, tant à l'aller qu'au retour. Un arrêt est prévu à Milly à l'aller seule-ment (sens Beauvais-Amiens); au retour (sens Amiens-Béauvais), la Micheline fait ar-rêt à Prouzel.

rêt à Prouzel.

Chemin de fer de Paris à Orléans.

Amelioration des relations France-Algérie par Port-Vendres.

Trajet le plus direct de Paris à Port-Vendres, par Limoges, Toulouse, Carcassonne, Per-pignan par voltures directes de toutes clas-ses avec couchettes en 1ºº classe de Paris, à Port-Vendres-Quai.

Dópart de Paris-Qual- d'Orsay, 19 h. 20 (au lleu de 17 h. 21); arrivée à Pari-Vendres-Quai, 9 h. 45 (wagon-restaurant de Paris à Vierzon).

Wagon-lits 1 et 2 classe de Paris . . a Port-Vendres (ville).

Billets directs et enregistrement direct-des. hagages de Parls-Qual d'Orsay à Alger ou Oran, ou vice-verso.

Transbordement direct du train au paquebot (compagnie de navigation mixie).

(compagnie de navigation mixie).

Port-Vendres-Alger. — Départ de Port-Vendres les lundis et vendredis à 10 h. 30; arrivée à Alger le lendemain à 7 h. 50.

Port-Vendres-Oran. — Départ de Port-Vendres soit le jeudi, le samedi ou le dimanche,
suivant les périodes, à 10 h. 30; arrivée à
Oran le lendemain à 13 heures.

Pour tous renseignements complémentaires
s'adresser: à l'agence Paris-Orléans-Midl, 46,
boulevard des Capucines; à l'agence ParisOrléans, 426, boulevard Raspail; à la maison
de France, 101, avenue des Champs-Elysées, à
Paris; à la gare de Paris-Quai-d'Orsay; aux
principales agences de voyages.

Chemins de fer de Paris à Lyon et à la Méditerranée.

Excursions de fin de semaine."

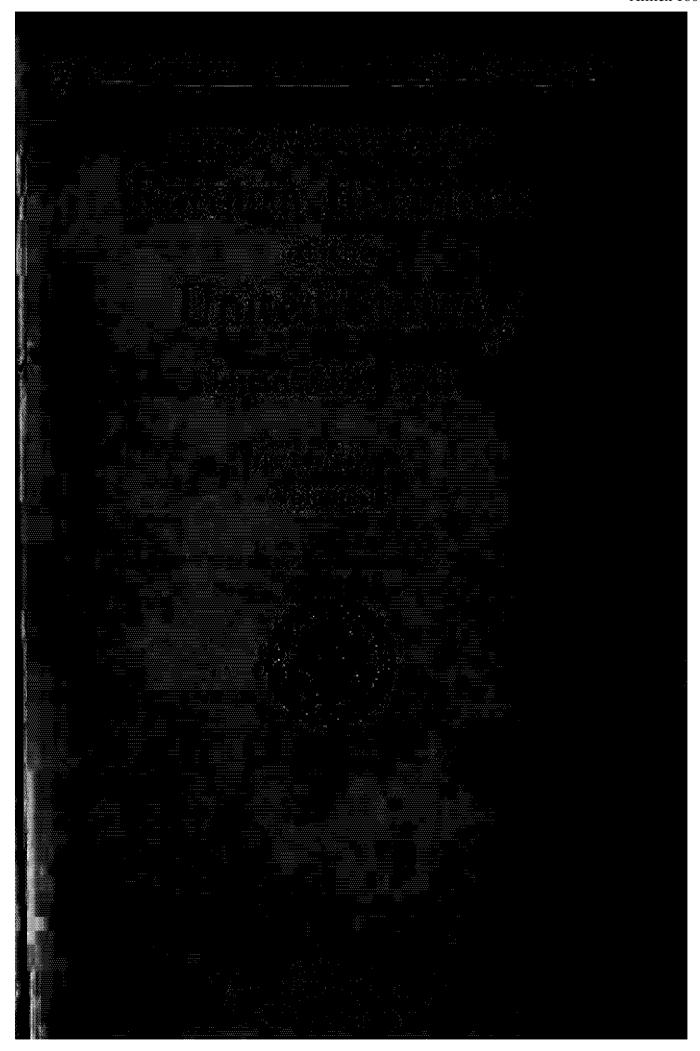
On peut se rendre avec un billet d'aller et retour de fin de semaine, qui comporte une réduction de 40 p. 100, dans la vallée de Chamonix pour faire d'agréables excursions. On n'a pas à craindre d'être dans l'obligation de reprendre le train, le mardi avant midipour effectuer son voyage de retour, car les voyageurs porteurs de coupons de retour de billets de fin de semaine sont autorisés à utiliser pour rentrer à Paris les trains qui partent de Vallorcine à 18 h. 11, de Chamonix à 19 h. 21, de Saint-Gervais à 20 h. 40 et de la Roche-sur-Foren à 21 h. 50.

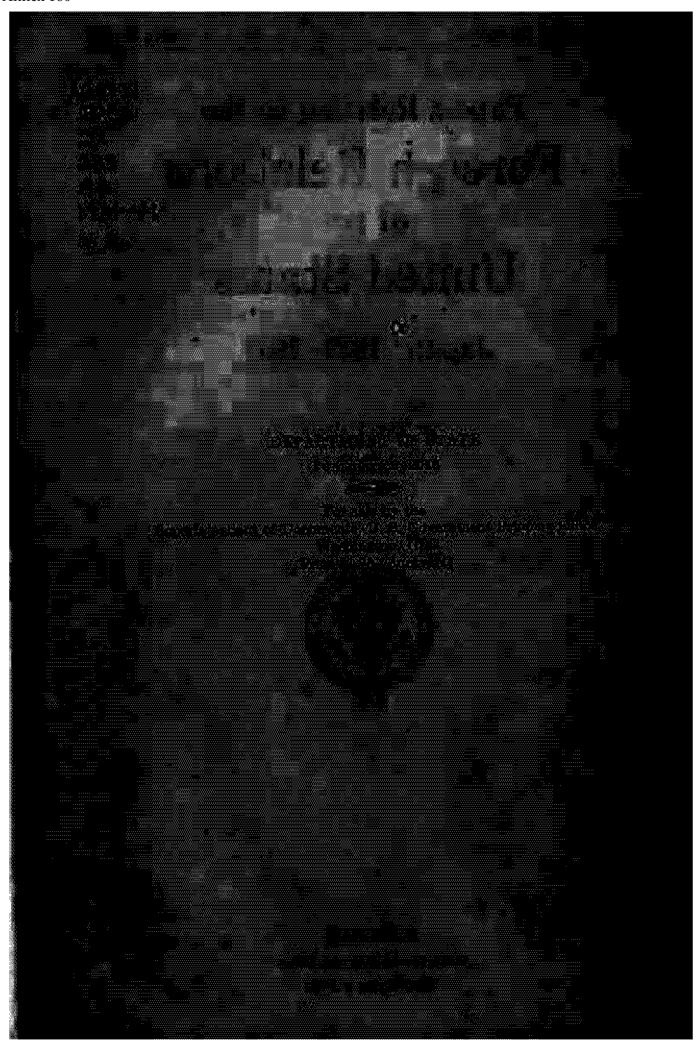
Pour renselgnements plus détaillés, s'adres-

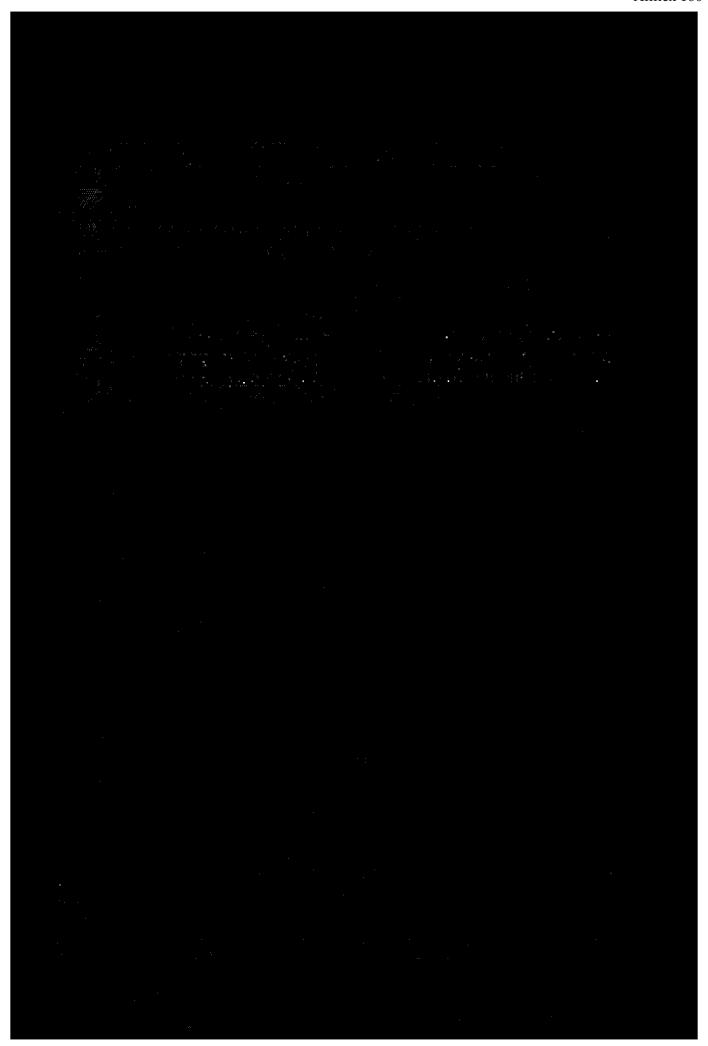
Imprimerie, 31, quai Voltaire, Paris 70.

Le Directeur des Publications officielles e G. Parcuson.

Annex 160
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NAVAL WAR COLLEGE NEWPORT, RHODE ISLAND

INTERNATIONAL LAW DOCUMENTS

1948-49 NAVPERS 15031

Volume XLVI



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E. ARGENTINE REPUBLIC: PRESIDENTAL DECREE,

[Decree 14,708/46, Boletin Oficial, 5 Deember 1846; translation from 41 American Journal of International Law, Supplement (1947), pp. 11-12.]
[Translation]

Whereas:

The submarine platform, known also as the submarine plateau or continental shelf, is closely united to the mainland both in a morphological and in a geological sense;

The waters covering the submarine platform constitute the epicontinental seas, characterized by extraordinary biological activity, owing to the influence of the sunlight, which stimulates plant life (as exemplified in algae, mosses, etc.) and the life of innumerable species of animals, both susceptible of industrial utilization;

The Executive Power, in Article 2 of Decree No. 1, 386, dated January 24, 1944, issued a categorical proclamation of sovereignty over the "Argentine Continental Shelf" and the "Argentine Epicontinental Sea," declaring them to be "transitory zones of mineral reserves";

The State, through the medium of the Yacimientos Petroliferos Fiscales [Public Petroleum Deposits Administration], is exploiting the petroleum deposits discovered along the "Argentine Continental Shelf," thereby confirming the Argentine nation's right of ownership over all deposits situated in the aforesaid continental shelf;

It is the purpose of the Executive Power to continue, more and more intensively, its scientific and technical investigations relative to all phases of the exploration and exploitation of the animal, vegetable and mineral wealth, which offer such vast potentialities, contained in the Argentine continental shelf and in the corresponding epicontinental sea.

In the international sphere conditional recognition is accorded to the right of every nation to consider as national territory the entire extent of its epicontinental sea and of the adjacent continental shelf;

Relying upon this principle, the Governments of the United States of America and of Mexico have issued declarations asserting the sovereignty of each of the two countries over the respective peripheral epicontinental seas and continental shelves (Proclamation of President Truman, dated September 28, 1945, and Declaration of President Avila Camacho, dated October 29, 1945);

The doctrine in question, aside from the fact that it is implicitly accepted in modern international law, is now deriving support from the realm of science in the form of serious and valuable contributions, according to the testimony offered by numerous national and foreign publications and even by official educational programs; and

The manifest validity of the thesis invoked above, as well as the determination of the Argentine Government to perfect and preserve all the attributes inherently bound up with the exercise of national sovereignty, make it advisable to formulate the declaration pertinent to this matter, thereby amplifying the effects of the aforesaid Decree No. 1,386.

The President of the Argentine Nation, supported by a General Accord of the Ministers.

DECREES:

Article 1. It is hereby declared that the Argentine Epicontinental Sea and Continental Shelf are subject to the sovereign power of the Nation:

Article 2. For purposes of free navigation, the character of the waters situated in the Argentine Epicontinental Sea and above the Argentine Continental Shelf, remains unaffected by the present Declaration;

Article 3. The said Declaration shall be brought to the attention of the Honorable Congress, published, transmitted to the National Registry and filed.

Perón—J. Atilio Bramuglia.—Ramón Cereijo.—B. Gache Pirán.—Humberto Sosa Molina.—F. L. Anadón.— A. G. Borlenghi.—J. Carlos Picazo Elordy.—Juan Pistarini.

F. CHILE: PRESIDENTIAL DECLARATION 25 JUNE 1947 (El Mercurio, Santiago de Chile, 29 June 1947, p. 27.)

[Translation]

Considering:

- 1. That the Governments of the United States of America, of Mexico, and of the Argentine Republic, by presidential declarations made on 28 September 1945, 29 October 1945, and 11 October 1946 respectively, have proclaimed in a categorical manner the sovereignty of those States over the continental shelf adjacent to their coasts, and over the adjacent sea to the full extent necessary to conserve for those States the ownership of the natural riches known or to be discovered in the future.
 - 2. That they have expressly proclaimed the rights of those

DECRETOS 1386/44 y 14708/46

DECRETO Nº 1.386/44

Buenos Aires, enero 24 de 1944.-Visto... y; CONSIDERANDO ...

El Presidente de la Nación Argentina

DECRETA

Art.1º:....

Art.2º.- Hasta tanto se dicte una ley especial sobre la materia, las zonas de fronteras internacionales de los Territorios Nacionales y las de sus costas oceánicas, así como el mar Epicontinental Argentino, se considerarán zonas transitorias de reservas minera; sin embargo, las solicitudes de cateo, manifestaciones de descubrimientos y demás pedimentos mineros, podrán seguir el trámite ordinario, siempre que los Departamentos de Guerra y Marina por consulta del Ministerio de Agricultura, no expresen un interés especial por la cuestión o a los efectos del Título XVII del Código de Minería.

Art. 3º....

Art.4º...

Art. 5º...

Ramírez - Gilbert

DECRETO Nº 14.708/46

Buenos Aires, 11 de octubre de 1946.-

Considerando: Que la plataforma submarina, llamada también meseta submarina o zócalo continental, guarda con el continente una estrecha unidad morfológica y geológica;

Que las aguas que cubren la plataforma submarina constituyen los mares epicontinentales, en los que el desarrollo biológico es extraordinario, por la influencia de la luz solar, estimulando la vida de vegetales (algas, musgos, etc.) y de infinidad de especies animales, susceptibles de aprovechamiento industrial;

Que el Poder Ejecutivo, por Decreto Nº 1386 de fecha 24 de Enero de 1944, en el artículo 2º formuló una manifestación categórica de soberanía sobre el "Zócalo Continental Argentino" y sobre el "Mar Epicontinental Argentinos", al declararlos "zonas transitorias de reservas minera";

Que el Estado, por intermedio de Yacimientos Petrolíferos Fiscales, mantiene la explotación de los yacimientos petrolíferos descubiertos en el "Zócalo Continental Argentino", ratificando así la propiedad de la Nación Argentina sobre todos los yacimientos del citado zócalo continental;

Que es propósito del Poder Ejecutivo proseguir, en forma cada vez más intensiva, los estudios científicos y técnicos en todo lo referente a la exploración y explotación de las riquezas de los tres reinos, que tantas posibilidades ofrecen en el zócalo continental argentino y el mar epicontinental correspondiente;

Que en el orden internacional se encuentra taxativamente admitido el derecho de cada país a considerar como territorio nacional toda la extensión del mar epicontinental y el zócalo continental adyacente;

Que en virtud de tal principio han sido emitidas las declaraciones de los Gobiernos de los Estados Unidos de América y de México, afirmando sus soberanías sobre los mares epicontinentales y zócalos continentales, periféricos respectivos (Declaración del Presidente Truman, del 28 de Septiembre de 1945, y Declaración del Presidente Ávila Camacho, del 20 de Octubre de 1945;

Que la doctrina de referencia, aparte de su aceptación implícita en el moderno derecho internacional, viene siendo sustentada en el orden científico, por medio de serias y valiosas aportaciones, según lo documentan numerosas publicaciones del país y del extranjero y los propios programas oficiales de enseñanza; y

Que la evidencia de la tesis invocada, tanto como la determinación del Gobierno Argentino de perfeccionar y resguardar todos los atributos inherentes al ejercicio de la soberanía nacional, aconsejan formular la declaración concordante, ampliando los efectos del Decreto Nº 1.386 antes mencionado.

El Presidente de la Nación Argentina en Acuerdo General de Ministros DECRETA Artículo 1º. Declárase perteneciente a la soberanía de la Nación, el Mar Epicontinental y el Zócalo Continental.

Art.2º.- A los efectos de la libre navegación, el carácter de las aguas situadas en el Mar Epicontinental y sobre el Zócalo Continental Argentino, no queda afectado por esta Declaración.

Art.3º.- Dése cuenta al Honorable Congreso, publíquese, dése al Registro Nacional y archívese.

PERON. J. Atilio Bramuglia. Ramón Cereijo. B.Gache Pirán. Humberto Sosa Molina. F.L.Anadón- A.G. Borlenghi. J. Carlos Picazo Elordi. Juan Pistarini.

Annex 162
Republic of Chile, Official Declaration by the President of Chile Concerning Continental Shelf (25 June 1947)

NAVAL WAR COLLEGE NEWPORT, RHODE ISLAND

INTERNATIONAL LAW DOCUMENTS

1948-49 NAVPERS 15031

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4.	Territorial Waters	196
	Saudi Arabia: Royal Decree, 28 May 1949	196

The doctrine in question, aside from the fact that it is implicitly accepted in modern international law, is now deriving support from the realm of science in the form of serious and valuable contributions, according to the testimony offered by numerous national and foreign publications and even by official educational programs; and

The manifest validity of the thesis invoked above, as well as the determination of the Argentine Government to perfect and preserve all the attributes inherently bound up with the exercise of national sovereignty, make it advisable to formulate the declaration pertinent to this matter, thereby amplifying the effects of the aforesaid Decree No. 1,386.

The President of the Argentine Nation, supported by a General Accord of the Ministers.

DECREES:

Article 1. It is hereby declared that the Argentine Epicontinental Sea and Continental Shelf are subject to the sovereign power of the Nation:

Article 2. For purposes of free navigation, the character of the waters situated in the Argentine Epicontinental Sea and above the Argentine Continental Shelf, remains unaffected by the present Declaration;

Article 3. The said Declaration shall be brought to the attention of the Honorable Congress, published, transmitted to the National Registry and filed.

Perón—J. Atilio Bramuglia.—Ramón Cereijo.—B. Gache Pirán.—Humberto Sosa Molina.—F. L. Anadón.— A. G. Borlenghi.—J. Carlos Picazo Elordy.—Juan Pistarini.

F. CHILE: PRESIDENTIAL DECLARATION 25 JUNE 1947 (El Mercurio, Santiago de Chile, 29 June 1947, p. 27.)

[Translation]

Considering:

- 1. That the Governments of the United States of America, of Mexico, and of the Argentine Republic, by presidential declarations made on 28 September 1945, 29 October 1945, and 11 October 1946 respectively, have proclaimed in a categorical manner the sovereignty of those States over the continental shelf adjacent to their coasts, and over the adjacent sea to the full extent necessary to conserve for those States the ownership of the natural riches known or to be discovered in the future.
 - 2. That they have expressly proclaimed the rights of those

States to protect, conserve, regulate, and supervise fishing, in order to prevent illicit activities from threatening to diminish or wipe out the considerable riches of that type which are contained in the continental seas and which are indispensable for the welfare and progress of their respective peoples, measures whose justice is indisputable.

- 3. That particularly in the case of the Republic of Chile there is a manifest advantage in issuing an analogous proclamation of sovereignity, not only because of the fact that the exploitation of resources contained in the continental shelf which are essential to the national life is already under way, as is the case with the coal mines, which are being worked and will continue to expand into the territory which is covered by water, but also, even more important, because owing to its topography and lack of mediterranean extension, the country's life is bound up with the sea and with all the present and future riches contained in the sea, to a greater degree than in the case of any other nation.
- 4. That an international consensus recognizes that each country has the right to consider as national territory the whole extent of the adjacent epicontinental sea and continental shelf.
- 5. That the State has the obligation to protect and supervise the exploitation of the resources contained in its maritime, terrestrial, and aerial territory.

The President of the Republic declares:

- 1. The Government of Chile confirms and proclaims the national sovereignity over the whole continental shelf adjacent to the continental and insular coasts of the national territory whatever its depth may be, claiming, consequently, all the natural riches which exist on, in, or under said shelf, known or to be discovered.
- 2. The Government of Chile confirms and proclaims the national sovereignity over the seas adjacent to its coasts, whatever their depth may be, to the full extent necessary to reserve, protect, conserve, and utilise the natural resources and wealth of whatever nature, found on, in, or under said seas, placing under Government supervision the fishing and marine hunting industries in order to prevent this type of resources from being exploited to the prejudice of the inhabitants of Chile and diminished or destroyed to the detriment of the country and of the American Continent.
- 3. Demarcation of the zones of protection of maritime hunting and fishing in the continental and island seas which are

under the control of the Government of Chile will be made in virtue of this declaration of sovereignity, whenever the Government considers it suitable, by ratifying, amplifying, or in any manner modifying the said demarcations in conformity with the knowledge, discoveries, studies, and interests of Chile which may be made known in the future; at present said protection and control are declared over all the sea included between the perimeter formed by the coast and a mathematical parallel projected out to sea at a distance of two hundred marine miles from the continental coasts of Chile. With respect to the Chilean islands, this demarcation will be made by marking out a sea zone contiguous to the coasts of these islands, projected parallel to these coasts for two hundred marine miles from the whole circumference.

4. The present declaration of sovereignity does not disregard similar legitimate rights of other States, on the basis of reciprocity, and does not affect rights of free navigation on the high seas.

Santiago, 25 June 1947.

Gabriel Gónzález Videla, President of the Republic.

G. PERU: PRESIDENTIAL DECREE, 1 AUGUST 1947

(El Peruano, Diario Oficial, 11 August 1947, p. 1.)

[Translation]

The President of the Republic considering:

That the submarine platform or continental shelf forms a single morphological and geological unity with the continent;

That natural wealth exists in said platform, and it is indispensable to proclaim that this wealth forms part of the national patrimony;

That it is equally necessary that the State protect, conserve, and regulate the use of fishing resources and other natural wealth which is found in the epicontinental waters which cover the submarine platform and in the continental seas adjacent to it, in order that this wealth, essential to the national life, shall be exploited now and in the future in such a way that no detriment is caused to the economy of the country or to its food production;

That the fertilising wealth deposited by guano birds on the islands of the Peruvian coast also requires for its safeguard the

Annex 163
Republic of Peru, Supreme Decree No. 781, Concerning Submerged Continental or Insular Shelf (1 Aug. 1947)

Page 1

Presidential Decree No. 781 Concerning Submerged Continental or Insular Shelf of 1 August 1947

- To declare that national sovereignty and jurisdiction can be extended to the submerged continental or insular shelf adjacent to the continental or insular shores of national territory, whatever the depth and extension of this shelf may be.
- National sovereignty and jurisdiction are to be extended over the sea adjoining the shores of national territory whatever its depth and in the extension necessary to reserve, protect, maintain and utilize natural resources and wealth of any kind which may be found in or below those waters.
- As a result of previous declarations the State reserves the right to establish the limits of the zones of control and protection of natural resources in continental or insular seas which are controlled by the Peruvian Government and to modify such limits in accordance with future changes which may originate as result of further discoveries, studies or national interests which may arise in the future and at the same time declares that it will exercise the same control and protection on the seas adjacent to the Peruvian coast over the area covered between the coast and an imaginary parallel line to it at a distance of 200 (two hundred) nautical miles measured following the line of the geographical parallels. As regards islands pertaining to the Nation, this demarcation will be traced to include the sea area adjacent to the shores of these islands to a distance of 200 (two hundred) nautical miles, measured from all points on the contour of these islands.
- The present declaration does not affect the right to free navigation of ships of all nations according to international law.



Decreto Supremo Nº 781

El Presidente de la República

CONSIDERANDO:

Que la plataforma submarina o zócalo continental forma con el continente una sola unidad morfológica y geológica;

Que en dicha plataforma continental existen riquezas naturales cuya pertenencia al patrimonio nacional es indispensable proclamar;

Que es igualmente necesario que el Estado proteja, conserve y reglamente el uso de los recursos pesqueros y otras riquezas naturales que se encuentren en las aguas epicontinentales que cubren la plataforma submarina y en los mares continentales adyacentes a ella, a fin de que tales riquezas, esenciales para la vida nacional, continúan explotándose o se exploten en lo futuro, en forma que no cause detrimento a la economía del país ni a su producción alimenticia;

Que la riqueza fertilizante que depositan las aves guaneras en las islas del litoral peruano requiere también para su salvaguardia la protección, conservación y reglamentación del uso de los recursos pesqueros que sirven de sustento a dichas aves;

Que el derecho a proclamar la soberanía del Estado y la jurisdicción nacional sobre toda la extensión de la plataforma o zócalo submarino, así como sobre las aguas epicontinentales que los cubren y sobre las del mar adyacente a ellas, en toda la extensión necesaria para la conservación y vigilancia de las riquezas allí contenidas, ha sido declarado por otros Estados y admitido prácticamente en el orden internacional (Declaración del Presidente de los Estados Unidos de América del 28 de setiembre de 1945; Decreto del Presidente de México del 29 de octubre de 1945; Decreto del Presidente de la Nación Argentina del 11 de octubre de 1946; Declaración del Presidente de Chile del 23 de junio de 1947);

Que el artículo 37° de la Constitución del Estado establece que las minas, tierras, bosques, aguas y en general, todas las fuentes naturales de riqueza pertenecen al Estado, salvo los derechos legalmente adquiridos;

Que en ejercicio de la soberanía y en resguardo de los intereses económicos nacionales, es obligación del Estado fijar de una manera inconfundible el dominio marítimo de la Nación, dentro del cual deben ser ejercitados la protección, conservación y vigilancia de las riquezas naturales antes aludidas;

Con el voto consultivo del Consejo de Ministros:

DECRETA:

1.- Declárase que la soberanía y jurisdicción nacionales se extienden a la plataforma submarina o zócalo continental o insular adyacente a las costas continentales e insulares

del territorio nacional cualesquiera que sean la profundidad y extensión que abarque dicho zócalo.

- 2.- La soberanía y jurisdicción nacionales se ejercen también sobre el mar adyacente a las costas del territorio nacional, cualesquiera que sea su profundidad y en la extensión necesaria para reservar, proteger, conservar y utilizar los recursos y riquezas naturales de toda clase que en o debajo de dicho mar se encuentren.
- 3.- Como consecuencia de las declaraciones anteriores, el Estado se reserva el derecho de establecer la demarcación de las zonas de control y protección de las riquezas nacionales en los mares continentales e insulares que quedan bajo el control del Gobierno del Perú, y de modificar dicha demarcación de acuerdo con las circunstancias sobrevinientes por razón de los nuevos descubrimientos, estudios e intereses nacionales que fueren advertidos en el futuro; y, desde luego, declara que ejercerá dicho control y protección sobre el mar adyacente a las costas del territorio peruano en una zona comprendida entre esas costas y una línea imaginaria paralela a ellas y trazada sobre el mar a una distancia de doscientas millas marinas, medida siguiendo la línea de los paralelos geográficos. Respecto de las islas nacionales esta demarcación se trazará señalándose una zona de mar contigua a las costas de dichas islas, hasta una distancia de doscientas millas marinas medidas desde cada uno de los puntos del contorno de ellas.
- 4.- La presente declaración no afecta el derecho de libre navegación de naves de todas las naciones, conforme al Derecho Internacional.

Dado en la Casa de gobierno, en Lima, el día primero de agosto de mil novecientos cuarenta y siete.

J.L. Bustamante i R. E. García Sayán

Annex 164

United States, Alaska Native Fund, 43 U.S.C. Sec. 1605 (21 Apr. 1976)

§ 1605

Page 406

to re-enroll in the appropriate Regional Corporation in Alaska pursuant to the sixth ordering paragraph of that order, stock of such Native may be canceled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Regional Corporation in Alaska without liability to either corporation or to the Native.

'(c) Whenever additional enrollment under the Settlement Act [this chapter] is permitted pursuant to this Act [enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title] or any other provision of law, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to the Settlement Act shall, at the time of enrollment, elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of such act [section 1604(b) of this title] and such election shall apply to all dependent members of such Native's household who are less than eighteen years of age on the date of such election.

'(d) No change in the final roll of Natives established by the Secretary pursuant to section 5 of the Settlement Act [section 1604 of this title] resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Natives shall affect land entitlements of any Regional or Village Corporation or any Native village or group eligibility.

§ 1605. Alaska Native Fund

(a) Establishment in Treasury; deposits into Fund of general fund, interest, and revenue sharing moneys

There is hereby established in the United States Treasury an Alaska Native Fund into which the following moneys shall be deposited:

- (1) \$462,500,000 from the general fund of the Treasury, which are authorized to be appropriated according to the following schedule:
 - (A) \$12,500,000 during the fiscal year in which this chapter becomes effective;
 - (B) \$50,000,000 during the second fiscal year:
 - (C) \$70,000,000 during each of the third, fourth, and fifth fiscal years;
 - (D) \$40,000,000 during the period beginning July 1, 1976, and ending September 30, 1976; and
 - (E) \$30,000,000 during each of the next five fiscal years, for transfer to the Alaska Native Fund in the fourth quarter of each fiscal
- (2) Four percent interest per annum, which is authorized to be appropriated, on any amount authorized to be appropriated by this paragraph that is not appropriated within six months after the fiscal year in which payable.
- (3) \$500,000,000 pursuant to the revenue sharing provisions of section 1608 of this title.

(b) Prohibition of expenditures for propaganda or political campaigns; misdemeanor; penalty

None of the funds paid or distributed pursuant to this section to any of the Regional and Village Corporations established pursuant to this chapter shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing and distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than twelve months, or both.

(c) Distribution of Fund moneys among organized Regional Corporations; basis as relative number of Native enrollees in each region; reserve for payment of attorney and other fees; retention of share in Fund until organization of corporation

After completion of the roll prepared pursuant to section 1604 of this title, all money in the Fund, except money reserved as provided in section 1619 of this title for the payment of attorney and other fees, shall be distributed at the end of each three months of the fiscal year among the Regional Corporations organized pursuant to section 1606 of this title on the basis of the relative numbers of Natives enrolled in each region. The share of a Regional Corporation that has not been organized shall be retained in the Fund until the Regional Corporation is orga-

(Pub. L. 92-203, §6, Dec. 18, 1971, 85 Stat. 690; Pub. L. 94-273, §38, Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Subsec. (a)(1)(D), Pub. L. 94-273 substituted "period beginning July 1, 1976, and ending September 30, 1976; and" for "the sixth fiscal year; and".

Subsec. (a)(1)(E). Pub. L. 94–273 inserted provision re-

lating to transfer to the Alaska Native Fund.

DEPOSITS INTO AND DISTRIBUTIONS FROM ALASKA NA-TIVE FUND; TIME REQUIREMENTS; INCLUSION OF PRE-VIOUSLY EARNED INTEREST

Pub. L. 96-487, title XIV, §1414, Dec. 2, 1980, 94 Stat. 2498, provided that:

'(a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year following the enactment of this Act [Dec. 2, 1980], shall, for the purposes of section 5 of Public Law 94-204 [set out below] only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act [subsec. (c) of this section] notwithstanding any other provision of law.
"(b) For the fiscal year in which this Act is enacted

[fiscal year 1981], the money appropriated shall be deposited within 10 days of enactment [Dec. 2, 1980], unless it has already been deposited in accordance with existing law, and shall be distributed no later than the end of the quarter following the quarter in which the money is deposited: Provided, That if the money is already deposited at the time of enactment of this Act, it must be distributed at the end of the quarter in which this Act is enacted.

"(c) Notwithstanding section 38 of the Fiscal Year Adjustment Act [section 38 of Pub. L. 94-273, which amended this section] or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94-373; 90 Stat. 1051) [not classified to the Code], and deposited in the Alaska Native Fund on or after October 1, 1976, shall be deposited in the Alaska Native Fund within thirty days after enactment of this Act [Dec. 2, 1980] and shall be distributed as required by section 6(c) of the Alaska Native Claims Settlement Act [subsec. (c) of this section.

ALASKA NATIVE FUND VIEWED AS TRUST FOR INDIAN Tribes for Purposes of Interest and Investment

Pub. L. 94-204, §5, Jan. 2, 1976, 89 Stat. 1147, provided that: "For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended [section 161a of Title 25, Indians], and the first section of the Act of June 24, 1938 (52 Stat. 1037) [section 162a of Title 25], the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act [subsec. (c) of this section] be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act [this chapter]."

§ 1606. Regional Corporations

(a) Division of Alaska into twelve geographic regions; common heritage and common interest of region; area of region commensurate with operations of Native association; boundary disputes, arbitration

For purposes of this chapter, the State of Alaska shall be divided by the Secretary within one year after December 18, 1971, into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:

- (1) Arctic Slope Native Association (Barrow, Point Hope):
- (2) Bering Straits Association (Seward Peninsula, Unalakleet, Saint Lawrence Island);
- (3) Northwest Alaska Native Association (Kotzebue);
- (4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);
- (5) Tanana Chiefs' Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);
- (6) Cook Inlet Association (Kenai, Tyonek, Eklutna, Iliamna);
- (7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);
- (8) Aleut League (Aleutian Islands, Pribilof Islands and that part of the Alaska Peninsula which is in the Aleut League);
- (9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward):
- (10) Tlingit-Haida Central Council (south-eastern Alaska, including Metlakatla);
- (11) Kodiak Area Native Association (all villages on and around Kodiak Island); and
- (12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of a region or regions shall be resolved by a board of arbitrators consisting of one person selected by each of the Native associations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Native associations involved.

(b) Region mergers; limitation

The Secretary may, on request made within one year of December 18, 1971, by representative

and responsible leaders of the Native associations listed in subsection (a) of this section, merge two or more of the twelve regions: *Provided*, That the twelve regions may not be reduced to less than seven, and there may be no fewer than seven Regional Corporations.

(c) Establishment of thirteenth region for nonresident Natives; majority vote; Regional Corporation for thirteenth region

If a majority of all eligible Natives eighteen years of age or older who are not permanent residents of Alaska elect, pursuant to section 1604(c) of this title, to be enrolled in a thirteenth region for Natives who are non-residents of Alaska, the Secretary shall establish such a region for the benefit of the Natives who elected to be enrolled therein, and they may establish a Regional Corporation pursuant to this chapter.

(d) Incorporation; business for profit; eligibility for benefits; provisions in articles for carrying out chapter

Five incorporators within each region, named by the Native association in the region, shall incorporate under the laws of Alaska a Regional Corporation to conduct business for profit, which shall be eligible for the benefits of this chapter so long as it is organized and functions in accordance with this chapter. The articles of incorporation shall include provisions necessary to carry out the terms of this chapter.

(e) Original articles and bylaws: approval by Secretary prior to filing, submission for approval; amendments to articles: approval by Secretary; withholding approval in event of creation of inequities among Native individuals or groups

The original articles of incorporation and bylaws shall be approved by the Secretary before they are filed, and they shall be submitted for approval within eighteen months after December 18, 1971. The articles of incorporation may not be amended during the Regional Corporation's first five years without the approval of the Secretary. The Secretary may withhold approval under this section if in his judgment inequities among Native individuals or groups of Native individuals would be created.

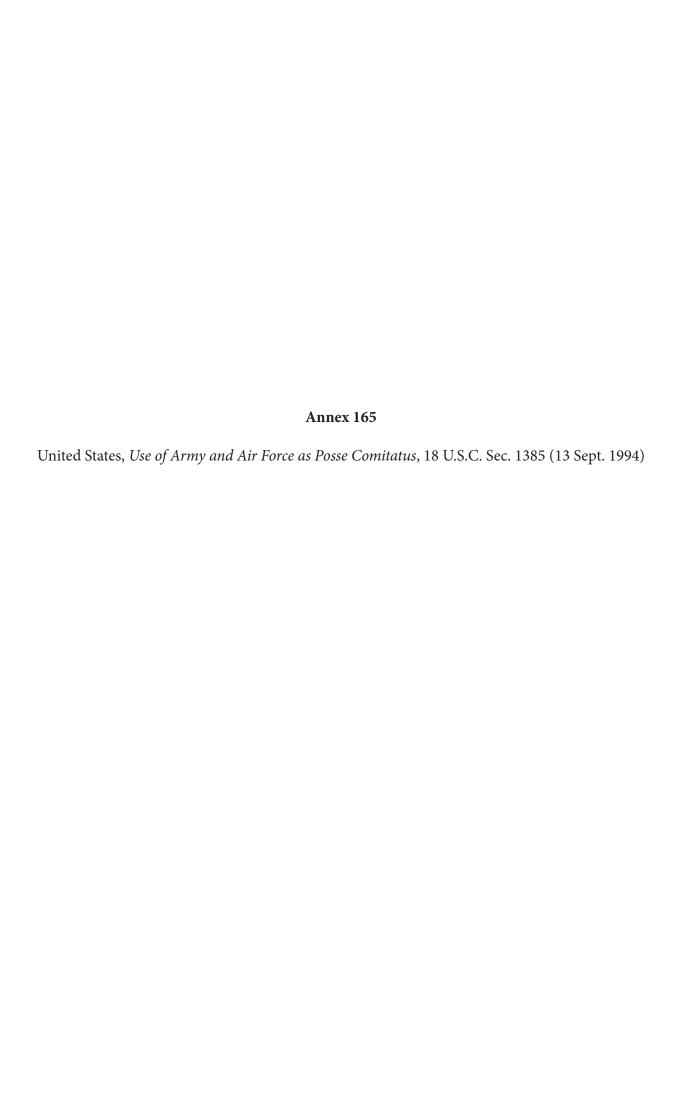
(f) Board of directors; management; stockholders; provisions in articles or bylaws for number, term, and method of election

The management of the Regional Corporation shall be vested in a board of directors, all of whom, with the exception of the initial board, shall be stockholders over the age of eighteen. The number, terms, and method of election of members of the board of directors shall be fixed in the articles of incorporation or bylaws of the Regional Corporation.

(g) Issuance of stock

(1) Settlement Common Stock

(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this chapter) as may be needed to issue one hundred shares of stock to each Native enrolled in



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§ 1385

Health and Human Services by section 3508(b) of Title 20. Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator were abolished by section 8 of Reorg. Plan No. 1 of 1953.

§ 1385. Use of Army and Air Force as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.

(Added Aug. 10, 1956, ch. 1041, §18(a), 70A Stat. 626; amended Pub. L. 86–70, §17(d), June 25, 1959, 73 Stat. 144; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTE

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1385	10:15.	June 18, 1878, ch. 263, §15, 20 Stat. 152; Mar. 3, 1899, ch. 429, §363 (pro- viso); added June 6, 1900, ch. 786, §29 (less last proviso), 31 Stat. 330.

This section is revised to conform to the style and terminology used in title 18. It is not enacted as a part of title 10, United States Code, since it is more properly allocated to title 18.

AMENDMENTS

1994—Pub. L. 103—322 substituted "fined under this title" for "fined not more than \$10,000".

1959—Pub. L. 86-70 struck out provisions which made section inapplicable in Alaska.

§ 1386. Keys and keyways used in security applications by the Department of Defense

(a)(1) Whoever steals, purloins, embezzles, or obtains by false pretense any lock or key to any lock, knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment shall be punished as provided in subsection (b).

(2) Whoever—

(A) knowingly and unlawfully makes, forges, or counterfeits any key, knowing that such key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment; or

(B) knowing that any lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies

thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, possesses any such lock or key with the intent to unlawfully or improperly use, sell, or otherwise dispose of such lock or key or cause the same to be unlawfully or improperly used, sold, or otherwise disposed of,

shall be punished as provided in subsection (b). (3) Whoever, being engaged as a contractor or otherwise in the manufacture of any lock or key knowing that such lock or key has been adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment, delivers any such finished or unfinished lock or any such key to any person not duly authorized by the Secretary of Defense or his designated representative to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer, shall be punished as provided in subsection (b).

(b) Whoever commits an offense under subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both.

(c) As used in this section, the term "key" means any key, keyblank, or keyway adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment.

(Added Pub. L. 102–190, div. A, title X, \$1090(a), Dec. 5, 1991, 105 Stat. 1485.)

§ 1387. Demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery

Whoever violates section 2413 of title 38 shall be fined under this title, imprisoned for not more than one year, or both.

(Added Pub. L. 109–228, $\S 3(a)$, May 29, 2006, 120 Stat. 388.)

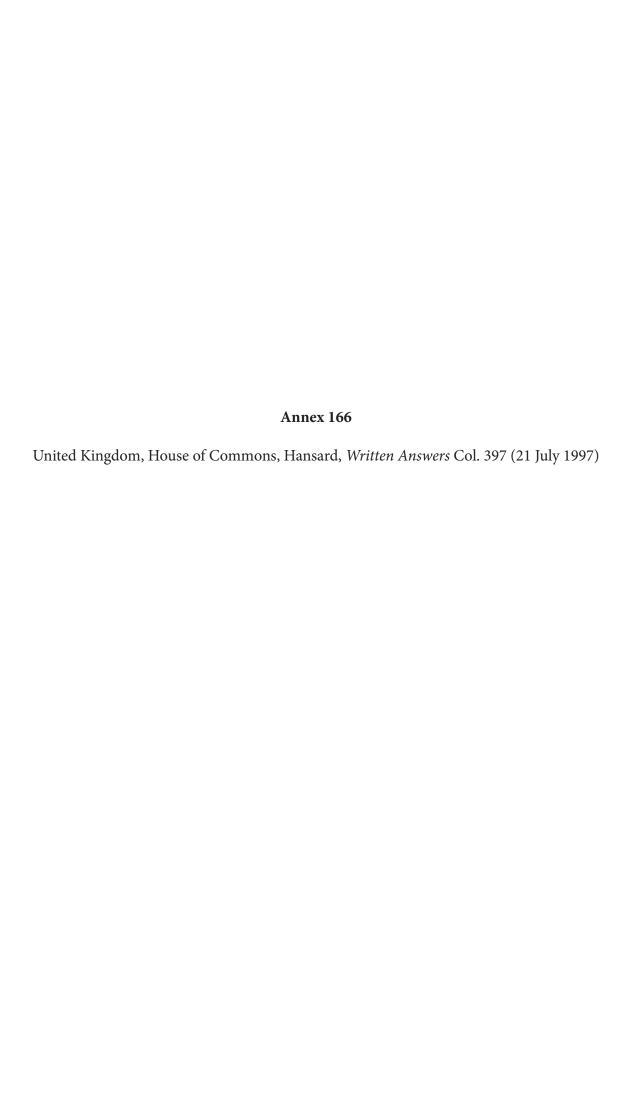
§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed

(a) Prohibition.—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery under the control of the National Cemetery Administration or part of Arlington National Cemetery, it shall be unlawful for any person to engage in an activity during the period beginning 60 minutes before and ending 60 minutes after such funeral, any part of which activity—

(1)(A) takes place within the boundaries of the location of such funeral or takes place within 150 feet of the point of the intersection between—

(i) the boundary of the location of such funeral; and

(ii) a road, pathway, or other route of ingress to or egress from the location of such funeral; and



House of Commons Hansard Written Answers for 21 Jul 1997 (pt 4)



University Entrants

Sir Teddy Taylor: To ask the Secretary of State for Education and Employment how many pupils were accepted into each university from (a) private schools and (b) state schools for each year since 1970. [8772]

Dr. Howells: The information requested is not compiled centrally. Available information at the sector level is published in the Universities and Colleges Admissions Service annual report, the latest of which shows the following:

Previous educational establishment of home applicants accepted for 1996 entry in the UK

	HND/dipHE courses	Degree courses
Maintained (incl sixth form colleges)	6,791	112,440
Independent	742	29,264
Other(6)	9,286	69,658
Not known	4,967	35,141
Total	21,786	246,503

(6) Includes further education institutions, higher education institutions and other establishments.

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Benefits (Postal Claimants)

Mr. Rooney: To ask the Secretary of State for Education and Employment how many claimants were postal claimants and what percentage this was of the whole in each standard region in each quarter since April 1995. [7764]

Mr. Alan Howarth [holding answer 10 July 1997]: Responsibility for the subject of the question has been delegated to the Employment Service under its chief executive. I have asked him to arrange for a reply to be given. Letter from Leigh Lewis to Mr. Terry Rooney, dated 21 July 1997:

The Secretary of State has asked me to reply to your question about postal claimants. This is something that falls within the responsibility delegated to me as Chief Executive of the Agency.

The figures that you have requested are only available up to the second quarter of 1996. This information is provided in table 1. Subsequently, a one off account was made on 24 February 1997 and these results are shown below in table 2.

I hope this is helpful.

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Table 1: Numbers of claimants, postal claimants and the percentage of total claimants using the postal facility

1995	2nd quarter	3rd quarter	4th quarter
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Regions	Total claimants	Postal claimants	Percentage of total signing by post	Total claimants	Postal claimants	Percentage of total signing by post	Total claimants	Postal claimants	Percentage of total signing by post
London and South- east	722,000	32,230	4.5	732,000	32,811	4.5	688,000	29,663	4.3
South- west	164,000	17,669	10.8	164,000	15,964	9.7	158,000	15,478	9.8
West Midlands	209,000	4,462	2.1	215,000	4,472	2.1	196,000	4,116	2.1
East Midlands and Eastern	214,000	21,094	9.9	215,000	17,353	8.1	200,000	12,285	6.1
Yorkshire and the Humber	206,000	12,244	5.9	211,000	12,154	5.8	198,000	11,935	6.0
North- west	253,000	5,085	2.0	257,000	4,804	1.9	238,000	4,215	1.8
Northern	147,000	4,703	3.2	149,000	4,539	3.0	143,000	4,272	3.0
Office for Wales	105,000	9,869	9.4	110,000	9,957	9.1	104,000	9,825	9.4
Office for Scotland	201,000	27,570	13.7	211,000	26,966	12.8	193,000	26,926	14.0

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1996	1st quarter			2nd quarter		
Regions	Total claimants	Postal claimants	Percentage of total signing by post	Total claimants	Postal claimants	Percentage of total signing by post
London and South-east	704,000	28,298	4.0	660,000	24,382	3.7
South-west	167,000	15,450	9.3	150,000	11,506	7.7
West Midlands	205,000	4,067	2.0	193,000	3,320	1.7
East Midlands and Eastern	217,000	9,882	4.6	200,000	8,230	4.1
Yorkshire and the Humber	211,000	12,239	5.8	194,000	10,726	5.5
North-west	253,000	4,427	1.7	238,000	3,787	1.6
Northern	148,000	4,408	3.0	138,000	4,034	2.9
Office for Wales	111,000	9,855	8.9	103,000	9,026	8.8
Office for Scotland	208,000	29,855	14.4	197,000	26,196	13.3

Source:

Postal Claimants--Resources Monitoring System Database.

Total claimants; Department of Social Security--rounded to the nearest thousand.

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Table 2

	Postal claimants in each Region 24 February 1997	Percentage of total claimants signing by post
London and South-east	6,393	1.2
South-west	2,320	1.9
West Midlands	1,045	0.7
East Midlands and Eastern	958	0.6
Yorkshire and the Humber	3,654	2.2
North-west	255	0.1
Northern	1,556	1.3
Office for Wales	2,883	3.2
Office for Scotland	11,853	6.8

Source:

Office for National Statistics and Jobseeker's allowance operational support.

Mandatory Maintenance Grants

Mr. Willis: To ask the Secretary of State for Education and Employment what proposals he has to end mandatory maintenance grants for students. [8648]

Dr. Howells: The national committee of inquiry into higher education has been considering possible future arrangements for student support and is due to report shortly. The Government will set out their detailed proposals in the light of the committee's recommendations.

FOREIGN AND COMMONWEALTH AFFAIRS

Turkey

Mr. Cox: To ask the Secretary of State for Foreign and Commonwealth Affairs what recent discussions he has had with the Government of Turkey on their policy on human rights. [9189]

Mr. Doug Henderson: My right hon. Friend the Foreign Secretary met the new Turkish Foreign Minister at the NATO Madrid summit, on 8 July. They discussed a broad range of issues, including a long exchange on human rights. He was encouraged by Mr. Cem's recognition of the need for progress on this issue.

Law of the Sea Convention

Mr. Ronnie Campbell: To ask the Secretary of State for Foreign and Commonwealth Affairs when the United Kingdom will accede to

the 1982 United Nations Convention on the law of the sea; and if he will make a statement. [10101]

Mr. Robin Cook: We have decided to accede to the convention later this month. The convention has many advantages for the United Kingdom as a maritime nation with worldwide trading and other interests. The convention includes important environmental provisions. Accession will enable the United Kingdom to play a leading role in the institutions established under the convention.

The United Kingdom's fishery limits will need to be redefined based on St. Kilda, since Rockall is not a valid base point for such limits under article 121(3) of the convention. An Order in Council will be made at the first opportunity. Thereafter we shall seek to agree a fisheries boundary with the Republic of Ireland.

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Further legislation may be needed in due course if British industry wishes to mine the deep sea bed under the terms of the convention and the agreement on the implementation of part XI of the convention. We shall also ratify the latter agreement, which fully meets the objections to the original terms of part XI.

PRIME MINISTER

Lockerbie

Mr. Dalyell: To ask the Prime Minister, pursuant to his oral answer of 16 July, *Official Report*, columns 387-88, for what reasons the letter from the Governments of the United Kingdom, France and the United States of America in reply to that from the Secretary-General of the Arab League, the Organisation of African Unity and the UN Security Council was not in the Library at 4 pm on 16 July; when he requested the letter be forwarded to the House; and when the letter was dispatched. [9797]

The Prime Minister: A copy of the letter is available in the Library. The Minister of State, Foreign and Commonwealth Office, my hon. Friend the Member for Manchester, Central (Mr. Lloyd), has written to my hon. Friend.

Horse Racing

Mr. Cohen: To ask the Prime Minister if he will transfer overall governmental responsibility for issues connected with horse racing to the Department for Culture, Media and Sport; and if he will make a statement. [9842]

The Prime Minister: I have no plans to do so.

Political Advisers

Mr. Tyrie: To ask the Prime Minister when he plans to reply to the question of 10 June from the hon. Member for Chichester on the appointment of political advisers not paid from public funds. [9601]

The Prime Minister: I will be in a position to reply to the hon. Member's previous question shortly.

DEFENCE

Civil Servants

Mr. Vaz: To ask the Secretary of State for Defence how many civil servants there are on each pay band in his Department. [8966]

Mr. Spellar: This is a matter for the chief executive of the Pay and Personnel Agency. I have asked the chief executive to write to the hon. Member. *Letter from M. A. Rowe to Mr. Keith Vaz, dated 21 July 1997:*

I am replying to your question to the Secretary of State for Defence regarding an analysis of the number of MOD civil servants by paybands. This matter falls within my area of responsibility as Chief Executive of the Pay & Personnel Agency.

The information requested is contained in the table attached to this letter which I hope you find helpful.

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Pay band analysis of MOD industrial and non-industrial civil servants as at 1 April 1997(7)

	Number of civil servants		
Annual basic pay and allowances(8)	Full Time	Part Time	Total
Pay bands			
£0 to £10,000	27,541	3,908	31,449
£10,001 to £20,000	47,263	527	47,790
£20,001 to £30,000	16,449	39	16,488
£30,001 to £40,000	2,719	4	2,723
£40,001 to £50,000	650	0	650
£50,001 to £60,000	180	0	180
£60,001 to £70,000	33	0	33
£70,001 to £80,000	13	0	13
£80,001 to £90,000	9	0	9
£90,001 to £100,000	1	0	1
£100,000 upwards	1	0	1
Totals	94,859	4,478	99,337

⁽⁷⁾ The figures exclude staff employed by the MOD trading fund organisations i.e. the Defence Evaluation and Research Agency, the Meteorological Office and the Hydrographer. (8) Pay has been banded on basic annual salaries and allowances (or their weekly equivalents) but excluding non-pensionable emoluments such as overtime earnings.

Annex 167

United States, Enforcement, 16 U.S.C. Sec. 1861(a), (12 Jan. 2007)

(d) Procedure

- (1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 1861(d) shall-
 - (A) stay the execution of such process; or
 - (B) discharge any fish seized pursuant to such process:

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court. Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 1861(d) of this title, to release on bond any seized fish or other property or the proceeds from the sale thereof.

(2) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable presumptions

- (1) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 1857 of this title were taken or retained in violation of this chapter.
- (2) For purposes of this chapter, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.
- (3) For purposes of this chapter, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.

(Pub. L. 94–265, title III, $\S 310$, Apr. 13, 1976, 90 Stat. 357; Pub. L. 97–453, §12, Jan. 12, 1983, 96 Stat. 2491; Pub. L. 99-659, title I, §109(a), Nov. 14, 1986, 100 Stat. 3714; Pub. L. 101-627, title I, §116, Nov. 28, 1990, 104 Stat. 4456; Pub. L. 104-297, title I, §114(d), Oct. 11, 1996, 110 Stat. 3599.)

References in Text

This chapter, referred to in subsecs. (c), (d)(2), and (e), was in the original "this Act", meaning Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code. see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

1996—Subsec. (e)(3). Pub. L. 104–297 added par. (3). 1990—Subsec. (e). Pub. L. 101–627 designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (c). Pub. L. 99-659, §109(a)(1), amended second sentence generally. Prior to amendment, second sentence of subsec. (c) read as follows: "The provisions of the customs laws relating to-

"(1) the disposition of forfeited property

"(2) the proceeds from the sale of forfeited property.

"(3) the remission or mitigation of forfeitures, and

"(4) the compromise of claims, shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this chap-

Subsec. (d)(1). Pub. L. 99-659, 109(a)(2), inserted provision that nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 1861(d) of this title, to release on bond any seized fish or other property or the proceeds from the sale thereof.

1983—Subsec. (a). Pub. L. 97–453 inserted "(or the fair market value thereof)" after "fish" wherever appear-

EFFECTIVE DATE

Section effective Mar. 1, 1977, see section 312 of Pub. L. 94-265, formerly set out as a note under section 1857 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1861. Enforcement

(a) Responsibility

The provisions of this chapter shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties.

(b) Powers of authorized officers

- (1) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) of this section) to enforce the provisions of this chapter may-
 - (A) with or without a warrant or other proc-
 - (i) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 1857 of this title;
 - (ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this chapter;

(iii) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this chapter;

(iv) seize any fish (wherever found) taken or retained in violation of any provision of this chapter:

(v) seize any other evidence related to any violation of any provision of this chapter; and

(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this subchapter or regulations under this subchapter, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 1881a of this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the exclusive economic zone, the Secretary of the department in which the Coast Guard is operating.

(c) Issuance of citations

If any officer authorized to enforce the provisions of this chapter (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this chapter, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b) of this section. If a permit has been issued pursuant to this chapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter. In the case of Guam or any possession

of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii, and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands. Any such court may, at any time—

- (1) enter restraining orders or prohibitions;
- (2) issue warrants, process in rem, or other process;
- (3) prescribe and accept satisfactory bonds or other security; and
- (4) take such other actions as are in the interest of justice.

(e) Payment of storage, care, and other costs

- (1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this chapter or of any other marine resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—
 - (A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this chapter or any other marine resource law enforced by the Secretary with respect to that fish or other property;
 - (B) a reward of not less than 20 percent of the penalty collected or \$20,000, whichever is the lesser amount, to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this chapter or any other marine resource law enforced by the Secretary;
 - (C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;
 - (D) any valid liens or mortgages against any property that has been forfeited;
 - (E) claims of parties in interest to property disposed of under section 1612(b) of title 19, as made applicable by section 1860(c) of this title or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and
 - (F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a) of this section, or any similar agreement authorized by law.
- (2) Any person found in an administrative or judicial proceeding to have violated this chapter or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and mainte-

nance of any fish or other property lawfully seized in connection with the violation.

(f) Enforcement of Northeast Multispecies Fishery Management Plan

(1) Enforcement agreements

Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a) of this section, with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

(2) Reimbursement

An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

(3) Coast Guard enforcement working group

(A) Establishment

The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

(B) Membership

The working group shall consist of members selected by the Commander, and shall include—

- (i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council:
- (ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and
- (iii) other individuals the Commander considers appropriate.

(C) Non-Federal status of working group members

An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

(D) Meetings

The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

(4) Use of fines and penalties

Amounts available to the Secretary under this chapter which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.

(g) Enforcement in Pacific Insular Areas

The Secretary, in consultation with the Governors of the Pacific Insular Areas and the West-

ern Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.

(h) Joint enforcement agreements

(1) In general

The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this subchapter or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

(2) Eligible State

A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(3) Requirements

Joint enforcement agreements executed under paragraph (1)—

(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

(B) may include specifications for joint management responsibilities as provided by section 1525 of title 15; and

(C) shall provide for confidentiality of data and information submitted to the State under section 1881a of this title.

(4) Allocation of funds

The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other assistance provided to the State by the Secretary under the agreement.

(i) Improved data sharing

(1) In general

Notwithstanding any other provision of this chapter, as soon as practicable but no later than 21 months after January 12, 2007, the Secretary shall implement data-sharing measures to make any data required to be provided by this chapter from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems—

(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

(B) available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 1881a(b)(1)(B) of this title.

(2) Agreement required

The Secretary shall promptly enter into an agreement with a State under section 1881a(b)(1)(B) of this title if—

(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.

(i) Definitions

For purposes of this section-

(1) The term "provisions of this chapter" includes (A) any regulation or permit issued pursuant to this chapter, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 1821(b) or (c) of this title, or section 1824(d) of this title, with respect to fishing subject to the exclusive fishery management authority of the United

(2) The term "violation of any provision of this chapter" includes (A) the commission of any act prohibited by section 1857 of this title, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

(Pub. L. 94-265, title III, §311, Apr. 13, 1976, 90 Stat. 358; Pub. L. 96-470, title II, §209(e), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97-453, §§ 13, 15(c), Jan. 12, 1983, 96 Stat. 2491, 2493; Pub. L. 99-659, title I, §§ 101(c)(2), 109(b), Nov. 14, 1986, 100 Stat. 3707, 3714; Pub. L. 101-627, title I, §117, Nov. 28, 1990, 104 Stat. 4456; Pub. L. 102-251, title III, §301(i), Mar. 9, 1992, 106 Stat. 64; Pub. L. 102-567, title IX, §901, Oct. 29, 1992, 106 Stat. 4316; Pub. L. 104-297, title I, §115, Oct. 11, 1996, 110 Stat. 3599; Pub. L. 109-479, title I, §111(a), Jan. 12, 2007, 120 Stat. 3596.)

AMENDMENT OF SUBSECTION (b)(2)

Pub. L. 102-251, title III, §§ 301(i), 308, Mar. 9, 1992, 106 Stat. 64, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b)(2) is amended by inserting "and special areas," after "exclusive economic zone"

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, known as the Magnuson-Stevens Fishery Conservation and Management Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title

note set out under section 1801 of this title and Tables. The Lacey Act Amendments of 1981, referred to in subsec. (e), is Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to chapter 53 (§3371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

AMENDMENTS

2007—Subsec. (b)(1)(A)(vi).Pub. 109-479, L.

\$111(a)(1)-(3), added cl. (vi). Subsecs. (h) to (j). Pub. L. 109-479, \$111(a)(4), (5), added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1996—Subsec. (d). Pub. L. 104–297, §115(a)(2), inserted , and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands" after "District of Hawaii"

Pub. L. 104–297, §115(a)(1), which directed substitution of "Guam or any" for "Guam, any Commonwealth, territory, or", was executed by making the substitution for "Guam, and any Commonwealth, territory, or", to reflect the probable intent of Congress

Subsec. (e)(1). Pub. L. 104–297, §115(b)(1), substituted 'marine resource law' for "fishery resource law" in introductory provisions and in subpars. (A) and (B).

Subsec. (e)(1)(B). Pub. L. 104-297, §115(b)(2), inserted "of not less than 20 percent of the penalty collected or \$20,000, whichever is the lesser amount," after "re-

Subsec. (e)(1)(E). Pub. L. 104-297, §115(b)(3), added subpar. (E) and struck out former subpar. (E) which read as follows: "claims of parties in interest to property disposed of under section 1612(b) of title 19 or under other provisions of the customs laws, as made applicable by section 1860(c) of this title to seizures made by the Secretary under this chapter, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

Subsec. (e)(2). Pub. L. 104-297, §115(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Any person assessed a civil penalty for, or convicted of, any violation of this chapter shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation."

Subsec. (g). Pub. L. 104–297, §115(d), added subsec. (g). Former subsec. (g) redesignated (h)

Subsec. (h). Pub. L. 104-297, §115(d), redesignated subsec. (g) as (h).

Subsec. (h)(1). Pub. L. 104–297, $\S115(e)$, which directed amendment of subsec. (i)(1) by substituting "1821(b) or (c) of this title, or section 1824(d) of this title," "1821(b), (c) of this title,", was executed by making the substitution for "1821(b) or (c) of this title" in subsec. (h)(1) to reflect the probable intent of Congress because this section does not contain a subsec. (i)

1992—Subsecs. (f), (g). Pub. L. 102-567 added subsec. (f) and redesignated former subsec. (f) as (g).

1990—Subsec. (e). Pub. L. 101-627 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Notwithstanding any other provision of law, after September 30, 1986, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, or forfeitures of property for violations of any provision of this chapter-

(1) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this chapter with respect to that fish or other property; and

'(2) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this chapter.

Any person assessed a civil penalty for, or convicted of, any violation of any provision of this chapter shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation concerned.

1986—Subsec. (b)(2). Pub. L. 99-659, §101(c)(2), substituted "exclusive economic zone" for "fishery conservation zone"

Subsecs. (e), (f). Pub. L. 99-659, §109(b), added subsec. (e) and redesignated former subsec. (e) as (f).

1983—Subsec. (a). Pub. L. 97-453, §15(c), struck out provision that the Secretaries were to report annually on June 30, to each committee of the Congress listed in section 1823(b) of this title and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this chapter during the preceding calendar year.
Subsec. (b)(1). Pub. L. 97–453, §13(1), designated exist-

ing provisions as par. (1).

Subsec. (b)(1)(A). Pub. L. 97-453, §13(2), (3), redesignated former par. (1) as subpar. (A) and, in subpar. (A) as redesignated, redesignated former subpars. (A) to $(E)\,$ as cls. (i) to (v), respectively.

Subsec. (b)(1)(B), (C). Pub. L. 97-453, §13(2), redesignated former pars. (2) and (3) as subpars. (B) and (C), respectively.

Subsec. (b)(2). Pub. L. 97-453, §13(4), added par. (2).

1980—Subsec. (a). Pub. L. 96–470 substituted "annually on June 30" for "semiannually" and inserted "during the preceding calendar year" after "with the provisions of this chapter".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States. with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102–251, set out as a note under section 773 of this title.

EFFECTIVE DATE

Section effective Mar. 1, 1977, see section 312 of Pub. L. 94-265, formerly set out as a note under section 1857 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FISHERIES ENFORCEMENT ASSET FORFEITURE FUND AND SANCTUARIES ENFORCEMENT ASSET FORFEITURE FUND

Pub. L. 112-55, div. B, title I, §§110, 111, Nov. 18, 2011, 125 Stat. 602, provided that:

"Sec. 110. There is established in the Treasury a noninterest bearing fund to be known as the 'Fisheries Enforcement Asset Forfeiture Fund', which shall consist of all sums received as fines, penalties, and forfeitures of property for violations of any provisions of 16 U.S.C. chapter 38 or of any other marine resource law enforced by the Secretary of Commerce, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) and with the exception of collections pursuant to 16 U.S.C. 1437, which are currently deposited in the Operations, Research, and Facilities account: Provided, That all unobligated balances that have been collected pursuant to 16 U.S.C. 1861 or any other marine resource law enforced by the Secretary of Commerce with the exception of 16 U.S.C. 1437 shall be transferred from the Operations, Research, and Facilities account into the Fisheries Enforcement Asset Forfeiture Fund and shall remain available until expended.

"SEC. 111. There is established in the Treasury a noninterest bearing fund to be known as the 'Sanctuaries Enforcement Asset Forfeiture Fund', which shall consist of all sums received as fines, penalties, and forfeitures of property for violations of any provisions of 16 U.S.C. chapter 38, which are currently deposited in the Operations, Research, and Facilities account: Provided. That all unobligated balances that have been collected pursuant to 16 U.S.C. 1437 shall be transferred from the Operations, Research, and Facilities account into the Sanctuaries Enforcement Asset Forfeiture Fund and shall remain available until expended.

ACTION AGAINST VESSELS AND VESSEL OWNERS EN-GAGED IN ILLEGAL, UNREPORTED, OR UNREGULATED FISHING

Pub. L. 110-161, div. B, title I, §113, Dec. 26, 2007, 121 Stat. 1896, provided that:

"(a) The Secretary of Commerce may-

 $\lq\lq(1)$ develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization, whether or not the United States is a party to the agreement establishing such organization; and

(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements.

(b) Action taken by the Secretary under subsection (a)(2) that include measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

"(c) The Secretary may promulgate regulations to

implement this section.'

INTEGRATION OF VESSEL MONITORING SYSTEM DATA

Pub. L. 109-241, title VIII, §803, July 11, 2006, 120 Stat. 563, provided that: "The Secretary of the department in which the Coast Guard is operating shall integrate vessel monitoring system data into its maritime operations databases for the purpose of improving monitoring and enforcement of Federal fisheries laws and work with the Under Secretary of Commerce for Oceans and Atmosphere to ensure effective use of such data for monitoring and enforcement."

AGREEMENT TO MAKE MORE EFFECTIVE ENFORCEMENT OF DOMESTIC LAWS AND INTERNATIONAL AGREEMEN

Pub. L. 102-582, title II, §202, Nov. 2, 1992, 106 Stat. 4905, provided that not later than six months after Nov. 2, 1992, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense were to enter into an agreement under subsec. (a) of this section to make more effective the enforcement of domestic laws and international agreements that conserve and manage living marine resources of the United States.

§ 1861a. Transition to sustainable fisheries

(a) Fisheries disaster relief

- (1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result
 - (A) natural causes:
 - (B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those





Remarks by Foreign Ministry Spokesman Luong Thanh Nghi on January 14, 2013

In response to questions from the media regarding Viet Nam's reaction to China's recent activities conducted in the East Sea, particularly the release and enforcement of the Regulations on Border Security in Hainan's Coastal Regions, the conduct of military drills in Quang Hoa (Duncan) Island of Hoang Sa (Paracel) archipelago, the opening of 3G and CDMA services on Chu Thap (Fiery Cross) Reef of Truong Sa (Spratly) archipelago, the approval of the 2012-2022 development plan of Sanya City cruise ship tours, including itineraries to islands in Hoang Sa archipelago, Foreign Spokesman Luong Thanh Nghi on January 14 stated that:

Those activities seriously infringe upon the sovereignty, sovereign rights and national jurisdiction of Viet Nam in the East Sea and over Hoang Sa and Truong Sa archipelagos and further complicate the situation in the East Sea. They also run counter to the spirit of the Declaration on Conduct of the Parties in the South China Sea (DOC) and are not conducive to peace and stability in the region as well as to the Viet Nam - China relations.

Viet Nam resolutely opposes and demands China immediately cancel those wrongful activities.

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Department of Defense INSTRUCTION

NUMBER 3025.21 February 27, 2013

USD(P)

SUBJECT: Defense Support of Civilian Law Enforcement Agencies

References: See Enclosure 1

- 1. <u>PURPOSE</u>. In accordance with the authority in DoD Directive (DoDD) 5111.1 and Deputy Secretary of Defense Memorandum (References (a) and (b)), this Instruction:
- a. Establishes DoD policy, assigns responsibilities, and provides procedures for DoD support to Federal, State, tribal, and local civilian law enforcement agencies, including responses to civil disturbances within the United States, including the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States or any other political subdivision thereof in accordance with DoDD 3025.18 (Reference (c)).
- b. Prescribes the regulations required by section 375 of title 10, United States Code (U.S.C.) (Reference (d)).
- c. Incorporates and cancels DoDDs 3025.12, 5525.5, and 5030.46 (References (e), (f), and (g)).

2. <u>APPLICABILITY</u>. This Instruction:

- a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff (CJCS) and the Joint Staff, the Combatant Commands, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the "DoD Components").
- b. Applies to the Office of the Inspector General of the Department of Defense (IG, DoD) only to the extent that this Instruction does not conflict with any of the duties and responsibilities assigned to the IG, DoD pursuant to section 8(g) of Appendix, title 5, United States Code (U.S.C.) (also known as "The Inspector General Act of 1978, as amended" (Reference (h))).

- c. Governs all DoD Component planning for and participation in Defense support of civilian law enforcement activities, including domestic emergencies and civil disturbance operations (CDO) (formerly referred to as "military assistance for civil disturbances").
 - d. Applies to National Guard (NG) personnel in Reference (d) status only.
- e. Applies to civilian employees of the DoD Components and the activities of DoD contractors performed in support of the DoD Components.
 - f. Does not apply to:
 - (1) Counternarcotics activities.
 - (2) Assistance to foreign law enforcement officials.
- (3) The Defense Intelligence and Counterintelligence Components, except when providing assistance to civilian law enforcement activities in accordance with paragraph 2.6. of Executive Order 12333 (Reference (i)) and Procedure 12 of DoD 5240.1-R (Reference (j)).
- (4) Requests for sensitive support, which are governed by DoDD S-5210.36 (Reference (k)).
 - (5) NG personnel in State active duty or title 32, U.S.C. (Reference (1)), status.
- (6) Maritime Homeland Security Operations, defined as time-critical requests by the United States Coast Guard for short duration (less than 48 hours) DoD support in countering an immediate maritime security threat, that are governed by the DoD-Department of Homeland Security Memorandum of Agreement for Department of Defense Support to the United States Coast Guard for Maritime Homeland Security (Reference (m)).
 - (7) Aircraft piracy operations conducted pursuant to Reference (d).
- 3. <u>DEFINITIONS</u>. See Glossary.
- 4. <u>POLICY</u>. It is DoD policy that:
- a. DoD shall be prepared to support civilian law enforcement agencies consistent with the needs of military preparedness of the United States, while recognizing and conforming to the legal limitations on direct DoD involvement in civilian law enforcement activities.
- b. Support of civilian law enforcement agencies by DoD personnel shall be provided in accordance with sections 112, 351, 831, 1116, 1751, and 1385 (also known and hereinafter referred to as "The Posse Comitatus Act, as amended") of title 18, U.S.C. (Reference (n)); chapter 18 of Reference (d); section 1970 of title 2, U.S.C. (Reference (o)) (for support to the

- U.S. Capitol Police); and other Federal laws, including those protecting the civil rights and civil liberties of individuals, as applicable.
- c. The restrictions in paragraph 1.c. of Enclosure 3 of this Instruction shall apply to all actions of DoD personnel worldwide.
- d. Exceptions, based on compelling and extraordinary circumstances, may be granted to the restrictions in paragraph 1.c. of Enclosure 3 of this Instruction for assistance to be provided outside the United States; only the Secretary of Defense or Deputy Secretary of Defense may grant such exceptions.
- e. Requests for law enforcement support shall be evaluated using the criteria in Reference (c).
- 5. <u>RESPONSIBILITIES</u>. See Enclosure 2.
- 6. <u>PROCEDURES</u>. See Enclosures 3 through 9. See Enclosure 4 for specific guidance for CDO.
- 7. <u>RELEASABILITY</u>. UNLIMITED. This Instruction is approved for public release and is available on the Internet from the DoD Issuances Website at http://www.dtic.mil/whs/directives.
- 8. <u>EFFECTIVE DATE</u>. This Instruction:
 - a. Is effective February 27, 2013.
- b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoD Instruction 5025.01 (Reference (p)). If not it will expire effective February 27, 2023 and be removed from the DoD Issuances Website.

James N. Miller

Under Secretary of Defense for Policy

ENCLOSURE 3

PARTICIPATION OF DoD PERSONNEL IN CIVILIAN LAW ENFORCEMENT ACTIVITIES

1. GUIDING STATUTORY REQUIREMENTS AND SUPPORTING POLICIES

a. Statutory Restrictions

- (1) The primary restriction on DoD participation in civilian law enforcement activities is the Posse Comitatus Act. It provides that whoever willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute U.S. laws, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, shall be fined under Reference (n), or imprisoned not more than 2 years, or both.
- (2) Section 375 of Reference (d) provides that the Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under chapter 18 of Reference (d) does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.
- b. <u>Permissible Direct Assistance</u>. Categories of active participation in direct law-enforcement-type activities (e.g., search, seizure, and arrest) that are not restricted by law or DoD policy are:
- (1) Actions taken for the primary purpose of furthering a DoD or foreign affairs function of the United States, regardless of incidental benefits to civil authorities. This does not include actions taken for the primary purpose of aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of the Posse Comitatus Act. Actions under this provision may include (depending on the nature of the DoD interest and the authority governing the specific action in question):
- (a) Investigations and other actions related to enforcement of chapter 47 of Reference (d) (also known as "the Uniform Code of Military Justice").
- (b) Investigations and other actions that are likely to result in administrative proceedings by the DoD, regardless of whether there is a related civil or criminal proceeding. (See DoDI 5525.07 (Reference (u)) and Memorandum of Agreement Between the AG and the Secretary of Defense (Reference (v)) with respect to matters in which the DoD and the Department of Justice both have an interest.)
- (c) Investigations and other actions related to a commander's inherent authority to maintain law and order on a DoD installation or facility.

- (d) Protection of classified defense information or equipment or controlled unclassified information (e.g., trade secrets and other proprietary information), the unauthorized disclosure of which is prohibited by law.
 - (e) Protection of DoD personnel, equipment, and official guests.
- (f) Such other actions that are undertaken primarily for a military or foreign affairs purpose.
- (2) Audits and investigations conducted by, under the direction of, or at the request of the IG, DoD, pursuant to the Inspector General Act of 1978, as amended.
- (3) When permitted under emergency authority in accordance with Reference (c), Federal military commanders have the authority, in extraordinary emergency circumstances where prior authorization by the President is impossible and duly constituted local authorities are unable to control the situation, to engage temporarily in activities that are necessary to quell large-scale, unexpected civil disturbances because:
- (a) Such activities are necessary to prevent significant loss of life or wanton destruction of property and are necessary to restore governmental function and public order; or,
- (b) When duly constituted Federal, State, or local authorities are unable or decline to provide adequate protection for Federal property or Federal governmental functions. Federal action, including the use of Federal military forces, is authorized when necessary to protect Federal property or functions.
- (4) DoD actions taken pursuant to sections 331-334 of Reference (d) relating to the use of Federal military forces in specified circumstances with respect to insurrection, domestic violence, or conspiracy that hinders the execution of State or Federal law.
- (5) Actions taken under express statutory authority to assist officials in executing the laws, subject to applicable limitations. The laws that permit direct DoD participation in civilian law enforcement include:
- (a) Protection of national parks and certain other Federal lands consistent with sections 23, 78, and 593 of title 16, U.S.C. (Reference (w)).
- (b) Enforcement of the Fishery Conservation and Management Act of 1976, as amended, pursuant to section 1861(a) of Reference (w).
- (c) Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons pursuant to sections 112 and 1116 of Reference (n).

- (d) Assistance in the case of crimes against Members of Congress, Members-of-Congress-elect, Justices of the Supreme Court and nominees, and certain senior Executive Branch officials and nominees in accordance with section 351 of Reference (n).
- (e) Assistance in the case of crimes involving nuclear materials in accordance with section 831 of Reference (n).
- (f) Protection of the President, Vice President, and other designated dignitaries in accordance with section 1751 of Reference (n) and Public Law 94-524 (Reference (x)).
- (g) Actions taken in support of the neutrality laws in accordance with sections 408 and 461-462 of title 22, U.S.C. (Reference (y)).
- (h) Removal of persons unlawfully present on Indian lands in accordance with section 180 of title 25, U.S.C. (Reference (z)).
- (i) Execution of quarantine and certain health laws in accordance with section 97 of title 42, U.S.C. (Reference (aa)) and DoDI 6200.03 (Reference (ab)).
- (j) Removal of unlawful enclosures from public lands in accordance with section 1065 of title 43, U.S.C. (Reference (ac)).
- (k) Protection of the rights of a discoverer of an island covered by section 1418 of title 48, U.S.C. (Reference (ad)).
- (1) Support of territorial governors if a civil disorder occurs, in accordance with sections 1422 and 1591 of Reference (ad).
- (m) Actions in support of certain customs laws in accordance with section 220 of title 50, U.S.C. (Reference (ae)).
- (6) Actions taken to provide search and rescue support domestically under the authorities provided in the National Search and Rescue Plan (Reference (af)) and DoDI 3003.01 (Reference (ag)).

c. Restrictions on Direct Assistance

- (1) Except as authorized in this Instruction (e.g., in Enclosures 3 and 4), DoD personnel are prohibited from providing the following forms of direct civilian law enforcement assistance:
 - (a) Interdiction of a vehicle, vessel, aircraft, or other similar activity.
 - (b) A search or seizure.
- (c) An arrest; apprehension; stop and frisk; engaging in interviews, interrogations, canvassing, or questioning of potential witnesses or suspects; or similar activity.

- (d) Using force or physical violence, brandishing a weapon, discharging or using a weapon, or threatening to discharge or use a weapon except in self-defense, in defense of other DoD persons in the vicinity, or in defense of non-DoD persons, including civilian law enforcement personnel, in the vicinity when directly related to an assigned activity or mission.
- (e) Evidence collection; security functions; crowd and traffic control; and operating, manning, or staffing checkpoints.
- (f) Surveillance or pursuit of individuals, vehicles, items, transactions, or physical locations, or acting as undercover agents, informants, investigators, or interrogators.
- (g) Forensic investigations or other testing of evidence obtained from a suspect for use in a civilian law enforcement investigation in the United States unless there is a DoD nexus (e.g., the victim is a member of the Military Services or the crime occurred on an installation under exclusive DoD jurisdiction) or the responsible civilian law enforcement official requesting such testing declares in writing that the evidence to be examined was obtained by consent. Requests for exceptions to this restriction must be made through channels to the ASD(HD&ASA), who will evaluate, in coordination with the General Counsel of the Department of Defense, whether to seek Secretary of Defense authorization for an exception to policy.
- (2) The use of deputized State or local law enforcement powers by DoD uniformed law enforcement personnel shall be in accordance with DoDI 5525.13 (Reference (ah)).
- (3) Except as otherwise directed by the Secretary of Defense, the rules for the use of force and authority for the carrying of firearms by DoD personnel providing authorized support under this Instruction shall be in accordance with DoDD 5210.56 (Reference (ai)) and any additional Secretary of Defense-approved rules for the use of force contained in CJCS Instruction 3121.01B (Reference (aj)).
- (4) Exceptions to these restrictions for assistance may be granted when the assistance is to be provided outside the United States. Only the Secretary of Defense or Deputy Secretary of Defense may grant such exceptions, based on compelling and extraordinary circumstances.
- d. <u>Use of DoD Personnel to Operate or Maintain Equipment</u>. The use of DoD personnel to operate or maintain, or to assist in operating or maintaining, equipment shall be limited to situations when the use of non-DoD personnel for operation or maintenance of such equipment would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise military preparedness of the United States. In general, the head of the civilian law enforcement agency may request a DoD Component to provide personnel to operate or maintain, or to assist in operating or maintaining, equipment for the civilian agency. This assistance shall be subject to this guidance:
- (1) Such assistance may not involve DoD personnel directly participating in a law enforcement operation (as described in paragraph 1.c. of this enclosure.)

- (2) The performance of such assistance by DoD personnel shall be at a location where there is not a reasonable likelihood of a confrontation between law enforcement personnel and civilians.
- (3) The use of DoD aircraft to provide transportation for civilian law enforcement agencies may be provided only in accordance with DoD 4515.13-R (Reference (ak)).
- (4) A request for DoD personnel to operate or maintain, or to assist in operating or maintaining, equipment must be made pursuant to section 374 of Reference (d) or other applicable law that permits DoD personnel to provide such assistance to civilian law enforcement officials. A request that is made pursuant to section 374 of Reference (d) must be made by the head of a civilian agency empowered to enforce any of these laws:
 - (a) Sections 801-904 and 951-971 of title 21, U.S.C. (Reference (al)).
 - (b) Sections 1324-1328 of title 8, U.S.C. (Reference (am)).
- (c) A law relating to the arrival or departure of merchandise, as defined in section 1401 of title 19, U.S.C. (Reference (an)), into or out of the customs territory of the United States, as defined in Reference (an), or any other territory or possession of the United States.
 - (d) Chapter 705 of title 46, U.S.C. (Reference (ao)).
 - (e) Any law, foreign or domestic, prohibiting terrorist activities.
 - (5) In addition to the assistance authorized by subparagraph 1.b.(1) of this enclosure:
- (a) DoD personnel may be made available to a Federal law enforcement agency to operate or assist in operating equipment, to the extent the equipment is used in a supporting role, with respect to:
- $\underline{1}$. A criminal violation of the laws specified in subparagraph 1.d.(4) of this enclosure.
- <u>2</u>. Assistance that the Federal law enforcement agency is authorized to furnish to a State, local, or foreign government that is involved in the enforcement of laws similar to those in subparagraph 1.d.(4) of this enclosure.
- <u>3</u>. A foreign or domestic counter-terrorism operation, including support of FBI Joint Terrorism Task Forces.
- $\underline{4}$. Transportation of a suspected terrorist from a foreign country to the United States to stand trial.
- (b) DoD personnel made available to a civilian law enforcement agency pursuant to section 374 of Reference (d) may operate equipment for:

- 1. Detection, monitoring, and communication of the movement of air and sea traffic
- <u>2</u>. Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and, if the initial detection occurred outside of the boundary, within the United States, not to exceed 25 miles of the boundary.
 - <u>3</u>. Aerial reconnaissance (does not include satellite reconnaissance).
- $\underline{4}$. Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.
- <u>5</u>. Operation of equipment to facilitate communications in connection with the law enforcement programs specified in subparagraph 1.d.(4) of this enclosure.
- <u>6</u>. The following activities that are subject to joint approval by the Secretary of Defense and the AG (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States):
- <u>a</u>. The transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel.
- \underline{b} . The operation of a base of operations for civilian law enforcement and supporting personnel.
- \underline{c} . The transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).
- 7. The detection, monitoring, and tracking of the movement of weapons of mass destruction under the circumstances described above, when outside the United States.
- (6) DoD personnel made available to operate equipment for the purposes in subparagraphs 1.d.(5)(b)1 and 4 of this enclosure may continue to operate such equipment in cases involving the pursuit of vessels or aircraft into the land area of the United States where the detection began outside such land area.
- (7) With the approval of the Secretary of Defense, DoD personnel may be made available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in section 2 of this enclosure, only to the extent that such support does not involve direct assistance by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law and is authorized by the Secretary of Defense.

- (8) Nothing in this Instruction restricts the authority of Federal military commanders to take emergency action to prevent loss of life or wanton destruction of property as provided in subparagraph 1.b.(3) of this enclosure.
- (9) When DoD personnel are otherwise assigned to provide assistance with respect to the laws specified in subparagraph 1.b.(5) of this enclosure, the participation of such personnel shall be consistent with the limitations in such laws, if any, and such restrictions as may be established by policy or the DoD Components concerned.
- e. <u>Expert Advice</u>. DoD Components may provide, subject to section 5 of this enclosure, expert advice to Federal, State, or local law enforcement officials in accordance with section 373 of Reference (d). This does not permit direct assistance by DoD personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this enclosure.

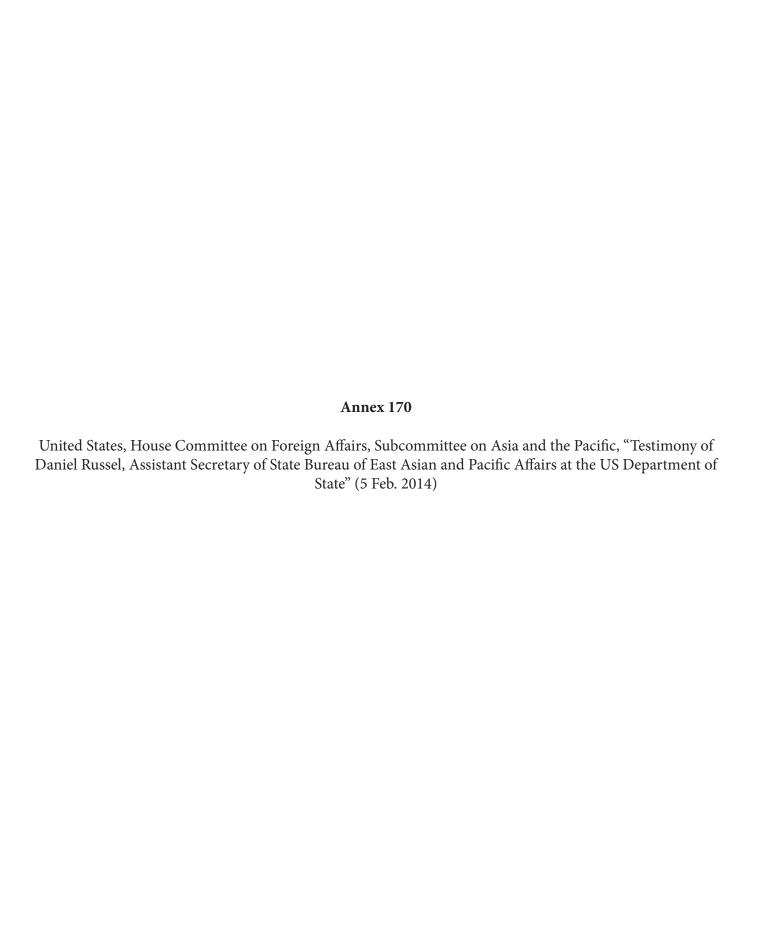
f. Training

- (1) The DoD Components may provide, subject to section 5 of this enclosure, training to Federal, State, and local civilian law enforcement officials. This does not permit large-scale or elaborate DoD training, and does not permit regular or direct involvement of DoD personnel in activities that are fundamentally civilian law enforcement operations, except as otherwise authorized in this enclosure.
- (2) Training of Federal, State, and local civilian law enforcement officials shall be provided according to this guidance:
- (a) Assistance shall be limited to situations when the use of non-DoD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise military preparedness of the United States.
- (b) Assistance may not involve DoD personnel participating in a law enforcement operation, except as otherwise authorized by this Instruction.
- (c) Assistance of DoD personnel shall be provided at a location where there is not a reasonable likelihood of a confrontation between law enforcement personnel and civilians, except as otherwise authorized by law.
- (3) This paragraph does not apply to advanced military training, which is addressed in Deputy Secretary of Defense memorandums (References (ap) and (aq)). Additional exceptions to the policy in Reference (ap) may be requested on a case-by-case basis. Requests for such exceptions shall be forwarded through the ASD(HD&ASA). Advanced military training:
- (a) Includes advanced marksmanship training, including sniper training, military operations in urban terrain (MOUT), advanced MOUT, close quarters battle/close quarters combat, and similar training.

- (b) Does not include basic military skills such as basic marksmanship, patrolling, mission planning, medical, and survival.
- g. Other Permissible Assistance. These forms of indirect assistance are not prohibited by law or DoD policy:
- (1) Transfer to Federal, State, or local law enforcement officials of information acquired in the normal course of DoD operations that may be relevant to a violation of any Federal or State laws.
- (2) Information obtained through procedures, means, or devices authorized by Federal law exclusively for use in gathering, obtaining, or acquiring national intelligence or military intelligence may be transferred unless specifically prohibited by law. Information shall not be transferred if it meets any of the following criteria:
- (a) The acquisition of that information violates applicable law protecting the privacy or constitutional rights of any person, including rights protected by section 552a of Reference (h) (also known as "The Privacy Act of 1974, as amended").
- (b) It would have been illegal for those civilian law enforcement officials to have obtained the information or employ the procedures, means, or devices used by the DoD Component to obtain the information.
- (3) Such other actions, approved in accordance with procedures established by the DoD Components concerned, that do not subject civilians to the use of DoD power that is regulatory, prescriptive, proscriptive, or compulsory.
- 2. <u>EXCEPTIONS BASED ON STATUS</u>. The restrictions in section 1 of this enclosure do not apply to:
- a. A member of a Reserve Component when not on active duty, active duty for training, or inactive duty for training.
 - b. A member of the NG when not in Federal service.
- c. A civilian employee. If the civilian employee is under the direct control of a military officer, assistance will not be provided unless it is permitted by section 3 of this enclosure.
- d. A member of a Military Service when off duty and in a private capacity. A Service member is acting in a private capacity when he or she responds on his or her own volition to assist law enforcement officials instead of acting under the direction or control of DoD authorities.

- e. A member of the Civil Air Patrol, except when performing missions pursuant to section 9442(b) of Reference (d).
- 3. <u>EXCEPTIONS BASED ON MILITARY SERVICE</u>. By policy, Posse Comitatus Act restrictions (as well as other restrictions in this Instruction) are applicable to the Department of the Navy (including the Marine Corps) with such exceptions as the Secretary of Defense may authorize in advance on a case-by-case basis.
- a. Such exceptions shall include requests from the AG for assistance pursuant to section 873(b) of Reference (al).
- b. Requests for approval of other exceptions should be made by a senior official of the civilian law enforcement agency concerned, who verifies that:
- (1) The size or scope of the suspected criminal activity poses a serious threat to the interests of the United States and enforcement of a law within the jurisdiction of the civilian agency would be seriously impaired if the assistance were not provided because civilian assets are not available to perform the mission; or
- (2) Civilian law enforcement assets are not available to perform the mission, and temporary assistance is required on an emergency basis to prevent loss of life or wanton destruction of property.
- 4. <u>MILITARY READINESS</u>. Assistance may not be provided if such assistance could adversely affect military preparedness. Implementing documents issued by the Heads of the DoD Components shall ensure that approval for the disposition of equipment is vested in officials who can assess the effect of such disposition on military preparedness.
- 5. <u>APPROVAL AUTHORITY</u>. Requests by civilian law enforcement officials for use of DoD personnel to provide assistance to civilian law enforcement agencies shall be forwarded to the appropriate approval authority.
- a. The Secretary of Defense is the approval authority for requests for direct assistance in support of civilian law enforcement agencies, including those responding with assets with the potential for lethality, except for the use of emergency authority as provided in subparagraph 1.b.(3) of this enclosure and in Reference (c), and except as otherwise provided below.
- b. Requests that involve Defense Intelligence and Counterintelligence entities are subject to approval by the Secretary of Defense and the guidance in DoDD 5240.01(Reference (ar)) and Reference (j).
- c. The Secretaries of the Military Departments and the Directors of the Defense Agencies may, in coordination with the ASD(HD&ASA), approve the use of DoD personnel:

- (1) To provide training or expert advice in accordance with paragraphs 1.e. and 1.f. of this enclosure.
 - (2) For equipment maintenance in accordance with paragraph 1.d. of this enclosure.
- (3) To monitor and communicate the movement of air and sea traffic in accordance with subparagraphs 1.d.(5)(b) $\underline{1}$ and $\underline{4}$ of this enclosure.
- d. All other requests, including those in which subordinate authorities recommend disapproval, shall be submitted promptly to the ASD(HD&ASA) for consideration by the Secretary of Defense, as appropriate.
- e. The views of the CJCS shall be obtained on all requests that are considered by the Secretary of Defense or the ASD(HD&ASA), that otherwise involve personnel assigned to a unified or specified command, or that may affect military preparedness.
- f. All requests that are to be considered by the Secretary of Defense or the ASD(HD&ASA) that may involve the use of Reserve Component personnel or equipment shall be coordinated with the ASD(RA). All requests that are to be considered by the Secretary of Defense or the ASD(HD&ASA) that may involve the use of NG personnel also shall be coordinated with the Chief, NGB. All requests that are to be considered by the Secretary of Defense or the ASD(HD&ASA) that may involve the use of NG equipment also shall be coordinated with the Secretary of the Military Department concerned and the Chief, NGB.





Maritime Disputes in East Asia

Testimony

Daniel R. Russel
Assistant Secretary, Bureau of East Asian and Pacific Affairs
Testimony Before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific
Washington, DC
February 5, 2014

Chairman Chabot, Members of the Subcommittee, thank you for the opportunity to testify today on these important issues.

Before I begin, I would also like to take this opportunity to thank you, Chairman Chabot, for your leadership on this issue and for your work to enhance our engagement with the Asia-Pacific region. This Subcommittee has contributed to the rich bipartisan tradition of engaging the Asia-Pacific and advancing U.S. interests there.

The Members of this Subcommittee know well the importance of the Asia-Pacific region to American interests. The broader region boasts over half the world's population, half of the world's GDP, and nearly half of the world's trade, and is home to some of the fastest growing economies

in the world. More and more American citizens are now living, working, and studying in this part of the world and people-to-people and family ties between Americans and the peoples of the Asia-Pacific have witnessed tremendous growth. Growing numbers of American companies are investing in and exporting their products and services to rapidly expanding East Asian markets. Asia-Pacific businesses are increasing their profiles in the United States and creating jobs for American workers. And, as the region's economies continue to grow and their interests expand, it becomes increasingly important that the governments and institutions there contribute to upholding and strengthening international law and standards – ranging from human rights to environmental protection to responsible policies on climate change, maritime security, and trade and investment. The effects of what happens in the Asia-Pacific Region will be felt across the globe and have direct implications for America's interests.

It is precisely with this in mind that this administration has for the past five years made sustained engagement in the Asia-Pacific a strategic priority. This is precisely why Secretary Kerry is about to make his fifth visit to Asia in ten months and why he has devoted so much time and effort to meeting, calling and consulting with his Asian counterparts.

We have a strong stake in the continuing economic growth of this region, and we are working to ensure that Americans can fully participate in that growth and share in that prosperity. We are negotiating high-standard trade and investment agreements that will unlock the dynamism of Pacific Rim economies for mutual benefit. We are bolstering regional cooperation on transnational issues through ASEAN and its related institutions. And we are helping countries manage complex environmental issues resulting from rapid development. The common thread running through our strategic rebalancing is a determination to ensure that the Asia-Pacific remains an open, inclusive, and prosperous region guided by widely accepted rules and standards and a respect for international law.

Since the end of the Second World War, a maritime regime based on international law that promotes freedom of navigation and lawful uses of the sea has facilitated Asia's impressive economic growth. The United States, through our our alliances, our security partnerships and our overall military presence and posture, has been instrumental in sustaining that maritime regime and providing the security that has enabled the countries in the region to prosper. As a maritime nation with global trading networks, the United States has a national interest in freedom of the seas and in unimpeded lawful commerce. From President Thomas Jefferson's actions against the Barbary pirates to President Reagan's decision that the United States will abide by the Law of the Sea Convention's provisions on navigation and other traditional uses of the ocean, American foreign policy has long defended the freedom of the seas. And as we consistently state, we have a national interest in the maintenance of peace and stability, respect for international law; unimpeded lawful commerce; and freedom of navigation and overflight in the East China and South China Seas.

For all these reasons, the tensions arising from maritime and territorial disputes in the Asia-Pacific are of deep concern to us and to our allies. Both the South China and East China Seas are vital thoroughfares for global commerce and energy. Well over half the world's merchant tonnage flows through the South China Sea, and over 15 million barrels of oil per day transited the Strait of Malacca last year, with most of it continuing onward through the East China Sea to three of the world's largest economies – Japan, the Republic of Korea, and China. A simple miscalculation or incident could touch off an escalatory cycle. Confrontations between fishermen and even law enforcement patrols are not unusual in these waters. But the frequency and assertiveness of some countries' patrols are increasing. In addition, the imposition of competing regulations by different countries over disputed territory and associated maritime areas and airspace is raising tensions and increasing the risk of confrontation. We witnessed a tragic incident in May of last year, when a Philippine Coast Guard patrol shot and killed a fisherman from Taiwan. Both sides, to their credit, took steps to prevent an escalation of tensions. But the risk of confrontation could have very serious adverse consequences for all of our economic and security interests.

Accordingly, we have consistently emphasized in our diplomacy in the region as well as in our public messaging the importance of exercising restraint, maintaining open channels of dialogue, lowering rhetoric, behaving safely and responsibly in the sky and at sea, and peacefully resolving territorial and maritime disputes in accordance with international law. We are working to help put in place diplomatic and other structures to lower tensions and manage these disputes peacefully. We have sought to prevent provocative or unilateral actions that disrupt the status quo or jeopardize peace and security. When such actions have occurred, we have spoken out clearly and, where appropriate, taken action. In an effort to build consensus and capabilities in support of these principles, the administration has invested considerably in the development of regional institutions and bodies such as the ASEAN Regional Forum, the ASEAN Defense Ministers Meeting Plus, the East Asia Summit, and the Expanded ASEAN Maritime Forum. These forums, as they continue to develop, play an important role in reinforcing international law and practice and building practical cooperation among member states.

In the South China Sea, we continue to support efforts by ASEAN and China to develop an effective Code of Conduct. Agreement on a Code of Conduct is long overdue and the negotiating process should be accelerated. This is something that China and ASEAN committed to back in 2002 when they adopted their Declaration on the Conduct of Parties in the South China Sea. An effective Code of Conduct would promote a rules-based framework for managing and regulating the behavior of the relevant countries in the South China Sea. A key part of that framework, which we and many others believe should be adopted quickly, is inclusion of mechanisms such as hotlines and emergency procedures for preventing incidents in sensitive areas and managing them when they do occur in ways that prevent disputes from escalating.

And in the East China Sea, we remain concerned about the serious downturn in China-Japan relations. We support Japan's call for diplomacy and crisis management procedures in order to avoid a miscalculation or a dangerous incident. It is important to lower tensions, turn down the rhetoric, and exercise caution and restraint in this sensitive area. China and Japan are the world's second and third largest economies and have a shared interest in a stable environment to facilitate economic growth. Neither these two important countries nor the global economy can afford an unintended clash that neither side seeks or wants. It is imperative that Japan and China use diplomatic means to manage this issue peacefully and set aside matters that can't be resolved at this time.

China's announcement of an Air Defense Identification Zone (ADIZ) over the East China Sea in November was a provocative act and a serious step in the wrong direction. The Senkakus are under the administration of Japan and unilateral attempts to change the status quo raise tensions and do nothing under international law to strengthen territorial claims. The United States neither recognizes nor accepts China's declared East China Sea ADIZ and has no intention of changing how we conduct operations in the region. China should not attempt to implement the ADIZ and should refrain from taking similar actions elsewhere in the region.

Mr. Chairman, we have a deep and long-standing stake in the maintenance of prosperity and stability in the Asia-Pacific and an equally deep and abiding long-term interest in the continuance of freedom of the seas based on the rule of law – one that guarantees, among other things, freedom of navigation and overflight and other internationally lawful uses of the sea related to those freedoms. International law makes clear the legal basis on which states can legitimately assert their rights in the maritime domain or exploit marine resources. By promoting order in the seas, international law is instrumental in safeguarding the rights and freedoms of all countries regardless of size or military strength.

I think it is imperative that we be clear about what we mean when the United States says that we take no position on competing claims to sovereignty over disputed land features in the East China and South China Seas. First of all, we do take a strong position with regard to behavior in connection with any claims: we firmly oppose the use of intimidation, coercion or force to assert a territorial claim. Second, we do take a strong position that maritime claims must accord with customary international law. This means that all maritime claims must be derived from land features and otherwise comport with the international law of the sea. So while we are not siding with one claimant against another, we certainly believe that claims in the South China Sea that are not derived from land features are fundamentally flawed. In support of these principles and in keeping with the longstanding U.S. Freedom of Navigation Program, the United States continues to oppose claims that impinge on the rights, freedoms, and lawful uses of the sea that belong to all nations.

As I just noted, we care deeply about the way countries behave in asserting their claims or managing their disputes. We seek to ensure that territorial and maritime disputes are dealt with peacefully, diplomatically and in accordance with international law. Of course this means making sure that shots aren't fired; but more broadly it means ensuring that these disputes are managed without intimidation, coercion, or force. We have repeatedly made clear that freedom of navigation is reflected in international law, not something to be granted by big states to others. President Obama and Secretary Kerry have made these points forcefully and clearly in their interactions with regional leaders, and I – along with my colleagues in the State Department, Defense Department, the National Security Council and other agencies – have done likewise.

We are also candid with all the claimants when we have concerns regarding their claims or the ways that they pursue them. Deputy Secretary Burns and I were in Beijing earlier this month to hold regular consultations with the Chinese government on Asia-Pacific issues, and we held extensive discussions regarding our concerns. These include continued restrictions on access to Scarborough Reef; pressure on the long-standing Philippine presence at the Second Thomas Shoal; putting hydrocarbon blocks up for bid in an area close to another country's mainland and far away even from the islands that China is claiming; announcing administrative and even military districts in contested areas in the South China Sea; an unprecedented spike in risky activity by China's maritime agencies near the Senkaku Islands; the sudden, uncoordinated and unilateral imposition of regulations over contested airspace in the case of the East China Sea Air Defense Identification Zone; and the recent updating of fishing regulations covering disputed areas in the South China Sea. These actions have raised tensions in the region and concerns about China's objectives in both the South China and the East China Seas.

There is a growing concern that this pattern of behavior in the South China Sea reflects an incremental effort by China to assert control over the area contained in the so-called "nine-dash line," despite the objections of its neighbors and despite the lack of any explanation or apparent basis under international law regarding the scope of the claim itself. China's lack of clarity with regard to its South China Sea claims has created uncertainty, insecurity and instability in the region. It limits the prospect for achieving a mutually agreeable resolution or equitable joint development arrangements among the claimants. I want to reinforce the point that under international law, maritime claims in the South China Sea must be derived from land features. Any use of the "nine dash line" by China to claim maritime rights not based on claimed land features would be inconsistent with international law. The international community would welcome China to clarify or adjust its nine-dash line claim to bring it in accordance with the international law of the sea.

We support serious and sustained diplomacy between the claimants to address overlapping claims in a peaceful, non-coercive way. This can and should

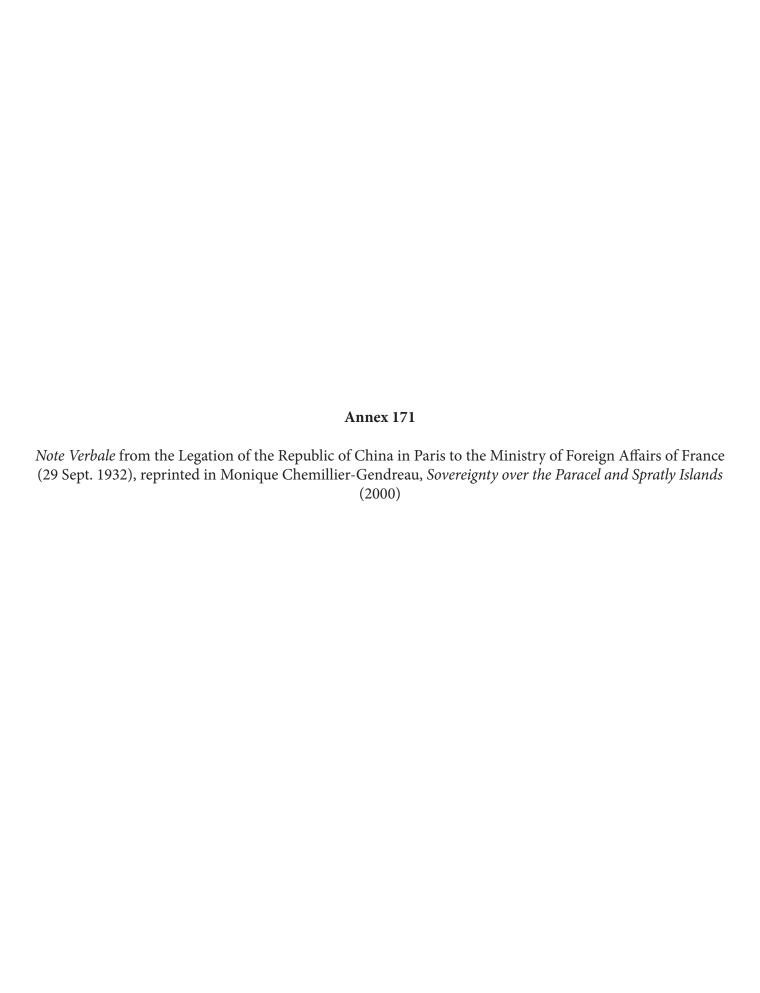
include bilateral as well as multilateral diplomatic dialogue among the claimants. But at the same time we fully support the right of claimants to exercise rights they may have to avail themselves of peaceful dispute settlement mechanisms. The Philippines chose to exercise such a right last year with the filing of an arbitration case under the Law of the Sea Convention.

Both legal and diplomatic processes will take time to play out. The effort to reach agreement on a China-ASEAN Code of Conduct has been painfully slow. However, there are important steps that the relevant parties can take in the short term to lower tensions and avoid escalation. One line of effort, as I mentioned earlier, is to put in place practical mechanisms to prevent incidents or manage them when they occur. Another common-sense measure would be for the claimants to agree not to undertake new unilateral attempts to change the status quo, defined as of the date of the signing of the 2002 Declaration of Conduct, that would include agreement not to assert administrative measures or controls in disputed areas. And as I have indicated, all claimants – not only China – should clarify their claims in terms of international law, including the law of the sea.

In the meantime, a strong diplomatic and military presence by the United States, including by strengthening and modernizing our alliances and continuing to build robust strategic partnerships, remains essential to maintain regional stability. This includes our efforts to promote best practices and good cooperation on all aspects of maritime security and bolster maritime domain awareness and our capacity building programs in Southeast Asia. The Administration has also consistently made clear our desire to build a strong and cooperative relationship with China to advance peace and prosperity in the Asia-Pacific, just as we consistently have encouraged all countries in the region to pursue positive relations with China. And this includes working with all countries in the region to strengthen regional institutions like ASEAN and the East Asia Summit as venues where countries can engage in clear dialogue with all involved about principles, values and interests at stake, while developing cooperative activities – like the Expanded ASEAN Seafarers Training initiative we recently launched – to build trust and mechanisms to reduce the chances of incidents.

To conclude, this is an issue of immense importance to the United States, the Asia-Pacific, and the world. And I want to reaffirm here today that the United States will continue to play a central role in underwriting security and stability in the Asia-Pacific.

Mr. Chairman, I thank you for this opportunity to appear before you today to discuss this important issue. I look forward to answering any questions you may have.



Sovereignty over the Paracel and Spratly Islands

by

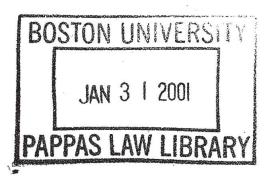
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PAPASLAWILLEME

ANNEX 10

Note of 29 September 1932 from the Legation of the Chinese Republic in France to the Ministry of Foreign Affairs, Paris

On the instructions of its Government, the Legation of the Chinese Republic in France has the honour to transmit its Government's reply to the Foreign Ministry's Note of 4 January 1932 on the subject of the Paracel Islands.

The Si-Chao-Chuin-Tao Islands (步沙潭島), also known as Tsi-Cheou-Yang (上洲洋) and called the Paracel Islands in the foreign tongue, lie in the territorial sea of Kwangtung Province (South China Sea); to the northeast are the Ton-Chao Islands (東沙); the Si-Chao-Chuin-Tao Islands form one group among all the islands in the South China Sea which are an integral part of the territorial sea of Kwangtung Province.

According to the reports on the Si-Chao-Chuin-Tao (Paracel) Islands drawn up in the Year XVII of the Chinese Republic (1926) by Mr Shen-Pang-Fei, President of the Commission of Inquiry into these islands, and to the files on the islands compiled by the Department of Industry of Kwangtung Province, the islands lie between longitude 110°13' and 112°47' east. More than 20 in number, large and small, most of them are barren sandbanks, 10 or so are rocks and 8 are true islands. The eastern group is called the Amphitrites and the western group the Crescent. These groups lie 145 nautical miles from Hainan Island, and form the southernmost part of Chinese territory.

Clause 3 of the Convention on the Delimitation of the Frontier between China and Tonkin, signed in Peking on 26 June 1887, stipulates that at Kwangtung it is agreed that the disputed points which lie east and north-east of Mon Cai, beyond the frontier as determined by the Delimitation Commission, are allocated to China. The islands which are east of the north-south line passing through the eastern point of the island of Tch'a Kou, which forms the boundary, are also allocated to China. The Gotho Islands and the other small islands west of this line belong to Annam.

The starting point of the frontiers between Indochina and the Chinese Province of Kwangtung is Chou-Chan (), at latitude 21°30' north and longitude 108°2' east. Since the coastline of Indochina lies west of Chou-Chan, according to the above provisions, following the coast southwards from this point, the Paracel Islands in any event lie far to the east of the line and are separated from the coast of Indochina by Hainan Island. From their

geographical position, it is easy to see to which country they should be attached.

Apart from Woody Island and Lincoln Island, where guano deposits provide material for fertilizers, the remainder of the islands in the archipelago are formed of nothing more than sand or outcrops of coral, presenting no value from the point of view of colonization. The only people to visit these places are the inhabitants of Hainan Island, who come here to catch or collect fish and Indochinese people have never been known to settle there. What exceptional grounds did the Kings of Annam invoke for going there and erecting monuments and tablets? The French Government may well consider such literary allusions to be historical, but it omits to mention that 100 years ago Indochina was under Chinese tutelage. Since the Paracel Islands already formed part of China's territory, Indochina had no right to carry out acts of occupation on the possessions of its suzerain. The Foreign Ministry's Note does not say on what island monuments and tablets were erected.

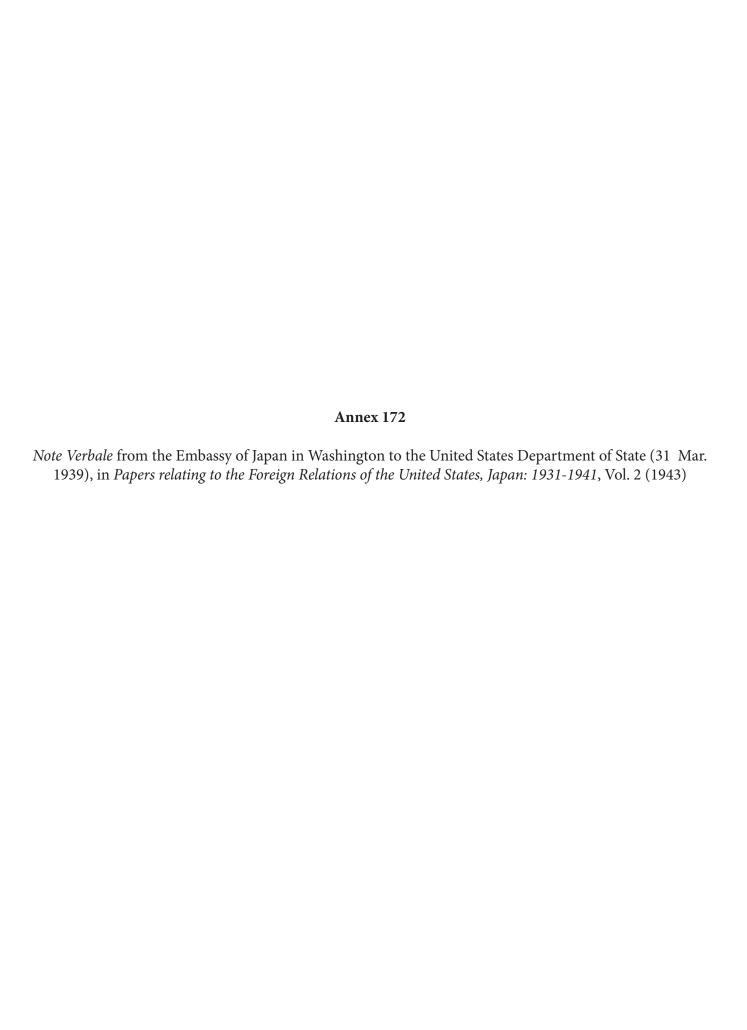
Compelling evidence which might justify the French Government's resort to the right of priority of claim is lacking. Since the Tenth Year of the Chinese Republic, the authorities of Kwangtung Province have already on more than five occasions granted authorization to Chinese nationals wishing to exploit the resources of the islands. The archives which substantiate these claims may be consulted. The French Government, moreover, has never before expressed any claim to occupy these islands.

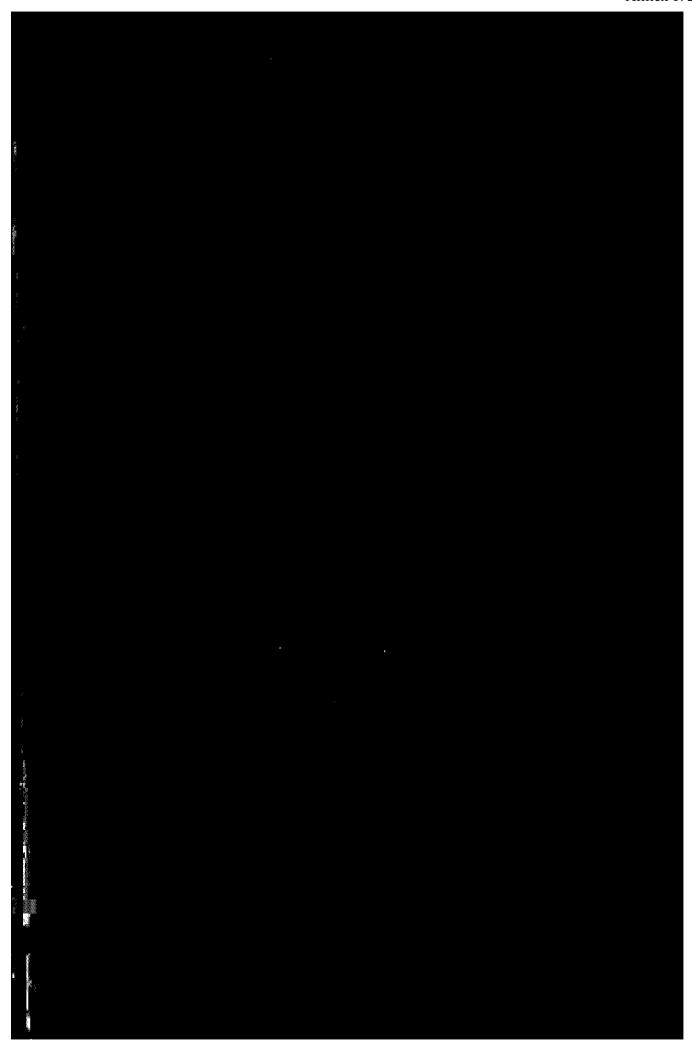
According to international law and custom, the prime condition for the possession of an island lying far from the mainland is the first effective occupation, in other words the nationals who were the first to settle lands, thereby bringing these territories into their country's possession. The natives of Hainan who settled in the Paracels, and built houses and fishing boats there to supply their needs, have done so since the distant past. Indeed, in 1909 the Government of the former Ch'ing dynasty sent a naval expedition to study conditions in the islands and to manifest its effective occupation to other nations of the world: the Chinese flag was raised and was saluted with a round of gunfire on Woody Island. The French Government made no protest, on that occasion either. In 1908 the question of constructing a lighthouse on one of the islands in the Paracels for the protection of shipping was a matter of international maritime importance. The Chinese Government, having received through the maritime customs service a request from the shipping companies concerned for the construction of a lighthouse, subsequently consented. In April 1930, on the occasion of the Meteorological Conference held in Hong Kong, the French Director of the Observatories of

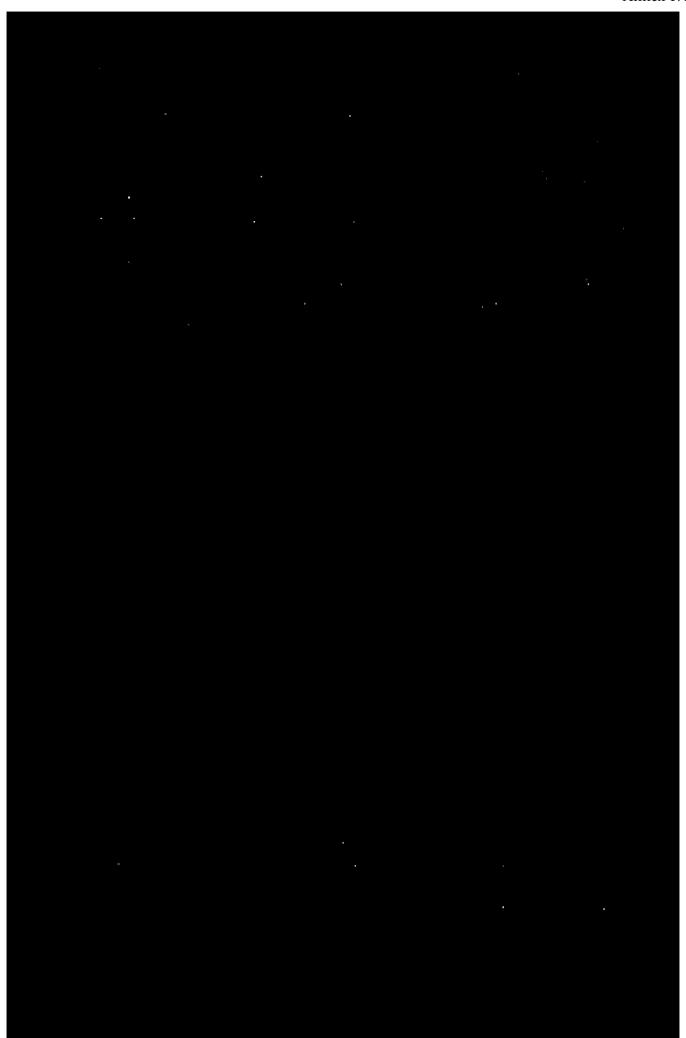
Indochina, Mr E. Bruzon, and the Director of the Zi-Ka-Wei Observatory, Reverend Father L. Froc, who both attended the Conference, suggested to the representative of China that an observatory might be set up in the Paracels. This proves that not only are the Paracel Islands internationally recognized as belonging to China, but that the French themselves share this view. It is difficult for the Chinese Government to verify the case involving the loss of vessels in the area of the Paracels in 1898, and the subsequent intervention of the British Consul in Hoihow, as stated in the Note of the Ministry of Foreign Affairs, since there is no mention of this matter in its records.

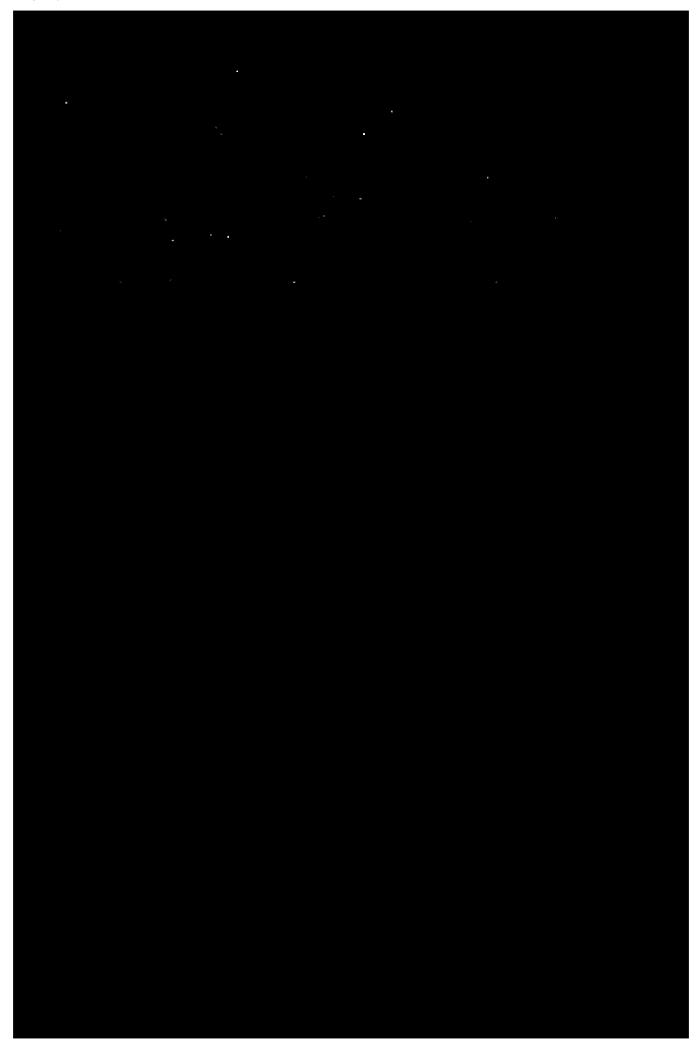
The treaties, documents and records incontrovertibly show that the Paracels archipelago forms a part of China's territory. According to the principles of international law concerning the right of priority of claim and continuous occupation, the islands belong to China as a result of its occupation of them over a period of many centuries, and consequently there is no doubt that no other country may claim any rights to them./.

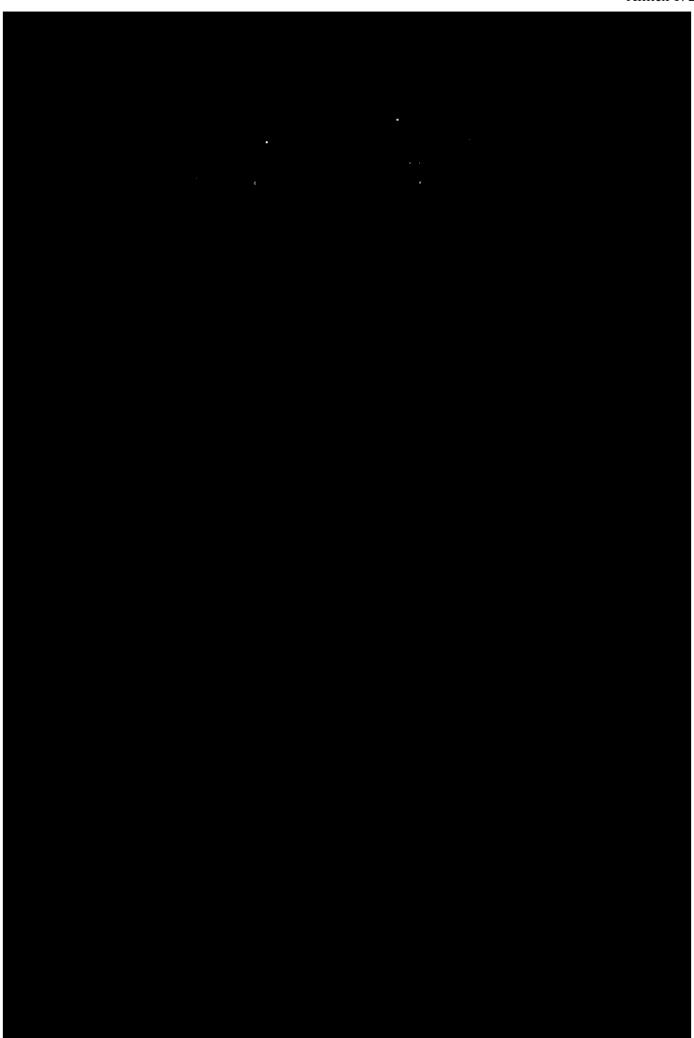
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Annex 173
<i>Note Verbale</i> from the Secretary of State of the United States to the Ambassador of Japan to the United States (17 May 1939), in <i>Papers relating to the Foreign Relations of the United States, Japan: 1931-1941</i> , Vol. 2 (1943)

Papers Relating to the Foreign Relations of the United States

Japan: 1931-1941

(In Two Volumes)
Volume II



United States

Government Printing Office

Washington: 1943

GOVT. DOCS. JX 233 A3 1931-41 V. 2

DEPARTMENT OF STATE

Publication 2016

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pire and on the right deriving therefrom under International Law, and motivated by their desire to avoid the possibility of further complications with the French Government, incidental to the hither to vague administrative status of the Islands, have incorporated the Sinnan Islands in the territory under the jurisdiction of the Government-General of Formosa as of the thirtieth of March 1939.

851G.014/17

The Secretary of State to the Japanese Ambassador (Horinouchi)

[Washington,] May 17, 1939.

EXCELLENCY: Reference is made to the memorandum, with an accompanying map, left with the Department on March 31 last by Mr. Suma reporting the incorporation of the so-called Sinnan Islands into the territory under the jurisdiction of the Government-General of Formosa as of March 30, 1939. It is stated in the memorandum that the Sinnan Islands comprise small coral reefs which lie within an area described in the memorandum and delimited on the map aforementioned. There are listed in the memorandum the names of what are stated to be the principal coral reefs of the Sinnan Islands, which are in the main situated along the westerly side of the area delimited. Reference is also made in the memorandum to the claims of France to the Islands.

In 1933 the Government of the United States was informed by the French Government of its claim to sovereignty over certain islands situated along the western side of the area described in the Japanese memorandum. Recently this Government has been informed by the French Government that on February 27, 1939, it had suggested to the Japanese Government that the difference between France and Japan on the subject of the sovereignty of the islands be submitted to the Permanent Court of Arbitration at The Hague. Apart from any question as to the merits of the conflicting claims of France and Japan, it may be observed that, as the Japanese Government is aware, the Government of the United States advocates adjustment of problems in international relations by processes of negotiation, agreement or arbitration.

The Government of the United States does not consider that all islands or reefs which might be situated within the extensive area delimited in the Japanese memorandum, and especially within that considerable part of the area lying to the eastward and southeastward of any of the islands named in the Japanese memorandum, can properly be treated as one island group, nor does this Government consider that the action of Japan in blanketing within the territory of Japan islands or reefs, either known or unknown, with respect to

which the Japanese Government has heretofore exercised no acts which may properly be regarded as establishing a basis for claim to govereignty, has any international validity.

Accept [etc.]

CORDELL HULL

[For statement by the Japanese Minister for Foreign Affairs concerning the so-called "South Sea advance," see paragraph 8 of telegram No. 235, May 18, 1939, 7 p. m., from the Ambassador in Japan, page 1.]

756.94/39

Press Release Issued by the Japanese Embassy on April 15, 1940 34

On being questioned by newspapermen concerning Japan's position with regard to possible involvement of the Netherlands in the European war and its repercussions in the Netherlands East Indies, Foreign Minister Arita replied as follows:

"With the South Seas regions, especially the Netherlands East Indies, Japan is economically bound by an intimate relationship of mutuality in ministering to one another's needs. Similarly, other countries of East Asia maintain close economic relations with these regions. That is to say, Japan, these countries and these regions together are contributing to the prosperity of East Asia through mutual aid and interdependence.

"Should hostilities in Europe be extended to the Netherlands and produce repercussions, as you say, in the Netherlands East Indies, it would not only interfere with the maintenance and furtherance of the above-mentioned relations of economic interdependence and of co-existence and co-prosperity, but would also give rise to an undesirable situation from the standpoint of the peace and stability of East Asia. In view of these considerations, the Japanese Government can not but be deeply concerned over any development accompanying an aggravation of the war in Europe that may affect the status quo of the Netherlands East Indies."

Press Release Issued by the Department of State on April 17, 1940 sb

In response to inquiries by press correspondents, the Secretary of State made the following statement:

Japanese Embassy (Kase).

Shapenese Embassy (Kase).

Reprinted from Department of State, Bulletin, April 20, 1940 (vol. II, No. 43), p. 411.

^{8a} Copy received in the Department of State from the First Secretary of the Japanese Embassy (Kase).



JOINT COMMUNIQUÉ OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

I

The Government of the Republic of the Philippines and the Government of the People's Republic of China, desiring to promote the traditional friendship between the Filipino and the Chinese peoples, have decided upon mutual recognition and the establishment of diplomatic relations at ambassadorial level effective from the date of signature of this communiqué.

 \mathbf{II}

The two Governments hold that the economic, political and social system of a country should be chosen only by the people of that country, without outside interference. They maintain that the difference between the economic, political and social systems of the Republic of the Philippines and the People's Republic of China should not constitute an obstacle to peaceful co-existence and the establishment and development of peaceful and friendly relations between the two countries and peoples in accordance with the principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit.

The two Governments agree to settle all disputes by peaceful means on the basis of the above-mentioned principles without resorting to the use or threat of force.

The two Governments agree that all foreign aggression and subversion and all attempts by any country to control any other country or to interfere in its internal affairs are to be condemned. They are opposed to any attempt by any country or group of countries to establish hegemony or create spheres of influence in any part of the world.

The two Governments agree to cooperate with each other to achieve the foregoing objectives.

III

The Philippine Government recognizes the Government of the People's Republic of China as the sole legal government of China, fully understands and respects the position of the Chinese Government that there is but one China and that Taiwan is an integral part of Chinese territory, and decides to remove all its official representations from Taiwan within one month from the date of signature of this communiqué.

The Government of the People's Republic of China recognizes the Government of the Republic of the Philippines and agrees to respect the independence and sovereignty of the Republic of the Philippines.

The two Governments recognize and agree to respect each other's territorial integrity.

TV ·

The Government of the Republic of the Philippines and the Government of the People's Republic of China consider any citizen of either country who acquires citizenship in the other country as automatically forfeiting his original citizenship.

\mathbf{v}

The two Governments agree to adopt active measures for the development of trade and economic relations between them. They have agreed to negotiate and conclude a trade agreement based on their respective needs and on the principles of equality and mutual benefit.

VI

The two Governments noted the importance of cultural exchanges in developing mutual understanding and friendship between their two peoples.

VII

The Government of the Republic of the Philippines and the Government of the People's Republic of China have agreed to exchange mutually accredited ambassadors as soon as practicable and to provide each other with all the necessary assistance for the establishment and performance of the functions of diplomatic missions in their respective capitals in accordance with international practice and on a reciprocal basis.

For the Government of the Republic of the Philippines:

For the Government of the People's Republic of China:

(SGD) FERDINAND E. MARCOS President of the Republic of the Philippines (SGD) CHOU EN-LAI Premier of the State Council of the People's Republic of China

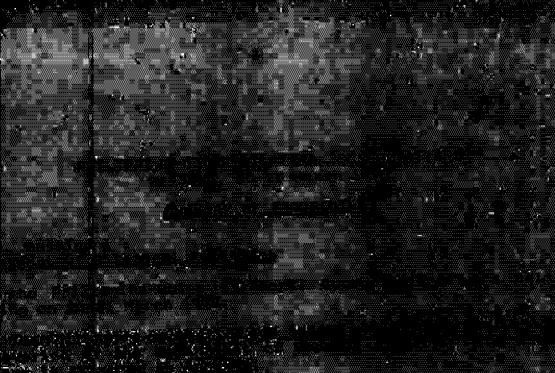
JOINT STATEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON THE FRAMEWORK OF BILATERAL COOPERATION IN THE TWENTY-FIRST CENTURY

The Republic of the Philippines and the People's Republic of China have made great progress in their cooperation in the political, economic, cultural, educational, scientific and technological and other fields on the basis of equality and mutual benefit since the establishment of diplomatic relations on 9 June 1975, bringing concrete benefits to the two peoples.

The Government of the Republic of the Philippines and the Government of the People's Republic of China (hereinafter referred to as "the two sides") believe that it is now opportune to establish a framework for future bilateral cooperation. This new framework will draw on the strength of their long, historical friendship and geographical proximity in order to advance the fundamental interests of their two peoples and thereby contribute to peace, security, stability, sustained growth, and development in Asia and the rest of the world. The two sides will establish a long-term and stable relationship on the basis of good neighborliness, cooperation, and mutual trust and benefit. They will undertake to elevate Philippines-China relations to greater heights in the 21st century and to this end, state the following:

1) The two sides reaffirm that the purposes and principles of the United Nations Charter, the Five Principles of Peaceful Coexistence, the principles established in the Treaty of Amity and Cooperation









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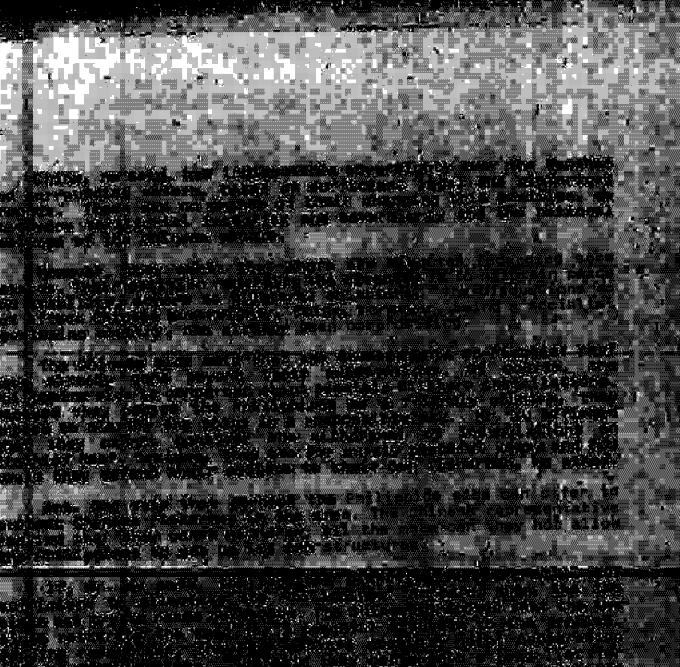
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Courtesy Call of Philippine delegation on Chinese Vice Premier and Foreign Minister Qian Qichen 21 March 1995, 4:25 p.m.

Foreign Minister Qian Qichen welcomed the Philippine delegation headed by Undersecretary Rodolfo Severino. He cited the long tradition of consultations between China and the Philippines, and said that the annual consultations included some problems that need to be tackled. He asked the Undersecretary to convey his greetings to Secretary Romulo, noting that this year they will have an opportunity to meet and that he would be willing to have discussions with Mr. Romulo on some questions.

Undersecretary Severino thanked the Chinese foreign minister for the hospitality shown by the Chinese side.

Minister Qian noted the usefulness of consultations, and said that the Philippines and China are two friendly countries. Since diplomatic ties were established, he said, the two have made great headway in relations. There have been frequent visits and high-level exchanges between the two sides. While the relations are friendly, there were also differences in positions on certain questions, but their respective views were clear to each other.

Minister Qian stated that there had been a very candid exchange of views between leaders of the two countries on the Spratlys. During these exchanges, both sides recognized differences in their views, but both acknowledged that these should not affect relations. Both, moreover, agree to shelve the disputes for the time being and pursue joint development.

The main task of the two countries, he said, is to further develop their economies. There was a need to increase cooperation and maintain an open policy. If we keep arguing about the disputes, the Chinese side and the Filipino side will have a lot to say, and the governments of the two countries will be put in a difficult situation because of the feelings of their peoples. A high degree of understanding is therefore the best way for resolving the problem or at least shelving it temporarily, said Minister Qian.

Undersecretary Severino said it was gratifying to see the development of relations contribute to both countries' development as well as to the peace and stability of the region. Regional stability in turn contributes to our ability to develop our economies and help the people's well-being. Part of the reason we have contributed to regional stability is the agreement to transcend differences, he said. We have also agreed to act positively to take measures to

RP-China bilateral consultations, 19-22 March 1995, record of proceedings



prevent conflict in this area. We've done this particularly in recent years through the Indonesia workshops. Our understanding on the basis of the Manila Declaration, according to Severino, urged peaceful settlement and the exercise of self-restraint, a process which we are committed to continuing.

Severino stated that in recent weeks, the Philippine government and people have been concerned about Chinese facilities on Mischief Reef, which is close to its main archipelago. He said that the Philippine side considers this a retardant to the process of building trust and confidence. During the talks, he said - referring to the ongoing bilateral consultations - the Mischief Reef and the broader area of the South China Sea were discussed based on previous understandings. On the Philippine part there was a view to restoring an atmosphere of happy mutual trust which had prevailed in the earlier period.

He then said that the two sides discussed areas where they could profitably cooperate, and that the Philippine side felt they can usefully go ahead with these activities as soon as the previous atmosphere had been restored, and are earnestly working towards that end. Severino stressed that other aspects of the relationship also discussed were excellent, which is why the Philippines valued narrowing differences so further cooperation might expand.

Minister Qian agreed that the two sides should conduct talks in a calm manner. As the talks have started, he expressed hope that there would be continued progress. He said the Chinese side does not want to see this question, "which was simple", become dramatized and complicated. He noted that the Chinese side has said nothing on this question, and that even when asked by a foreign correspondent, his own answer was very restrained. He said he does not want to see a difficult situation created by the reactions of parliament, the military, press or people who can make the situation difficult for the governments.

Nansha is traditional fishing ground for the Chinese, he said. Thousands of boats fish there and never encountered problems before. There were cases when they were approached and were detained, but on the whole there was calm. Minister Qian said that in Nansha, there often was a very long distance between the islands and seas, and it was necessary for fishing boats to have wind shelter facilities. In the past, he said, Chinese fishermen have used wind shelters without any problems.

Qian remarked that when we talk about the differences, maybe the actions on the Philippine side are not agreeable to the other countries. In his view, it was better to seek solutions in a very calm atmosphere. It was an exaggeration to call the Chinese move a military action or attempts to set up bases or a security problem. The Chinese side, though, has never made public its opinions in this regard, exercised great restraint and tried to have discussions in private. They think that the Philippines took a positive step by sending the delegation headed by the Undersecretary. Mr. Qian reiterated the hope that the consultations will proceed smoothly and that through the consultations, the two sides can know each other's viewpoints better.

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RP-China bilateral consultations, 19-22 March 1995, record of proceeding



Undersecretary Severino said that what concerned the Philippine side was not whether the facilities on Mischief Reef were military or not, but foremost was that they were the closest ever built to Philippine territory. He said the Philippines was sincere in seeking a narrowing of differences, and in their approach to the consultations. He said that if the two sides cannot agree on anything, then they can sit down some more and hold more talks. In the meantime, he trusted that the two sides will continue to work for the stability of the region and not do anything to further complicate the situation.

Minister Qian recalled that when he visited Manila, Manglapus was the Foreign Secretary and Romulo was the Secretary-Designate. He then held talks with the Mr. Romulo, and had the impression that Mr. Romulo was a very open-minded person. Mr. Qian then remarked that he thinks it is impossible for China and the Philippines to have a problem that can not be solved. He doesn't see the possibility of fighting over one or two islands or reefs. Already, Philippine troops were on eight islands and reefs, while others were occupied by China and Vietnam. The biggest island Taiping, he noted, was occupied by Taiwan.

As to the current status of Nansha, Mr. Qian said it was like a jigsaw. Some areas were very close to each other, while others were very far apart. Only by shelving the disputes can a stable situation be maintained. If the dispute over sovereignty is not shelved, he said, there will be overlapping sovereignty claims so it was better to shelve the dispute.

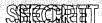
Mr. Qian stressed that China has lots of things to do, and that the last National People's Congress session had just concluded during which they discussed the economy, reunification with Taiwan, and policies toward Hongkong and Macau. He said the Chinese have no intentions of moving in the South China Sea and that China and the Philippines should establish a higher degree of trust and confidence.

He then proposed that both sides try to make the atmosphere cool down, remarking that he doesn't consider it beneficial if parliaments or the mass media play this up. In such an event, somebody may try to fish in troubled waters, therefore it was important to continue to talk.

Undersecretary Severino agreed with the need to keep the atmosphere calm, to foster trust and confidence. This, he said, was why the Philippine side was calling for a resolution of the Mischief Reed situation. In the meantime, he hoped there would not be any further actions to complicate the matter.

Severino stressed that it was impossible to control media in the Philippines, while parliament is separate from government. He said the Philippine side would attempt to approach this in a calm and constructive manner so that cooperative activities may be undertaken.

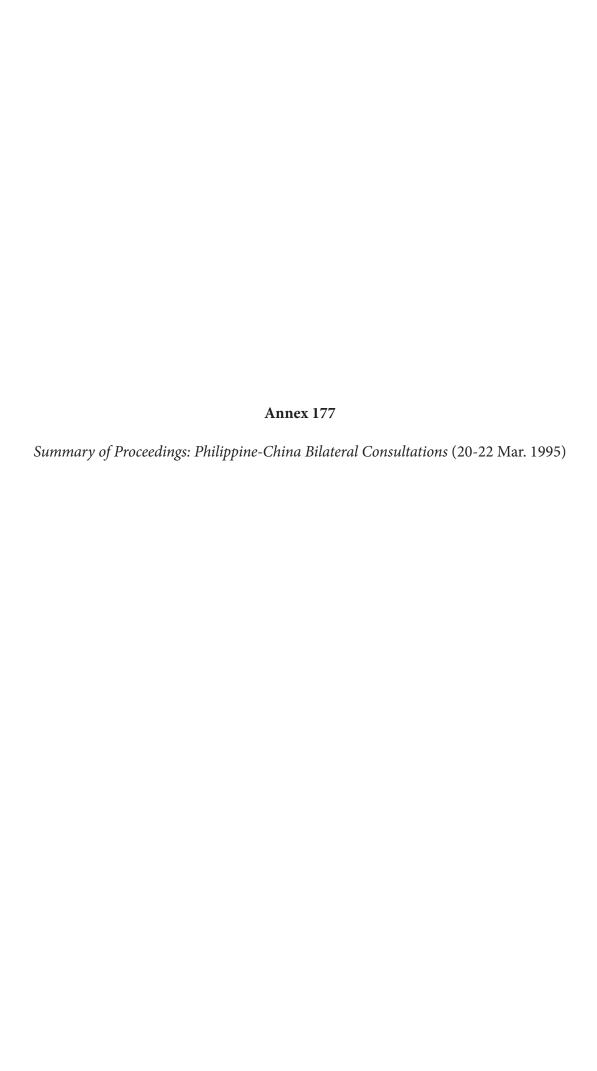


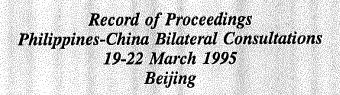


He further remarked that the way the Chinese and Philippine economies have been developing, their people had unlimited opportunities to boost the prosperity of their peoples. Thus it was important to work hard for stability.

RP-China bilateral consultations, 19-22 March 1995, record of proceedings







PHILIPPINE-CHINA BILATERAL CONSULTATIONS BEIJING, 20-22 March 1995

SUMMARY OF PROCEEDINGS

Day 1 : Monday, 20 March 1995

- The Philippine-China Bilateral Consultations were opened at 9:00 a.m. at Villa No. 14, Diaoyutai State Guesthouse, Beijing.
- The Philippine delegation was headed by Undersecretary Rodolfo C. Severino of the Department of Foreign Affairs. The list of members is attached as Annex A.
- The Chinese delegation was headed by Vice-Foreign Minister Tang Jiaxuan of the Ministry of Foreign Affairs. The list of members is attached as Annex B.
- 4 Vice Minister Tang welcomed the Philippine delegation. He said that this year marks the 20th anniversary Philippine-China relations, which had grown constructively.
- In his introductory statement, Undersecretary Severino expressed gratification that the two sides had agreed to advance the consultation to address an urgent matter affecting Philippines-China relations. He stressed the importance of strengthening bilateral relations, and of resolving problems in order that the two sides could pursue more opportunities to strengthen growth.
- Vice Minister Tang agreed, saying that prospects for strengthening bilateral relations were bright. He added that the key to resolving common issues was to adopt a calm, pragmatic and constructive approach to the dialogue process. He expressed confidence in the ability of the two sides to resolve issues by themselves without involving third countries.

Assessment of bilateral relations

Undersecretary Severino stated that the conduct of Philippines-China relations in the past 20 years had been guided by the principles of respect for each other's sovereignty and territorial integrity, non-aggression, non-interference in each other's internal affairs and equality.

- He said that the two countries had had intensive exchanges of visits at various levels in recent years, and these included state visits to China of then President Aquino in 1988 and President Ramos in 1993. On China's side, Premier Li Peng and NPC Chairman Qiao Shi came to the Philippines in 1990 and 1993, respectively. In 1994, senior Philippine officials who came to China include Vice President Estrada, House of Representatives Speaker Jose de Venecia, NEDA Director-General Cielito Habito, and Presidential Assistant for Mindanao Paul Dominguez. On the other hand, senior Chinese officials who visited the Philippines in 1994 include MOFTEC Minister Wu Yi, Chairman Zhu Liang of the NPC Foreign Relations Committee, Vice Chairman Wang Hanbin of the NPC Standing Committee, and Minister Ai Zhisheng of the Ministry of Film, Radio and Television.
- 7.2 He cited the establishment of the Philippine Consulate General in Xiamen. He added that he looked forward to the opening of the Chinese Consulate General in Cebu City, and the Philippine Trade Office in Guangzhou.
- 7.3 He mentioned the active bilateral exchanges in the fields of culture and science and technology.
- 7.4 He said that the volume of bilateral trade doubled from US\$365 million in 1992 to US\$748 million in 1994. He attributed the growth to the increasingly diverse composition of commodities exchanged and the greater openness of the two markets. In the Philippine context, he referred to the government's action to lower trade barriers even beyond its obligations under the WTO. He cited Philippine participation in the ASEAN Free Trade Agreement (AFTA) and the East ASEAN Growth Area (EAGA), wherein members have resolved to eliminate trade barriers among themselves, as an opportunity for greater expansion of Philippines-China trade.
- 7.5 He cited the growing cooperation of the two countries in regional organizations such as the ASEAN Regional Forum (ARF) and the Asia Pacific Economic Cooperation (APEC). He looked forward to the first ASEAN-China Consultations to be held in two weeks.
- Undersecretary Severino referred to the good relations existing between the two countries as a positive contribution to peace and stability in the Asian region. He said that the prevailing peace and stability in the region had largely accounted for its progress and dynamism, and created almost unlimited opportunities for growth. He warned that countries in the region should avoid actions that could destabilize the situation, as these could raise alarm, encourage arms build-ups, and scare off investors.

- 8.1 He said that this was why the Philippines was so concerned over the recent detention of Filipino fishermen by Chinese elements in the Mischief Reef; the construction of structures in the area; and the continued presence of armed Chinese vessels in that part of the Philippine territory.
- 8.2 He added that such actions had serious implications for Philippine sovereignty, for the sense of security of the Filipino people, and for regional stability.
- 8.3 He welcomed the opportunity to discuss this issue and other areas of Philippines-China bilateral relations.
- 9 Vice Minister Tang said that, on the whole, he agreed with the appraisal made by Undersecretary Severino of the state of Philippines-China relations.
 - 9.1 He stated that bilateral relations over the last 20 years had produced noticeable results. He attributed this to the adherence of the two sides to the five principles of peaceful co-existence, especially the principle of common economic benefits.
 - 9.2 He referred to the bilateral meetings of Philippine President Ramos and Chinese President Jiang Zemin in several international conferences as very useful to the enhancement of mutual understanding. He urged that such dialogues between the two heads of state be maintained and encouraged.
 - 9.3 He declared that China an active participant in activities sponsored by ASEAN, including conferences on regional security.
- On economic relations, Vice Minister Tang recalled that President Ramos had proposed in 1993 to increase the total volume of bilateral trade to US\$800 million in three years. He noted that the two countries were close to realizing the target, inasmuch as the volume of trade in 1994 was recorded at US\$750 million.
 - 10.1 He also noted that opportunities were open for further economic cooperation. He declared that the Chinese government was willing to increase imports from the Philippines. He expressed the hope that the Philippines could provide China with competitive products.
 - 10.2 He urged that while economic officials of the two sides had been addressing specific problems on bilateral trade, foreign ministry officials of the two sides should provide positive support to their actions.

- Vice Minister Tang said that the agreement to establish consular posts in the two countries would contribute to enhancing friendly exchanges and cooperation among Philippine and Chinese cities.
- Vice Minister Tang declared that the Chinese government attached great importance to the celebration of the 20th Anniversary of the establishment of Philippines-China diplomatic relations.
 - 12.1 He acknowledged the preliminary program of activities to commemorate the 20th anniversary celebration in the Philippines.
 - 12.2 He outlined the following Chinese proposals to commemorate the 20th anniversary:
 - Exchange of letters of congratulations from the heads of state of the two countries
 - 12.2.2 Hosting of receptions by their respective embassies
 - 12.2.3 Heads of Philippines-China friendship associations to exchange letters of congratulation and to sponsor an activity to commemorate the 20th anniversary
 - 12.2.4 The support by the Chinese side to Philippine proposals to hold cultural and commercial activities in Manila
 - 12.3 He suggested that, in order to commemorate the 20th anniversary celebration more efficiently, relevant agencies from both sides discuss specific activities together.
- Vice Minister Tang declared that the development of good and neighborly relations served not only the interest of the Filipino and Chinese peoples but also peace and stability in the region. He stressed that China highly valued the maintenance of peace and security in the region.
- On the issue of the perceived Chinese hegemonic ambitions, Vice Minister Tang stressed that China had never engaged in territorial expansionism in the past nor did it have any intentions to do so in the future. China also opposed hegemonism and power politics of others and supported the peaceful settlement of disputes, including territorial disputes. He added that China's main preoccupation was the development of its economy. Toward this end, China would need a good, favorable and peaceful environment. He expressed regret, however, that global issues of peace and development had not been adequately

- addressed by the international community. He stated that China would work towards the attainment of these twin objectives.
- 15 Citing the political stability and economic dynamism of the Asia-Pacific region, Vice Minister Tang stressed the necessity to sustain such environment through good neighborly relations with the Philippines and ASEAN.
- 16 Undersecretary Severino said that he shared the value of maintaining high level visits to sustain growth of bilateral relations.
- 17 Undersecretary Severino welcomed the statement that China was willing to increase imports from the Philippines.
 - 17.1 He welcomed China's acceptance of the proposal to conduct a seminar in Manila to explain China's foreign trade law to Filipino businessmen.
 - 17.2 He pointed to the need to overcome the language barrier to promote China's international trade regime. He suggested that relevant laws on Chinese foreign trade procedures be translated into English.
- He noted the proposed Chinese activities to celebrate the 20th anniversary of the establishment of diplomatic relations between the Philippines and China and said that the Philippine government would consider them.
 - 18.1 He added that the Philippine Embassy in Beijing had made plans to celebrate the occasion in China.
 - 18.2 He expressed the hope that the atmosphere during the 20th anniversary celebration would be propitious.
- 19 Undersecretary Severino welcomed the reiteration of China's policy on foreign relations and suggested that such policy should prevail in the region.
 - 19.1 He noted the importance that China places on its relations with the Philippines and with ASEAN. He expressed the hope that the consultation process would contribute to improving bilateral relations.
- Vice Minister Tang noted ASEAN's statement on the current dispute between China and the Philippines.

5

RP-China bilateral consultations, 19-22 March 1995, record of proceedings

- 20.1 He suggested that, in briefing correspondents after the consultations, reference could be made to the basic principles of the Manila Declaration on the South China Sea, which he said were consistent with Chinese principles.
- 20.2 He supported the Declaration's call for the maintenance of a positive atmosphere through consultations and negotiations. He urged both parties to treasure the common ground, set aside differences, expand the common ground, and narrow the differences.
- 20.3 He urged that both parties focus on larger interests, namely a) fostering friendly and neighborly relations; b) maintaining peace and stability in the region; and c) striving for positive results during the consultation process.

Day 1, Session 2

- The discussions focusing on Mischief Reef during the first day of consultations started at 10:30 a.m. and lasted until 12:00 noon.
- Undersecretary Severino began by saying he would be frank about the situation in Mischief reef, as this was a matter that cast a cloud over good relations between the Philippines and China. He expressed the Philippine panel's deep concern over three matters: (1) the detention of Filipino fishermen by Chinese elements in Mischief Reef; (2) the presence of structures apparently built by China; and (3) the continued presence of Chinese vessels in the area.
- He further expressed the belief that these developments were not consistent with the letter and spirit of the ASEAN Declaration, which prescribes self-restraint and a certain transparency in the various countries' moves in the area. He said these acts "undermine the confidence-building process" and "have, to some extent, hurt friendly relations between the two countries." They have also aroused rather grave concern among the other countries of the region, he said.
- He said that the Philippine side welcomed China's statement of its "basic intention... to maintain regional peace and stability while vigorously working out a settlement likely to be accepted by all parties involved in the dispute" (quoting from the Chinese statement). In this spirit, the Undersecretary proposed that the two sides provide conditions favorable to a vigorous search for a peaceful settlement.
- These favorable conditions would entail: (1) a return to the situation prior to the Mischief Reef developments; (2) engaging in bilateral and multilateral activities that transcend the sovereignty question and are in interests of all claimants and others in the region. The

Undersecretary mentioned that some such activities had already been discussed in various forums, specifically those relating to environment, piracy, marine scientific research, cooperation to prevent disasters at sea, and reduction of military presence. The Undersecretary referred to the possibility that, when favorable conditions had been laid, all claimants and some others like Singapore and Indonesia would sit down together and discuss all aspects of the dispute.

- Vice-Minister Tang Jiaxuan responded by saying that, when talking about Mischief Reef, it is unavoidable to talk about Nansha. He said that it was not difficult to solve the Mischief Reef problem, and that the situation there was not complex, nor was there tension and crisis. However, he said, the key to resolving this lay in how to deal with the Nansha problem.
- He reiterated China's basic position as follows: (1) From the international legal and historical perspective, China has indisputable sovereignty over Nansha, "of course including Mischief Reef"; (2) China prefers to solve disputes through bilateral negotiations, and hopes for a peaceful settlement through patient negotiations; and (3) if, for the time being, there is no solution, China is prepared to shelve the dispute and instead explore ways to carry out cooperative activities and joint development.
- Vice-Minister Tang said the Philippine claim could be traced to the 1950s. He asserted that China, however, was the first country to discover and exercise sovereignty. Japan occupied the islands during World War II, but was instructed by the Cairo Declaration and the Potsdam Proclamation to return these to China, then to be administered by the government of Kaohsiung on Taiwan, together with Manchuria and Formosa and the Pescadores.
 - 28.1 Vice-Minister Tang asserted that, after World War II, between September 1946 and March 1947, China took over the islands from Japan and underwent legal procedures. He said that troops were sent, maps drawn up, names determined, and books compiled and published.
 - 28.2 In the early 1950s, he said, the Philippines claimed sovereignty over the area, and the Chinese Government made public statements about the claim.
- However, he said, since the establishment of diplomatic ties between China and the Philippines, China had refrained from making public statements about Philippine actions but expressed her positions privately. He said that China had exercised great restraint. Deng Xiaoping had in the past expounded the Chinese position in conversations with then Vice-President Laurel in 1986 and with President Aquino in 1988.

- In 1986, the Chinese leader said that in settling disputes, one must proceed from reality and use peaceful means rather than force. Deng had reassured the Philippines that China would not let the dispute harm relations with the Philippines. In 1988, Deng said to Aquino that, while China was most qualified to have a say on the Nanshas, it had decided to shelve the dispute and carry out joint development. At the time, Vice-Minister Tang continued, both Filipino leaders responded positively to the Chinese positions.
- Pres. Ramos and Pres. Jiang Zemin reaffirmed these during the 1993 visit of Pres. Ramos to Beijing. Meanwhile, during his May 1994 tour of Southeast Asian states, which did not include a visit to the Philippines, Jiang had proposed to his Southeast Asian counterparts that they try to seek gradual progress, set store by their relations, and chart clear directions for future relations. Jiang had also proposed to Southeast Asian leaders that cooperation may begin in easier areas, gradually proceeding to more difficult areas.
- Undersecretary Severino responded by reiterating Philippine claims to sovereignty over the Kalayaan islands.
- Vice-Minister Tang expressed his view that the question of Mischief Reef and Philippine reactions to it "do not tally with reality." The issue had been played up, he said. As the Chinese side had earlier stated, the Nansha sea area and the Mischief Reef sea area are traditional Chinese fishing grounds. The structures built on Mischief Reef were a wind shelter for certain periods of the year. To protect lives, China had restored and consolidated the original wind shelters. The construction was entirely done by local fishing authorities, a move that was strictly for humanitarian purposes. Vice-Minister Tang stated that "in a responsible way, I say that China has never built military facilities, much less a base, on Mischief Reef."
- He also said that there was no such thing as the Chinese military detaining Filipino fishermen. The question of undermining bilateral ties or sabotaging regional peace did not arise, and the accusations were too serious to fit China. Out of the desire to maintain larger interests, he said, China had adopted a calm approach and exercised great restraint. "Soon after," Vice-Minister Tang said, the Chinese side transmitted messages to the Philippine side and other leaders concerning their position.
- The Vice-Minister added that he appreciated the point raised by the Undersecretary that some activities should be conducted for the relaxation of the atmosphere. Some of the terms used by the Undersecretary were consistent with China's, he said, and the two sides could have discussions on cooperation in some areas such as marine science, disaster prevention, environmental protection. This was why China had proposed to adopt a constructive approach. He stated that China did not want to debate the

sovereignty question during the current negotiations, as time was precious and it was necessary to take a forward-looking approach.

- We should then focus on exploring effective ways for cooperation and joint development, he said. China's consistent position was to discuss this through bilateral channels, and not let in countries irrelevant to the dispute. The Vice-Minister stated that the situation in the Nanshas had become very complicated, and that there were some countries which wanted to further aggravate the situation. As for the Indonesia workshops, China had always taken part in them.
- For his part, Undersecretary Severino agreed that the Mischief Reef question was linked to the South China Sea issue, and that this was the context in which the Philippine side wished to address it. However, he said, the Philippine side did want to address the specific Mischief Reef situation since this was what had set off concern in the region.
- He said that cooperative activities were good in themselves, but the Philippines also viewed them as confidence-building measures. By building confidence, the two sides could provide an atmosphere for even more activities. The procedure of starting in easier areas then moving to more difficult ones was something the Philippine side subscribed to. This was why the developments at Mischief Reef had caught people by surprise. Moreover, he stated, Mischief Reef is very close to the main Philippine archipelago, being only 130 nm from Palawan.
- At this point, the Undersecretary queried from the Chinese side what they might mean by traditional fishing grounds. He said that the area in question was within Philippine territory, very close to Palawan, and Filipinos had been fishing in the area for a long time. It was precisely this kind of situation that could have been addressed by countries of the region.
- The Undersecretary welcomed the Chinese proposal to discuss activities bilaterally, but they had to be dealt with multilaterally as well because these would naturally involve other countries. The proposal for cooperative activities, he said, could go a long way to advance the region's interests. However, something had to be done about Mischief Reef, and the Philippine side shared the desire expressed by the head of the Chinese delegation for some understanding to be reached.
- The Vice-Minister responded by saying that in general, there was common ground in the positions of both sides.
 - 41.1 In handling the specific question of Mischief reef, it was unavoidable that the basic approach to Nansha would be touched upon;

- 41.2 the disputes should be settled through peaceful, bilateral means;
- 41.3 the normal development of state-to-state relations should not be affected;
- 41.4 if disputes cannot be resolved for the time being, they must be shelved and cooperative activities explored;
- 41.5 most importantly, both sides felt that consensus could be reached through consultation.
- However, he said that there were areas of disagreement. The first was the point raised by the Philippine side that the Mischief Reef belongs to it. Second, the structures on Mischief reef were not military; they were wind shelters and Chinese fishermen had long used Mischief Reef as wind shelter.
- Vice-Minister Tang stated that the Chinese side did not want to argue over sovereignty, but that now, they had to say that Mischief reef had always been part of China, as part of the Nansha islands. Indisputable sovereignty belonged to China and, before the 1970s, no country opposed this. On the issue of fishing, the Philippine side had on past occasions claimed that Chinese fishermen intruded in its waters. China recognized the right of the Philippines to an EEZ of 200 nm. Such a right, however, should not encroach upon the territorial integrity and sovereignty of China. Specifically, it should not infringe on China's right over Nansha, including Mischief Reef.
- According to international law and practice, the Vice-minister said, China and the Philippines should delimit the scope of their EEZ and continental shelf through negotiations, as provided in UNCLOS. But this was not the question to be resolved in these consultations.
- A third point of disagreement, according to the Vice-Minister, was that China had not carried out unilateral military activities there. There was no reason for the structures to cause tension, as they posed no threat to anyone whatsoever.
- The Chinese side had its own perceptions of the atmosphere. The Vice-Minister said he did not want to go into details because this would not be good for the atmosphere of the consultations. It was not good for the parties involved to accuse each other of making unilateral moves, he said. "The Philippine side had said China moved unilaterally; we can also say that you have reacted unilaterally," he said.
- 47 Instead, a more positive approach would be to expand common ground, narrow or even transcend differences, he said. Upon this statement, the Vice-Minister remarked that the first session had not been very long but was significant because common ground was

deepened and a better understanding of the issue was reached. He then moved that the session be adjourned, to resume the following morning, and expressed the hope that more positive results would be achieved.

Undersecretary Severino stated very briefly that there were differences between the two sides on the question of territorial claims and related matters. He noted differences also in approach to the relation between the Mischief Shoal matter and the entire question of the South China Sea. He said that the Philippine side believed that if cooperative activities were to have the right atmosphere, the resolution of the Mischief Shoal issue should contribute very much to such an atmosphere. He also said he believed the way to narrow differences was to resolve the more important ones. He then agreed to the proposed adjournment.

Day 2, Tuesday, 21 March, Session 1, 9 a.m.

- The Chinese side, represented by head of delegation Vice-Minister of Foreign Affairs Tang Jiaxuan, appraised positively the consultations held between the two sides to discuss the South China sea question, Mischief Reef included.
- Mr. Tang said that the Philippines and China were friendly neighbors with no fundamental conflicts of interests. He added that the two sides had to admit differences of viewpoint on the South China Sea, including Meijijiao. The Chinese side had all along maintained the need for a peaceful settlement of the dispute, and were happy to note that the Philippine side shared a common language on this.
- He said that Chinese leaders were very interested and very much concerned about the consultations. Premier Li Peng also expressed his interest during a call by the Thai Foreign Minister. This was undoubtedly the case for the leaders of the Philippines, as well as foreign correspondents of third countries who followed the issue closely.
- Vice-Min. Tang emphasized that the Chinese side was adopting a sincere and constructive attitude in its desire to reach several points of agreement. He proposed the points of departure to guide the discussion:
 - 52.1 mutual respect;
 - 52.2 the best interest of peace and stability in the region;
 - 52.3 the best interest of steady and stable growth of bilateral ties.

Annex 178
Government of the Republic of the Philippines and Government of the People's Republic of China, <i>Joint Statement: Philippine-China Experts Group Meeting on Confidence Building Measures</i> (23 Mar. 1995)

1999-34

JOINT STATEMENT PHILIPPINES-CHINA EXPERTS GROUP MEETING ON CONFIDENCE BUILDING MEASURES MANILA, 22-23 MARCH 1999

In accordance with the agreement reached at the Philippines-China Consultations in Manila in March 1996, an Experts' Group Meeting on Confidence-Building Measures was convened in Manila on 22-23 March 1999.

Undersecretary of Foreign Affairs Lauro L. Baja Jr., and Assistant Minister Wang Yi led their respective delegations.

The Philippine and Chinese sides agreed that a tradition of friendship has been established between their two countries through intensive official exchanges and mutual efforts to promote relations in various areas. In this regard, they had an extensive exchange of views on confidence-building measures. They also had a candid exchange of views on the latest developments relating to the Mischief Reef (Meiji Reef).

On confidence-building measures, the two sides reiterated their commitment to:

- 1. The understanding to continue to work for a setflement of their differences through friendly consultations;
- 2. Settle their dispute in accordance with the generally-accepted principles of international law, including the United Nations Convention on the Law of the Sea;
- 3. Maintain peace and stability of the region and refrain from the use or threat of force;
- 4. Improve existing systems of contact and dialogue on matters involving fisheries, marine environment, meteorology, marine scientific research, safety of lives at sea, disaster reduction and prevention, and safety of navigation;

5. Expand bilateral military dialogue and cooperation, including more exchanges of visits by senior defense and military officials, improvement of information exchange and establishment of measures for avoiding conflict at sea.

On the Mischief Reef (Meiji Reef), the two sides stated their respective positions. The Philippine side expressed its serious concern over the recent developments. The Chinese side stated that the facilities on the Mischief Reef (Meiji Reef) will remain for civilian purposes. The two sides exchanged views on ideas to ease tension and build up confidence, including the idea raised by the Philippine side for access to the above civilian facilities and the Chinese request for stopping the arrest and detention of fishermen. In response to the concerns on possible further development in this area, the two sides agreed to exercise self-restraint and not to take actions that might escalate the situation.

The two sides considered the convening of the Meeting of Experts Group on Confidence-Building Measures (CBM) as a CBM by itself, which enhanced mutual understanding.

The two sides believe that the channels of consultation between China and the Philippines are unobstructed. They have agreed that the dispute should be peacefully settled through consultation and that the normal development of bilateral relations should not be affected by their differences. They reaffirmed that they would exert efforts to resolve outstanding problems in a constructive, friendly and accommodating spirit. The two sides agreed to hold the second Meeting on Confidence-Building Measures at the earliest opportunity. The Chinese side offered to host this meeting at a date and venue to be mutually agreed upon.



TRANSCRIPT OF PROCEEDINGS RP-PRC BILATERAL TALKS AUGUST 09, 1995

Usec. Severino (Introduction)

We thank you for coming to Manila upon our invitation in order to talk about problem in the South China sea and at the same time we would like to talk about problem in the context of our over-all relations.

The very fact that we are holding these talks manifests the determination of both our countries to preserve and advance the excellent relations that prevail between our countries. As I've always pointed out to people, the Philippines' relations with China are among the best and the strongest that we have with other countries.

Only two months ago, we celebrated in each of our countries the 20th anniversary of the establishment of diplomatic relations and in reviewing those relations we found them to be excellent. The Philippines values our relations just as we value the calm and peace in eh Asia-Pacific to which those relations have contributed a great deal.

At the same time our bilateral relations for the prosperity of each of our economies depend upon the peace and stability of this region. Unfortunately, the occupation of Mischief reef, the discovery of which caught the Philippines by surprise and shocked our people has disturbed our bilateral relations and to some extent the tranquility of the region and in that sense, it has once again indicated the potential for conflict that is inherent in this situation of rival claims to the South China Sea.

Since then we have held, in fact moved up the annual dialogue between our Foreign ministries. We have participated in the first ASEAN-China senior consultations, our leaders have exchanged messages, our foreign ministers met in Bandar Seri Begawan not so long ago and ASEAN and China held bilateral consultations in the same city; we have also made contact through our respective ambassadors.

In all these contacts, each side has made clear its determination to resolve this issue peacefully through dialogues and consultations without use or threat of force. We have also gained a clearer understanding of each other's views and positions.

We in the Philippines agree that the sovereignty question cannot be resolved quickly, but we maintain that the issue of sovereignty has to be addressed. We believe that bilateral talks which we are having today and something that China and Vietnam held last month are useful; but we are convinced that the dispute in the South China Sea has to be discussed multilaterally also in view of the fact that the dispute is of multilateral character. We are glad that China finds the ASEAN-China consultative process and the Indonesia-sponsored workshop series, each in its own way, to be useful for the discussion of the issue.



We welcome the statement of China's willingness to explore ways in which to resolve the territorial disputes on the basis of international law, including in the case of maritime disputes in the United Nations Convention in the Law of the Sea. But again the question of Mischief Reef remains a matter of concern to us. The Philippine government trusts China's assurance that China will not resort to force or violence in the South China Sea.

However, as Secretary Siazon pointed out this morning, the discovery of China's structures on mischief reef has made the Filipino people particularly those living in Palawan feel threatened as Mischief Reef is not only within Philippine territory but also is very close to Palawan.

In a more general sense, as an archipelagic state completely surrounded by the sea, we are heavily dependent for our security and livelihood on our maritime environment.

I hope that we can settle this problem in a substantive way and enable Filipino fishermen to return at last to what has been for them a place of shelter for a long time.

I also hope that we can reach an understanding of each other's views and positions as they have developed specially in the last few weeks.

At the same time we should strive to move closer to a settlement or at least the beginning of one of the territorial dispute.

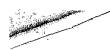
In the meantime I hope that pending the resolution of the dispute on the South China Sea we can arrive at some understanding on the principles that are to govern our conduct in the area, understanding of our mutual expectations of a common mode of behavior in the region. In other words, what we may or may not do, of what we can and cannot do.

Vice Min. Wang:

Thank you Mr. Undersecretary for your remarks. I would also like to thank the Filipino side for the warm hospitality to me and my colleagues. I am very glad to have this opportunity to come to the Philippines to have consultation with officials from the Department of Foreign Affairs headed by you.

I fully agree with you in saying that our two countries are quite friendly to each other over the past 20 years. A lot of important progress has been made in various areas and we should value this kind of friendship.

Many officials present today are directly involved in the undertaking of promoting our friendship. Amb. Ong is very active in Beijing in promoting our understanding and



cooperation so is Amb. Guan.

As I have said to Mr. Undersecretary, the maintenance of friendship and cooperation between our two countries is the priority for the peoples of the two countries. I see that there is a common hope that the territorial dispute between us should not affect the overall situation between us.

It is in frank, pragmatic and constructive attitude that I am having this consultation with you Mr. Undersecretary. I would also like to exchange with you views on issues of common concern in an in-depth manner. As I have said to Mr. Undersecretary, we can touch upon any issue including sovereignty.

If you have the same idea, we can talk about sovereignty and also Code of Behavior and exploration of cooperation in the disputed area.

It is most desirable that our consultation can produce a positive result. This is what we have been hoping for.

If a result that we have been expecting for cannot be achieved for the time being, we can continue our momentum of consultations because consultation is better than no consultation at all.

Any effort is worthwhile in order to preserve peace in the region and maintain the friendship between us.

I would like to know if you have preliminary agenda concerning what issues should come first and what should come later during the following two days.

Usec. Severino:

I agree with you that of paramount importance is the relationship between the two countries and the peace and tranquility of this region and I'm gratified to hear about your readiness to talk about the sovereignty issue and certain Code of Behavior of our conduct in the area pending resolution of this dispute. Of foremost concern to our people and our media is what are we doing about the situation in Mischief Reef. If we can come out with a positive result on this issue, it could advance the process of strengthening our relations immeasurably.

We may also exchange views on our respective positions on our respective claims in the SCS as to have a better understanding of this matter.

Then we can talk about other aspects of other relations; since we are here already, maybe there are some areas that may have been left from our bilateral consultations last

March and left over also from the discussions between our Foreign Ministers recently that might usefully bring up.

Vice Min. Wang:

I go along with you. We can have discussions on issue on sovereignty, Mischief Reef then Code of Behavior. I think the Philippine side knows clearly the Chinese government's position concerning the sovereignty in the Nansha islands.

The dispute between us is mainly centering around the issue of sovereignty. We say that we have sovereignty over the Nansha islands and you say that you have sovereignty over part of the Nansha in what you call the Kalayaan group of islands. This is our basic difference. Of course, arising from this, there may be other issues such as maritime jurisdiction.

I'd like to summarize briefly China's position from a historical and jurisprudential point of view, China has indisputable sovereignty over the Nansha islands. We have sufficient evidence supporting this.

First, there is a large body of evidence in both Chinese and foreing historical records that the Chinese people were the first to discover the name of the Nansha islands.

We say that we can settle this issue in accordance with international law. From the point of view of the evolution of international law. The mere fact that the Chinese people discovered the Nansha islands has brought along sovereignty over the Nansha islands with it.

China's sovereignty over the Nansha islands was reinforced by the development of the islands and their adjacent waters by the Chinese and the actual control by the Chinese government later on.

From very early times, the Nansha islands were not terra nullius but an inalienable part of the China's territory.

In international law, territory is not only defined as an area in which a country exercises control but also an area where its people carry out economic activities.

If there is a place in which nationals of only one country maintain residence and conduct activities of the nationals and no similar activities are conduced by nationals from other countries, then this place is regarded as belonging to that very country. This principle has been confirmed by international practice.

There are cases internationally that support this principle.

The Chinese fishermen have long been living in the nansha islands and engage in fishing and agricultural activities without any stop.

The peaceful development in this area by the Chinese people is recorded in a lot of Chinese and foreign historical records.

Certainly, Chinese government's control of the Nansha islands was also reflected in the very acts of the government.

According to the historical records in China, during very early times, China has already defined the administrative demarcation of the Nansha islands.

And also, since early this century, consecutive Chinese governments have engaged in persistent efforts to preserve China's sovereignty over the Nansha islands.

In the 1930's France once occupied 9 small islands in the Nansha islands. The Chinese fishermen there carried out resistance activities and the Chinese government made diplomatic representation in a timely manner.

I can give you an example of another historical event of major importance. Japan once occupied the nansha islands in the second World War when Japan surrendered, Japan returned the Nansha islands to China.

Because of the time limit, I don't want to quote in depth these historical records. I want to say briefly that China has sufficient historical and jurisprudential evidence to support its sovereignty over the Nansha islands and their adjacent waters.

Chinese peoples' activities in the Nansha islands are based on this very important principle that China has sovereignty.

This is what we have pointed out frankly in our previous discussion it is not that China occupied the territory of the Philippines; it is that China's sovereignty is violated by other countries.

As for the issue of Mischief you have touched upon just now, we have already explained to you in many occasions, Mischief or rather Meiji Reef is part of Nansha islands, therefore its part of Chinese territory.

On such issue, you may have different views. Actually, in Meiji Reef China merely constructed some wind sheltering facilities for the purpose of peaceful use.

For the overall interest of the friendship among our two countries, we also said that we are willing to consider to permit the Filipino fishermen to go there for wind sheltering if they need so.

We do not hope to see that this specific issue would adversely affect our atmosphere or would affect our development in good track and affect our efforts in promoting relations.

USEC SEV:

I thank you for your exposition of the Chinese position on the sovereignty issue and on the question of the Mischief Reef.

On the sovereignty issue, we take a different view in the sense that we consider that when the San Francisco Peace Treaty was concluded in 1951, the Japanese renounced their ownership and occupation of the South China Sea islands but did not turn them over to anyone.

Moreover, our fishermen, like those of other countries, have been fishing in that area for a long time.

When our people in the 1950s and 1960s discovered and explored these islands, there was nobody there.

On the basis of that, we established our presence on several of the islands.

... and we proceeded to carry out normal civilian activities there.

In 1978, we established our jurisdiction over a certain portion of the South China Sea islands on the basis of our national sovereignty and from the point of view of our national security and economic interest.

The main point now is obviously, as we both recognize, that the sovereignty issue cannot be resolved easily. We think that it has to be addressed at every turn but it will take time until it is resolved to the satisfaction of everyone, specially in view of the fact that other countries are also involved here.

However, as you know, the situation has a certain degree of stability in recent years specially in the light of our mutual assurances that we will not engage in acts of force or violence in the area and that we will resolve the issue by peaceful means.

I also said earlier what disturbed this calm atmosphere was this development in Mischief Reef.

The concern of our people over this development arises not only from the proximity of mischief Reef to Palawan but also from the perceived possibility that other such actions might take place elsewhere. This is why there is a sense of insecurity on the part of many people in the Philippines.

While we appreciate the willingness of China to have our fishermen take shelter in these wind shelters, the perception will still be that our fishermen who have been taking shelter in this particular reef for a long time will be doing so now under the sufferance of the Chinese authorities...

... so that we may have to go further than this step in order to assure our people that the insecurity has abated.

WANG:

I would like to thank you, Mr. Undersecretary, for stating your views concerning this. This will help our mutual understanding.

I have taken note of your mentioning of the San Francisco Peace Treaty. This treaty was touched upon in our previous discussions.

I would like to say something about the history in terms of the international law. One of the results of China's efforts and is contained in the Cairo Declaration. The Cairo declaration by China, US and Great Britain on December 1, 1943 declares solemnly that one of the purposes of the three allies in this war is to ensure that all the territories Japan has stolen from the Chinese such as Manchuria, Formosa and Pescados shall be returned to the Republic of China.

At that time, the Nansha islands were put under Taiwan's administration by Japan. Therefore, China's demand for return of Taiwan Penghou as lands stolen by japan certainly applies to the nansha islands.

China's position of recovering its lost territories was once again confirmed in the Potsdam Declaration by China, US and Britain in July 26, 1945. It is declared in that proclamation that the terms of the Cairo Declaration shall be carried out.

In accordance with the spirit of the Cairo Declaration and Potsdam Proclamation China completed its procedures in accordance with its domestic laws for recovering the lost territory. After the surrender of Japan, the then commander of China's ordered the Japanese troops in the Nansha islands to surrender to the Chinese troops stationed in the Yu Lin Port on the Hainan islands. China's officers from the Ministry of Internal Affairs and the Ministry of navy were sent to Nansha to recover the islands on naval vessels Taiping and Zhong Ye from september 1946 to march 1947.

Actually, long before the signing of the Peace Treaty with Japan concluded in San Francisco in 1951, China had already completed the procedures in the international Law and domestic law for recovering lost territory.

Because of this, on August 15,1951, the then Prime Minister of the Peoples Republic of China, Zhou Enlai, in response to drafting of the San Francisco Treaty by the US and Britain, pointed out that whatever provisions of the Treaty of San Francisco may contain will not prejudice China's sovereignty over the Nansha islands. In fact, the Peace Treaty of San Francisco contained no provisions harmful to China's sovereignty. According to Article 2 of the San Francisco Treaty, Japan renounces its rights, titles, claims over the Nansha islands and the Xisha islands.

There is interpretation to this in the Peace Treaty between Taiwan and Japan in 1952.

According to Article 2 of the Peace Treaty between Taiwan and Japan contains provisions in a bilateral form. And concerning the part of the multilateral treaty that concerns Japan and China bilaterally, this can be seen as the supplementary evidence of China's sovereignty over the Nansha Islands. The San Francisco Peace Treaty and the Peace Treaty between Taiwan and Japan serve as evidence for China's sovereignty over the Nansha islands and for the fact that the Nansha islands are inalienable part of the Chinese territory. This is valid in international Law.

Please allow me to point out frankly here that in international law, the Philippine claim over the Nansha Islands of China is untenable.

We know that the composition and the scope of the territory of the Philippines are defined by a series of international treaties including the 1898 Treaty of Paris between US and Spain, the 1900 Treaty on Cession of Outlying Islands of the Philippines between US and Britain and the 1933 Treaty on the Delimitation of Boundaries between British Northern Borneo and US Philippines between the US and Britain. None of the treaties mentioned the Nansha Islands nor included in the territory of the Philippines.

The validity of the abovementioned treaties are reaffirmed by the 1935 Constitution of the Philippines, the Treaty on General Relations between the US and the Philippines on July 4, 1946 and the Amended Law on Baseline of the Territorial Sea of the Philippines on September 14, 1968.

Between China and the Philippines, the two peoples in the past lived in their own lands and co-existed harmoniously and in the past, there was no dispute over the nansha islands. Only at the beginning of the 1950's the Philippine side made some remarks and laid claims over the Nansha islands.

From the beginning of the 1970's, the Philippines began to occupy some of the islands and reefs in China's nansha islands. The Chinese government made timely representations and made clear our position.

In terms of law, only through the 1978 Presidential Decree by President Ferdinand

Marcos did the Philippines laid its claim over the Nansha Islands. At that time, the Chinese government made very clear its position. We have never, we have never the occupation of the Philippines as valid. we have always said that such occupation is null and void.

For the Chinese people and their government starting from 1970's, parts of islands and reefs in the nansha islands were illegally occupied by the Philippines. This matter naturally touches upon Chinese peoples' feelings.

At that time, the Chinese government and its people were actually quite restrained with regard to the actions by the Philippines.

Please allow me once again to point out frankly that the measures and actions by the Philippines contrast sharply with China's attitude of restraint.

Since the end of the 1980's the Philippines has been reinforcing its occupation in parts of the islands and reefs of the nansha islands by stationing more troops and constructing military airports, holding the so-called municipal elections and in attempt to occupy those reefs and islands.

In the area you have occupied, you have exercised unilateral compulsory jurisdiction by detaining the Chinese fishermen who engage in fishing in their traditional fishing ground.

After the Meiji issue, the Philippines undertook a series of activities, a series of provocative activities as what we call.

In view of China's position that it has sovereignty over the nansha islands, what we have done in the Meiji Reef are only reasonable and legal actions within the limits of our sovereignty.

Before the meiji issue, we exercised restraint over the actions from the Philippines side and after the Meiji issue, we have all along exercised restraint over the actions of the Philippines.

And also in terms of public opinion, we have been trying to persuade our public in their opinion in order to preserve the good atmosphere among us.

It is only through diplomatic channels that we have been explaining our positions to the Philippines.

We hope that we can settle the problems confronting us through dialogues and consultations.

As for the Meiji issue and in a broader sense, the territorial sovereignty dispute that we have no other way than consultation.

It is not because that we do not have sufficient historical and jurisprudential evidence that we have proposed shelving dispute. The fact is contrary to it, it is proceeding from our overall consideration of friendship that we have made reconciliation and made concessions.

It is just like the words then Vice Premier Deng Xiaoping said to President Aquino that China made such proposal out of a great concession.

Frankly, inside China, some people cannot understand this. obviously this is our territory why then can we allow the occupation by others? Obviously this is our territory why can we allow the joint development? Why can we allow the sharing of such rights?

Actually, we persuaded people in our country who have such view. It is out of the consideration for the preserving of regional peace and for maintaining good relations with countries concerned that we deal with this issue in this way.

We hope that the relevant countries can have a correct understanding to the sincerity and goodwill of the Chinese government concerning the solution of this issue.

As for windshelters in the Meiji Reef, I have touched upon this issue in our previous discussion. I stated then that if the Philippines' fishermen can go there for wind sheltering if they need it with consent from the Chinese government.

Usec, Severino:

Thank you for elaborating further the Chinese position on the sovereignty issue and on the Mischief reef issue. China invokes the Cairo Declaration and the Potsdam Proclamation. The participants in those conferences were the US, Great Britain and China and the Philippines was not party at all to those declarations and whatever those proclamations expressed were surely superseded by what was agreed upon later on in San Francisco.

As I said earlier, the San Francisco Peace Treaty never said to whom Japan was to turn over the South China Sea islands.

The US and Spain, the US and Britain and the Philippines and the US entered into treaties that defined Philippine territory as you pointed out.

However, international law allows countries to claim and discover, explore and occupy other territories which do not belong to other countries.

In the same way, the drawing of the baseline around the Philippine archipelago do not preclude the acquisition of the Philippines of more territory provided that the territory acquired do not belong to any other country.

I agree that the Philippines and China have ; lived quietly and related peacefully to each other for some years until the Mischief Reef incident occurred.

This is why I say that the Mischief Reef issue has become a problem between us when in fact we could have lived with the status quo while seeking to resolve the sovereignty question.

Moreover, the Mischief reef issue is not only a matter of legal sovereignty over which there is obviously a dispute between us, between each of us and other countries. It is at this point more of a political problem which we have to address in a political way.

As I said earlier, the concern among many Filipinos is that if the Mischief Reef issue is not resolved, then the fear will always be with them about more actions of this type on the part of China. That is why the issue is quite important to us.

Vice Min Wang:

I just want to make some brief comments. This is only our preliminary discussion about the sovereignty issue. We are willing to talk with you in the future in an in-depth manner and we are also willing to provide you details of Chinese historical records, records about international conferences—and even historical records from foreign countries.

We know in such discussions, you will have a lot to say and we will have a lot to say. It is not a simple matter to reach agreement over this issue in a short period of time when talking about the sovereignty issue, no government, no people, no leader can afford to make concessions easily.

But we are willing to have future discussion with you as this will help mutual understanding.

I think my friends from the Philippines may have noticed that recently we stated that we want to settle this issue in accordance with international law and relevant laws. In treating such complex issues as sovereignty and jurisdiction, it must be based on international law and laws instead of military strength or the strength of a country or resort to force.

While we rule out the possibility of the use of force, we can have discussed on this issues but we can treat this matter in accordance with laws instead of each arguing his

own reason.

We hope that through negotiation and consultation we can find a final solution. We are not in favor of raising this issue to the International Court of Justice. But this is not out of our fear and our weak position in this regard. We think that as two friendly countries, we can find a solution to this on our own through sufficient exchange of views as we are now both sovereign nations.

Prior to a solution, in order to preserve peace in the region, maintain friendship and expand cooperation we sincerely hope that both of the two sides can refrain from doing anything that might affect peace and stability in the region and affect the development of our bilateral relations.

You have mentioned the maintaining of status quo just now, Mr. Undersecretary. I want to point out frankly that you can never hear such remarks from the Chinese side because concerning the issue of sovereignty, we Chinese think that it is foreign countries that have occupied China's islands and reefs so it is entirely impossible to China to accept the validity of such occupation to accept such status quo.

Actually, the Vietnamese were the first to talk about maintaining status quo concerning the nansha issue. But that was only a few years ago at the beginning of the 1990's. Have the Vietnamese raised maintaining the status quo twenty years earlier, namely in the 70's, we will agree with them a hundred percent.

However, after the Vietnamese occupied 27 islands and reefs of China in the 1990's, it is difficult for China to accept maintaining the status quo. I think it is difficult for any country to accept this.

Because maintaining of status quo implies that there is the possibility of accepting and recognizing such occupation.

Here I have to say that both China and the Philippines can refrain from doing anything that is harmful to peace and stability in the region. From the point of view maintaining peace and stability in the region, maintaining friendly relations between our two countries, I use the word "maintain".

We hope that the Philippines can refrain from doing anything that will reinforce your occupation and that will show your sovereignty in the reefs and islands you have occupied.

Likewise from the Chinese side concerning sovereignty, we will also take no measure that is harmful to peace and stability in the region.

So long as the two sides can achieve such consensus, it is possible for the two

sides to maintain peace and tranquility in the disputed area in the future. And more than that, we can strengthen our cooperation.

I want to emphasize here that China does not want to settle this issue through the use of force and it is not our intention to delay this issue in order to recover them in the future and this is a serious threat(?) by some other people. So that it is groundless to say that China wants to construct its own military base in the Meiji Reef.

The direction of our efforts is to share interests in the disputed area through cooperation and joint development. we think this is the most pragmatic way.

For example we have fishing disputes and we can consider how to have fishing cooperation in the disputed area and also it is believed throughout the world, the Nansha area is rich in resources such as gas and oil. If so, how to share such interest through joint development is something we can consider.

On these matters, I am willing to have sufficient exchange of views with you in our future discussion.

Usec. Severino:

And the second second second second

Thank you very much. We agreed that now that we elaborated on our own respective legal positions, obviously we cannot resolve the conflicts between these positions. Nevertheless we can agree to discuss these issues further. We are glad that you are ready to discuss them in detail. Perhaps the aspects of our claim pertaining to legal sovereignty could be discussed here between us or between legal experts between other people. Certainly, i think that by discussing them we could make progress toward an eventual resolution at some stage.

We can also agree that neither side should take any steps that will disturb the tranquility of the region anymore and any steps that would exacerbate the concerns of our peoples.

We think that both our countries have great interest in the stability and tranquility of the region and also I think that we would not want our respective peoples to be unduly alarmed by actions taken by each other and we feel that if we can come to an agreement that we would not take such measures and to consult each other whenever we take a major step that will affect this area, it will help a great deal in restoring confidence, in creating the atmosphere for stronger relations and prevent this issue from becoming an irritant between our two countries.

I would like to return briefly at our next session to some things that i would like to clarify in my mind about the sovereignty question and then perhaps we could talk about

certain cooperative things that we could do, certain confidence building measures between us and then other aspects of our relationship.

Vice Min Wang:

Thank you for your comments. I agree that over some issues and specially issues concerning legal aspects, the legal experts from our countries can have future exchange of views. They can have separate talks.

We can talk about the timing of the legal experts consultations later on. i also agree with you that both of our two sides should refrain from taking any measures that may affect peace and tranquility in the region. I think that this is an important consensus among us.

I go along with you in saying that we should strengthen our consultation like the consultation we are having today. This can help us remove in a timely manner the possible misunderstanding between us and increase our understanding. We will have confidence in each other. In the discussions tomorrow, I am ready to talk with you about the code of behavior which is important to you and other matters concerning cooperation.

Annex 180
Government of the Republic of the Philippines and Government of the People's Republic of China, <i>Agreed Minutes on the First Philippines-China Bilateral Consultations on the South China Sea Issue</i> (10 Aug. 1995)



1995-39

1st Philippines-China Bilateral Consultations on the South China Sea Issue Manila, 9-10 August 1995

The Philippines and China held their first bilateral consultations on the South China Sea issue and on other areas of cooperation in Manila on 9-10 August 1995 at senior officials level. Undersecretary of Foreign Affairs Rodolfo Severino led the Philippine delegation, while the Chinese delegation was headed by Assistant Foreign Minister Wang Yingfan.

The Philippine side cited the importance it attaches to its bilateral relations with China. However, these relations and the tranquility prevailing in the region were disturbed by the construction of structures by the Chinese and their continued occupation of Mischief Reef.

The Philippine side reaffirmed its claim of sovereignty over the Kalayaan Island Group (KIG). It was pointed out to the Chinese that the issue of Mischief Reef is still cause for concern. Filipinos feel threatened by Chinese occupation of Mischief Reef, not only because of its proximity to Palawan, but also due to the possibility that such Chinese actions may take place elsewhere inside the KIG. As an archepelagic country, the Philippines is dependent on the maritime environment for its security and survival.

The Chinese side cited the priority it attaches to friendship and cooperation with the Philippines. It however reiterated its sovereignty claim over the Nansha Islands (Spratlys) and their adjacent waters, citing historical and jurisprudential bases for its claim. Among the legal bases cited by China were the Cairo Declaration of 1943 and the Potsdam Proclamation of 1945. It also reiterated China's previous position that, if Filipino fishermen need to use shelter, they can do so with the consent of the Chinese side. The Philippine side, however, declared that, previous to the Chinese occupation of Mischief Reef, Filipino fishermen had been freely using the Mischief Reef as shelter.

The two sides agreed on the necessity and desirability of having a code of conduct in the disputed area. Having such a code could foster an atmosphere of trust in the region which would be beneficial not only for security reasons, but also for expansion of trade and economic relationship. Pending the resolution of the dispute, the two sides agreed to abide by the following principles for a code of conduct in the area:

1. Territorial disputes between the two sides should not affect the normal development of their relations.

Disputes shall be settled in a peaceful and friendly manner through consultations on the basis of equality and mutual respect.

- 2. Efforts must be undertaken to build confidence and trust between the two parties, to enhance an atmosphere of peace and stability in the region, and to refrain from using force or threat of force to resolve disputes.
- 3. In the spirit of expanding common ground and narrowing differences, a gradual and progressive process of cooperation shall be adopted with a view to eventually negotiating a settlement of the bilateral disputes.
- 4. The two sides agreed to settle their bilateral disputes in accordance with the recognized principles of international law, including the UN Convention on the Law of the Sea.
- 5. Both sides shall keep an open-minded attitude on the constructive initiatives and proposals of regional states to pursue multilateral cooperation in the South China Sea at the appropriate time.
- 6. The two sides agree to promote cooperation in fields such as protection of the marine environment, safety of navigation, prevention of piracy, marine scientific research, disaster mitigation and control, search and rescue operations, meteorology, and maritime pollution control. They also agree that on some of the abovementioned issues, multilateral cooperation could eventually be conducted.
- All parties concerned shall cooperate in the protection and conservation of the marine resources of the South China Sea.
- 8. Disputes shall be settled by the countries directly concerned without prejudice to the freedom of navigation in the South China Sea.

In order to push the process forward, the two sides agreed to hold discussions among experts on legal issues and sustainable economic cooperation in the South China Sea.

The two sides agreed further that experts from the two countries shall hold consultations at a mutually acceptable date in order to explore the possibilities of fisheries cooperation in the disputed area. The Chinese proposed that fisheries cooperation cover fishing, processing, fish-farming, transportation and sales. The agreement proposed by China would cover principles, content, conduct, rights and obligations, procedures for settling disputes, and wind sheltering for fishermen.

The Philippines will refer to appropriate Philippine government agencies for further study the Chinese proposal to jointly explore oil and gas resources in the disputed area, including the Reed Bank.

The two sides agreed to hold further consultations in order to resolve their differences.

Enclosed is the meeting's Joint Statement.

Annex 181
Government of the Republic of the Philippines, Transcript of Proceedings Republic of the Philippines-People's Republic of China Bilateral Talks (10 Aug. 1995)

1995.24

TRANSCRIPT OF PROCEEDINGS RP-PRC BILATERAL TALKS AUGUST 10, 1995

Usec. Severino:

I think that we had a good discussion yesterday. We certainly found the discussion most useful and productive and more than that, we appreciate the congeniality with which the discussions were conducted.

I think that one of the things that came out of our discussions is how much each side values our bilateral relationship and the regional peace and stability with which our bilateral relations are intimately linked.

We also addressed the fact that we had a clearer understanding of the basis for each other's claims to the SCS. And we were able to address the fact that there is a dispute there but we reiterated our determination to deal with this dispute in a peaceful and friendly way.

Apart from the legal aspects, the legal dimensions, the legal arguments of our dispute, I also referred to the situation on in Mischief Reef as beyond the legal arguments that it remains a political issue for many of our people because they feel that the situation there is somehow threatening to their sense of security.

And I was wondering if there is anything further that we could discuss pertaining to this subject, whether there is any additional thoughts which you may have on it, or further proposals on this issue.

ViceMin.Wang:

I thank you for your assessment of yesterday's consultation. I fully go along with you. Although we didn't spend too much time on it, the talk was quite useful and productive. This morning I read from the newspaper, and people used the word constructive. Indeed I think yesterday both our sides have shown an attitude of constructiveness. I think this is a very important reason for the consultation.

On the Meiji issue, I do not have anything new to say. For a period of time in the past, the focal point in our dispute was this Meiji Reef, and this adversely affected the friendly atmosphere in our bilateral relations. We have explained to you that this is not a major issue. It is nothing serious for the Chinese side to construct some windsheltering facilities for peaceful purposes. Some people just exaggerated this and they said that the Chinese side is constructing a military facility. This does not square with the fact.

Because this is a windsheltering structure for the fishermen, we have stated that if the Philippine fishermen need, they may also use this facility with the consent of the Chinese government.

But to avoid misunderstanding, I think that we still have time today to discuss the subject of fishing cooperation between us including the use

of the windsheltering facilities. Yesterday, you asked me if the fishermen in the Philippines can use the windsheltering facility after we said so, I'm afraid that we'll have to reach some understanding before they can use it.

In principle, there is no problem in the use of the windsheltering facilities. But in order to have communication and understanding between the two sides in order to prevent trouble from arising, we have to have indepth discussion, I'm afraid.

Severino:

Thank you very much for your explanation. I would like to reiterate that although the question of MR may seem minor from the perspective of China since China is a big country and MR is quite far from the mainland of China, it remains of serious concern to the Philippines, since as I pointed out yesterday, the Philippines is a relatively small country, and the area in question is very close to our main archipelago.

Moreover, this reef provides shelter for fishermen and traditionally, our fishermen use this shelter facility quite freely in the past and our people are wondering why they are not free to enter the reef any more.

We would of course welcome further discussions on this matter and the question of fishing in general.

Wang:

I fully agree with you. We can have discussions with you on Code of Conduct and fishing cooperation. I can also share with you some of our preliminary ideas concerning this. We hope that in this area, our both countries can strengthen cooperation at both official and nongovernmental levels and avoid those unpleasant things.

Severino:

Yesterday, we also talked about the Chinese position that China Is ready to explore ways of settling the territorial disputes through the application of international laws, including the UNCLOS. We ourselves adhere to the CLOS, having signed and ratified it. We know that we have heard Chinese reassurances from the past concerning the peaceful settlement of territorial disputes, which we of course welcome. We consider this invocation of international law as an elaboration of the basic Chinese position and again this is to be welcomed. We of course recognize that the UNCLOS and international law generally does not by itself settle territorial claims and therefore we need clearer understanding of how China means to apply the CLOS to its own position in the SCS.

Wang:

We have stated that we are ready to settle the dispute between us

In accordance with recognized international law including the UNCLOS and contemporary law of the sea. We have stated that one of the important points that we should base the territorial dispute is international law.

Yesterday, I also said that we cannot settle the dispute by use of threat of force and during the process of negotiation we cannot simply negotiate by reasoning from each side. We should rely on law and in accordance with the law.

The dispute between China and the Philippines in the Nansha is basically a territorial dispute although it includes to some extent the maritime jurisdiction issue. UNCLOS is mainly a convention concerning the delimitation of maritime jurisdiction areas.

So I think that the legal experts from both of our countries share the view that we cannot rely solely on UNCLOS to fundamentally settle the dispute between us. However, some issues in our dispute can be settled in accordance with UNCLOS.

By stating so, the Chinese side has shown the importance it attaches to the UNCLOS. China is a signatory to the UNCLOS and is now in the process of ratifying it.

Consensus was by and large reached on a lot of important issues in this UNCLOS through a long time of negotiation and consultation. It is just that this issue touches upon the specific interests of countries concerned that a long time has been spent on the negotiation of UNCLOS.

When I say that we must do anything in accordance with the law, I actually mean that we should settle some issues in accordance with the provisions in this convention. Maybe some clauses might be favorable to the country and maybe some other clauses might not be favorable to the country as it concerns the interest of the country, but fundamentally speaking, we have to do things in accordance with the law.

If we can agree that we can have the legal experts from the two sides to discuss this matter, I think this would be desirable.

Severino:

Thank you very much. I think it would be desirable and necessary at some point to discuss the legal arguments and the legal angles of the conflicting claims. We were interested in the relationship of UNCLOS with the Chinese claim because we would also like to know the kinds of legal regimes that you consider to be applicable to the SCS islands. When you talk, for example of adjacent waters, it would be helpful to us to know the extent of this adjacent waters and the kinds of regimes you consider to prevail in this adjacent waters without prejudice, of course, to the conflicting claims. This is in order to have a better idea for the basis of our legal discussions.

Wang:

I also agree that at some point, the legal experts of our two countries should have discussions from the legal perspective as what you have said just now. On the side of China, we would have to continue to study and do some work in coordination. You may also have known that at present, China has not announced the baseline of its territorial sea, or announced its 200 NM of EEZ or continental shelf. The extent of these we are still considering. By now, China has already promulgated the Law on the Territorial Sea and Contiguous Zone's.

Severino:

In that case, perhaps one of the things that could come out in our talks would be our agreement that our legal experts would sit down when both sides are ready to discuss the legal aspects of the question quietty and in a friendly manner.

Wang:

I fully agree with you.

Severino:

Thank you very much. Now we at this point both agree on the necessity of some kind of code of behavior in the period when we are still threshing out the legal aspects and while we are beginning to talk about the sovereignty issue. Obviously the sovereignty issue and the territorial disputes cannot be resolved very quickly. We need to have a clear understanding of how each of us is to conduct itself and what kinds of principles should govern our relations in this area so that tension is avoided, conflict is avoided and indeed cooperation and friendship is promoted. Therefore we could begin with certain general principles that we could agree on so that an atmosphere of trust and an atmosphere of stability can be fostered which will be greatly beneficial to both our countries in terms not only of security but in terms of economic confidence in this area.

Wang:

We have noticed that over the past period of years the Philippine government and its leaders have proposed that the two sides should discuss the code of conduct in order to increase and enhance the trust between us. We fully agree with you. We hope that through our work, we could reach agreement on some basic principles which would be helpful to maintain our relations.

Severino:

In our view we should begin with certain general principles at this stage and at the course of our further discussions and sometime in the near future we hope we could further elaborate on this and make them more and more specific as time goes by.

We have listed down rather informally certain principles which we would like to commend to you for your consideration. One of them is the commitment of the two sides for creating, fostering peace and stability in the region and to exert efforts to build confidence and trust between them.

We could agree to exercise mutual respect and equal treatment of territorial claims and at the same time refrain from the use of force or threat of use of force and to oppose hegemonic activities by any party.

So far both sides have already made statement embodying these principles. We could also refer to our determination to evolve a gradual and progressive process toward the establishment of a regime for a cooperation and negotiating the peaceful settlement of territorial disputes and we could also say that we are committed to setting clear targets and benchmarks in progressing toward this goal.

In reference to what we discussed earlier this morning, we could reiterate our adherence to the principles of international law in our conduct with respect to the dispute.

We could also refer to the ASEAN Declaration on the South China Sea and to its basic principles to which all concerned have already endorsed.

We could say that we are considering constructive initiatives and proposals of regional states to pursue cooperation in the South China Sea such as the creation of development zones including the president's proposal for stewardship concept and perhaps including the Indonesian proposed "doughnut" system.

We could also refer to the fact that both claimants and nonclaimants have certain legitimate interests in the South China Sea.

Finally, we could refer to the value to which both sides place to the conservation and protection of the environment and the conservation of the natural resources of the South China Sea as a matter of principle and as a matter of policy.

So these are some of the principles which we thought we could initially agree on and so that we can move the process forward and foster the spirit of amicability between us.

Wang:

Thank you Mr. Undersecretary for sharing with us your preliminary ideas on a code of behavior. My impression is that with regard to the principles, we can find some common ground although at present we may have different views.

Also, I would like to say something on our ideas for the code of behavior for your reference. The Chinese side maintains that the principles guiding our conduct in the area should include the following:

- The Nansha dispute should be settled in a friendly and peaceful manner through consultation and negotiation between the two countries.
- The two countries should work together to maintain regional peace and stability and should not resort to force or threat of force.
- 3. The two countries shall adopt a calm and constructive and attitude toward the settlement of disputes in the Nansha island and should refrain from taking any activities that might complicate or expand the matter and should not take any measure that are harmful to regional peace and stability. Also, the dispute in the Nansha islands is a matter between the countries concerned and we are opposed to outside involvement and internationalization.

I want to make some further elaboration. I think both sides should be on guard against some of the events centering around the South China Sea issue. At present, some countries that have no direct relation with the SCS are trying to play up this issue in an attempt to sow discord in the relations between China and some ASEAN countries and some of the mass media in some countries have some reports that do not fall squarely (?) with the facts. We should be on guard against this and prevent outside forces from involvement as this would help our negotiation for the settlement and this would not bring any further complication into this matter.

4. In the disputed area in the SCS, the two sides should stop any military reconnaissance activities that are against the other side either from the air or on the sea. Also, neither of the two sides should conduct any military exercise regarding the other side as the imaginary enemy and when holding such military exercise in the South China Sea area, the other side should be informed and should be invited to participate as an observer.

I would also like to make some elaboration on this. We believe that the first step and the prerequisite for confidence building and cooperation should be to remove hostility and to avoid misunderstanding. China and the Philippines are friendly neighbors and neither country constitute a military threat to the other. However, military and military reconnaissance exercises are very obvious activities showing hostility and accidents may easily arise when military vessels or aircrafts are too close and this needs to be avoided.

A joint military exercise is a major development bearing on the peace and stability in the region. The Chinese side has all along adopted a very prudent attitude towards joint military exercises in the future. Should

there be any joint military exercises in the South Sea area, the other side should be informed of. This is a good way of building confidence.

 Proceeding from a spirit of negotiated settlement of the dispute pending a solution both of the two sides should refrain from unilaterally exercising compulsory jurisdiction over the fishermen of the other side that are fishing on the disputed area.

According to provisions in the UNCLOS, each side to the dispute has the obligation to a negotiated settlement of the dispute. Pending the solution, no side should impose its own claim for maritime conclusion on the other side.

The unilateral exercise of compulsory jurisdiction in accordance with ones' own claim will make the conflict of jurisdiction impossible to resolve (?) Such kind of thing if unchecked will be very dangerous. This will not only make a negotiated settlement impossible but will also hurt the feelings of two peoples and bring trouble to state to state relations.

I would like to say something about the fishing dispute among us. The Philippine side detained 62 Chinese fishermen and they are not yet released. And such things happened more than once in the past.

The Philippines side says that the Chinese fishermen entered the 200 mile EEZ of the Philippines and we said that Chinese fishermen were conducting legal fishing activities in their traditional fishing ground. Obviously there is a dispute here among us and this should be settled properly.

The principles we have proposed actually touch upon such issue. If in the disputed area the Philippines continue to exercise jurisdiction in accordance with its own claim and keeps on detaining the Chinese fishermen, this will inevitably affect the calm atmosphere between us and hurt the feelings of the people.

If in dealing with such matter there is not a constructive and friendly attitude from both of our two sides we can imagine if the Chinese side followed the sue of the Philippines and did something likewise we could also detain the Philippine fishermen who are working in that area and in a legal manner as we have said and sent them also to the court. If so, it would be very impossible for us to maintain the friendship and cooperation among us and maintain the tranquility in the region.

A Philippine maid servant working in Singapore can affect your relation with Singapore in that manner so if the issue of the fishermen is not properly treated, the national feeling of the people can easily be aroused. So we hope that the Philippine side can understand in a right manner what the pressure the Chinese government is at present, when the Chinese fishermen were detained.

The Chinese side actually adopted a restrained attitude in dealing with issue because it does not hope to see the relations between the two countries further impaired by such things.

And this is my elaboration. And another proposal concerning the principle from the Chinese side is that, as for the illegal immigrants on the sea and the civilian vessels and aircrafts that have entered into the territorial air space and territorial sea of the other side mistakenly, and the fishermen who have entered the territorial sea of the other side for illegal fishing, the two sides should conduct timely constructive dialogue and consultations through diplomatic channel or other channels that are agreed upon by the two sides in order to seek a proper settlement and refrain from taking any measures that are in violation of humanitarianism and in violation of the relevant provisions of international law and that it may escalate the dispute.

These are our basic ideas. If we compare the notes, we can see that we do have common ground but at the same time we also have different views. Throughout this consultation we have always said that we should try our best to narrow our dispute and differences and expand our common ground and this actually is consistent with what we had said in China; that is putting aside our differences and seeking common ground.

When we compare the proposals from our two sides I think we can affirm those common principles and for those that we have different views, we can continue to discuss.

Severino:

Certainly our proposals for peaceful and friendly discussion of working together for regional peace and stability and the need to refrain from resorting to force or the threat of force. Our proposals on these matters coincide generally.

With regard to the measures pertaining to military activities, I appreciate the spirit in which this has been proposed but we need to take a look further into this because we have not really gotten into it.

I would now like to refer to the 62 Chinese fishermen. The law enforcement agencies of the Philippines arrested the fishermen in our territorial waters and proceeded to let the judicial process take its course.

The case is now in the courts and the prosecution a few days ago rested its case and its now up to the defense to present its case.

Under our system it is not possible for our executive branch to interfere directly in the judicial process. However, we have done all that we could under the law to expedite the process. In the meantime, we have sent officials there including those from the DOH and the DSWD to

look after the condition of the Chinese fishermen.

The President himself ordered the release from detention facilities into the custody of private individuals the ten fishermen who were minors and one who is 60 years of age.

Special measures were taken to improve the living conditions of the Chinese detainees to the extent that this is now the subject of envy of Philippine prisoners.

We certainly sympathize with the situation of the fishermen and their families but as I said, it is not possible for us to intervene unduly in the process.

Once the process comes to a conclusion and we hope this will not take a very long time, we in the executive branch will make decisions in the light of friendly relations between our two countries.

At the same time we are concerned about the evidence of unacceptable fishing methods that were seen to have been carried out by the Chinese fishermen including the acquisition of corals and turtles and the use of cyanide.

With respect to the general issue of fisheries in this area, I listened to you carefully when you referred to the EEZ, the traditional fishing rights, these are all provided for under the UNCLOS and perhaps our two sides can look more deeply and into this aspect of this issue so that we could arrive at some understanding of possible arrangements that could be agreed upon in order to contain this problem and so as not to create situations where tensions recur and disputes exacerbated.

Again, perhaps we could look into this further, maybe not us but some other group, just on fishing. But in doing so, I should like to emphasize and I said this earlier in relation to our proposals on the code of conduct, we should keep always in mind the value of conservation, that the Philippines and China and the other countries around the sea have an interest in the viability of the marine resources in the area so that we should look into not only the catching of fish but also the conservation of the fisheries resources but also marine life and that in that regard, we can carry out some other cooperative activities in order to gather more data about the resources in this area.

WANG:

Thank you very much Mr. Undersecretary for the constructive ideas you have shared to us. Just now you said this matter between us should be solved by us on our own and we should not give any outside countries or power any excuse to interfere in it. I appreciate this very much.

I also appreciate the willingness you have showed in conducting dialogue in our fishing dispute in order to find a kind of arrangement acceptable between us so that we could avoid trouble or tension.

As for fishing cooperation, I will come to a specific proposal from the Chinese side later on. I very much agree with you that our cooperation should include the conservation of natural resources and protection of maritime environment.

As for the matter of the Chinese fishermen,we hope that the Philippine government can continue to work so that the fishermen can have a quick family reunion and this will help the atmosphere between us.

And I would like to say something concerning the principles of the Code of Behavior as proposed by you just now.

I have taken note of the fact that some of the content actually concerns the dispute of sovereignty between us. Issues concerning sovereignty can not be solved very quickly. You have just said something about mutual respect and equal treatment of territorial claim, I think such a thing can not be regarded as our understanding at the present. We can leave it aside for a while.

You also mentioned the "doughnut" system from Indonesian side. In view of the Chinese side, it is not pragmatic way to solve the dispute in a long term prospective or solve it for the time being. It is unacceptable for the Chinese side. We have made it very clear to the Indonesian side that we disagree with them on this idea entirely.

Many of the contents in your proposal are actually consistent with what the Chinese have in our mind. For example, you said from the very beginning that the two sides should work to create and foster an atmosphere of peace and stability and should take confidence building measures. I fully agree with you on this point.

Another thing is about the non-use of force or no threat of force and also concerning the gradual exploration of ways for cooperation and ways to peacefully settle the dispute and also reaffirming our determination to solve the issue in accordance with the International law. We think that these are entirely consistent with the Chinese ideas.

If the Philippine side is also against the involvement of the outside forces, this can also be part of our common understanding.

As for cooperation, we haven't touched upon this subject yet but I believe that we can also have more understanding in this area.

Severino: Thank you very much.

Wang

I should say that to date, we have arrived at a lot of common understanding through yesterday and today's talk so I wonder what is the idea from the Philippine side concerning releasing this to the outside world; whether we should have a separate press release or whether we should have something in common concerning the understanding.

This morning, I read from the "Inquirer" and "Star" this morning

and from the items of the news, I can see a very strict version of what is happening. The two papers are very similar and even have same wordings. So I could say that you have a very strict supervision at least of what should be reported. After our talks, how can we release the news to the outside?

Severino: I think that it would be preferable to have a Joint Statement. Have a kind of drafting group get together. And that we have taken good notes, I think we can be able to have the Joint Statement ver quickly.

Wang: I suggest that from the Chinese side, we can have the Deputy Director General of the Asian Department to work for this.

Wang:

Here are some of our proposals concerning cooperation and joint development for your study and reference.

Concerning fishery cooperation, we suggest that on the basis of mutual benefit in the disputed area, the two sides should have cooperation in fishing, processing aquatic product, farming, transportation and sales.

The fishing authorities from the two sides or experts in this regard can have discussions on specific matters such as modality of cooperation and modality of cooperation.

If we can achieve common understanding, sign an agreement between China and the Philippines on fishing, this will help improve the atmosphere.

For example, such fishing agreement may include principles for cooperation, contents of cooperative subjects and ways of conduct of cooperation and rights and obligations for each side as well as the process and procedure in dealing with the fishing dispute.

We can have discussions on all matters concerning cooperation such as the fishing production, navigational safety, wind sheltering, rescue in case of disaster and weather forecast in the sea, maritime aquatic products farming and development and conservation of maritime resources and collection of scientific data and exchange of scientific personnel.

We talked about wind sheltering in the beginning of this consultation and I know that the Philippine side pays a lot of attention to it. We can have discussions concerning cooperation of wind sheltering by the fishermen not only in the Meiji Reef but also in other areas.

These are the initial ideas from the Chinese side for your reference. China actually signed with some countries agreement concerning fishing cooperation. Apart from governmental agreement, we can explore in a non-governmental way. Actually, China and other countries have fishing association which in nature is non-governmental

organization that would tackle and deal with the dispute that may arise in fishing matters and other matters.

Secondly, about our cooperation in resources; in particular oil and gas resources. In July last year, the Chinese government authorized the China National — Oil Corporation to conduct cooperation with the Philippines side concerning the development of oil and gas resources in the Nansha area.

As for the area of cooperation, we could have further discussions. For example in the Reef Bank Basin, we could have cooperation concerning exploring as I have known that you already have some kinds of exploring activities here.

Cooperation must follow certain basic principles. On the Chinese side, we consider these principles as desirable such as shelving dispute, going in for joint development, sharing the resources, sharing the expenditure and cost and managing jointly. We could have further discussions later on.

All cooperation may start from the joint study of the existing data; if we found the data not sufficient, we could also shoot some more seismological lines if necessary. If after the joint study we see the potential of exploration in this area, our two sides can sign an agreement in joint. In terms of exploring, we could invite foreign companies to bid and we could also attract foreign investment to have this exploration and we could also share the funds for rich exploration.

Thirdly, about cooperation in other fields. We have seen the positive proposals of President Ramos from the government of country and from experts from your country.

The Chinese side is favor of positive cooperation between our two countries in maritime scientific research, environmental protection, disaster reduction and prevention and meteorology as well as search and rescue in the sea and navigational safety.

In the field of maritime environmental survey and protection, our two sides can jointly conduct an investigation of the maritime environment and jointly draft an immediate plan against oil pollution and exchange data concerning maritime environment and exchange personnel and training personnel.

I won't go further in giving you a list. All in all the attitude of the Chinese government is serious concerning the strengthening of cooperation with you in the South China Sea area. The Chinese government has already instructed the relevant departments to prepare specific proposals in cooperation.

The RP side has all along paid a lot of attention on whether the cooperation should be a multilateral one or a bilateral one. Actually, we do not exclude the multilateral cooperation in some areas.

Because some disputed areas may not only concern two

countries but may also concern three or even four countries therefore it is entirely reasonable to have multilateral cooperation in this disputed area.

We maintained that reaching understanding bilaterally can constitute a basis for multilateral cooperation.

So the Chinese side will adopt a pragmatic attitude in dealing with the issue of cooperation.

The relevant departments in China sincerely hope to sit together with their counterparts in the Philippines in order to explore the area for cooperation.

We do not hope to see our bilateral relations impaired by our dispute rather we hope that both of our two sides can gain benefit in the area.

Severino:

Thank you very much for your very constructive remarks and suggestions. Our views coincide in the necessity of not allowing disputes to get in the way of our bilateral relations. In fact, we should use all the agreements that arise from this dispute in order to strengthen our relations.

First, I'd like to make a couple of general comments on your suggestions. The first one is that I'm glad to note that our views coincide on the need to involve other claimants in these endeavors, particularly in some of these cases, search and rescue, disaster mitigation, and so on. Obviously, the environment encompasses all of the South China sea and there are other claimants involved. Disasters could occur anywhere there and we need for search and rescue operations at any point. therefore we need to broaden the participation. But I also agree with you that bilateral discussions could form building blocks for the eventual establishment of some multilateral structures. The degree of formality does not really matter but the important thing is that matters of multilateral concern have to be dealt with multilaterally.

Another comment that I have is that some of the arrangements that we could discuss whether it is fisheries or oil and gas would have to take into account national laws that will account on the nature of our claims. We do not think that this is necessarily an insurmountable difficulty but it has to be taken into account. Obviously we cannot deal with that here. We have already discussed the formation of a working group to deal with fisheries and its future aspects. We talked about the matter of arrests and so on then later you added the more economic and productive dimension of fishing including the sheltering of fishermen. We could profitably discuss all these things in one body, we could have our fishing authorities first to get together and explore the issues. Then when the time comes, when the parameters have been agreed upon then the fishing associations can come in for more practical and more concrete measures.

With respect to oil and gas, this is also a complicated issue from

the legal point of view. It is complicated enough even when there is no dispute on jurisdiction but the conflicting jurisdictional claims make this idea of oil and gas cooperation on the South China sea even more complicated. We have to consult our departments concerned, the DOE and PNOC, and see whether there are possibilities for at least a discussion of this matter so that we can clarify things and possibly come to some arrangements that will be acceptable to our legal regime.

In both these cases, the fisheries and the oil and gas, I will have to consult the departments concerned as to the mode and their ideas on how to bring about their bilateral consultations on these matters.

These areas are being discussed in non-governmental level within the framework of the workshop series on the South China Sea.

In these areas, perhaps, we can get together with the other countries concerned and deal with this areas which have already been discussed at a non-governmental level at the official level because as I indicated earlier, these areas are really susceptible of multilateral discussion.

As I indicated, the environment for example, its hard for me to imagine how that could be dealt with simply on a bilateral basis. In the same way for disasters. This would involve other countries even a country like Singapore which has very good experience in search and rescue. Although they are not claimants, they could usefully contribute to the discussion of this matter. In marine scientific research, various claimants can perhaps undertake certain projects simple to begin with, non-threatening, simply exchange of data or projects to gather more data starting at the presence close to the shores, gradually merging. My point is that there are some areas where we could quickly move through the multilateral mode.

Wang:

I agree with you in some of your observations. I think we should conduct our bilateral cooperation in a gradual manner. We should first identify those areas where we can launch our cooperation. This is very pragmatic.

As for the areas we have proposed cooperation, they are only for your reference. When time comes, we can have discussions over them. As for the fishing cooperation we have agreed upon, we can start such discussion earlier.

When conducting cooperation, we should first proceed on to easy matters before coming into difficult matters. In this way, we can go deeper and deeper in our cooperation in order to expand such cooperation.

Cooperation in the disputed area is not a very easy thing to do and we say in China that every first step for every undertaking is the most difficult one. So long as we have the first step the following will be quite easy.

When our two countries and other relevant countries can put aside the dispute and have cooperation. In a broader sense of interests, this also requires a political decision.

As for cooperation, whether it be a multilateral one or a bilateral one through our discussion, we have increased mutual understanding. On this issue, we need to proceed from the fact when necessary, they should be multilateral, or when necessary, they should be bilateral.

I think that we have already agreed upon the fact that the basis for multilateral cooperation actually is bilateral cooperation.

When bilateral discussion is conducted, when the necessity is identified, they can easily lead to multilateral cooperation.

For example, rescue and research, ARF has already decided US and Singapore will co-sponsor a seminar on the governmental track.

As for the scope of rescue and research, this may be touched upon in the future, but the Chinese side believes that some kind of undertaking needs the participation of a lot of countries.

I have always believed that some issues in the South China Seaenvironmental issue, pollution, and fighting against piracy, these issues cannot be solved by our two countries on our own.

It is not the intention of China to exclude multilateral cooperation. We believe multilateral cooperation should be conducted when necessary. Bilateral cooperation can serve as the basis for multilateral cooperation. Although, in some areas, they can only be bilateral cooperation.

In the disputed area in the South China Sea or in the Nansha islands, when the discussion by non-governmental bodies have prepared the basis for official discussion, the Chinese side will positively consider to have multilateral and official discussions on cooperation.

In terms of the two-tracks, i.e., we can integrate the second track into the first track. That is very natural.

But I will also state very frankly that at present the Chinese side cannot accept the proposal from Indonesia side concerning transforming the informal Indonesian series of workshops on the SCS into an official and governmental discussion.

Participants of the Indonesian Workshops are not only claimants but also other ASEAN countries and some other sponsoring countries. We believe even if there should be official discussions concerning cooperation, these discussions should be conducted among the claimants.

Severino:

TY for your remarks. I must say that I agree with practically all of it. I have no problem with starting with the easier projects and then go on to the more difficult. I agree that the bilateral discussions could form constituent elements of later multilateral discussions. I also agree that there are certain things like environment, anti-piracy, and search and rescue that are susceptible only to multilateral discussions. In the case of the workshops, I do not think that the Indonesians envision the workshop itself to be elevated to tract one or to the governmental track. The way that I understand it is that some of the things that are discussed, say in the working groups, like marine scientific research, the environment, and search and rescue, some of them cannot progress anymore from this point without the intervention of governments. If we are concerned only with the participation of countries only within the area, that is fine with us also. In fact, we have been pushing for this kind of thing ourselves.

If I may recapitulate, in the case of the discussion on our respective legal jurisdictional claims, we could have quiet discussion of things on this at some point when both of us are ready—forming an informal working group of legal and other experts.

In the case of fisheries, we will consult with our colleagues in the Department of Agriculture who has jurisdiction over fisheries. The Bureau of Fisheries and Aquatic Resources, the fishing associations and legal experts of Fisheries and perhaps again we could get these experts together and let them explore possibilities for arrangements that would prevent unpleasant incidents and at the same time get into discussions on cooperative arrangements for production and distribution including the sheltering of fishermen and we will continue our consultations to ——channels when things are in place on each side.

In terms of oil and gas, some exploratory discussions could be undertaken between our authorities. In our case perhaps the entity that would start this discussion would be the Department of Energy but we could keep it in the middle level technical framework. And then on other things that might involve multilateral discussions, we could discuss further on this but I think these activities do not impinge on sovereignty directly so that they have little to do with the dispute itself and that therefore, they would be easier to carry out.

So, this areas where we can begin both bilateral discussion in the case of these areas we can proceed to discuss more specific terms and I'm glad that the Chinese side is open to this sort of multilateral discussions in terms of less sensitive, the areas where the number of countries have an interest not only those in the literal but those who have interest in the environment. In this case we are also gratified by the statement of China about the freedom of navigation and aviation in this area because that is also our position with respect to our own... in the light of our own claim.

I agree with you and I also share with you the view that concerning multilateral cooperation and matters concerning the whole area and matters not directly related to the dispute in this area, can easily be carried out.

Our discussion over sensitive issues cannot easily produce results very quickly. Actually, there are a lot of areas of cooperation. It is impossible for us to launch the cooperation in all these areas at the same time. So we can have our experts to discuss some unlimited areas, first.

ON OTHER AREAS OF BILATERAL COOPERATION

Usec. Severino

Now I'm ready to turn to another subject about an areas on bilateral relations and I'm ready to have discussion with you.

I think this is less difficult. Just a general remark, the Philippines as I said also is quite satisfied with our relations with the People's Republic of China that in fact we think there is room for more intensification of the relations particularly the economic relationship. We have flourishing .Cultural and Scientific and Technological Exchanges that have been taking place for a long time. And this has helped in the strengthening our officials' and people to people relations.

We also have had very good exchanges of visits in recent times. We have several Ministerial visits both ways. And I think the Senate President is scheduled to go there and Secretary de Villa also of Defense. We have had the visit of His Excellency Qiao Shi here and other senior official of the Chinese government. This have had strengthened the relations between our countries.

We still feel the good effects of President Ramos' visit to China in 1993.

Vice President Estrada has also been to China on an official visit.

So we hope that we could have the benefit also of the visit of his Excellency Zhang Zemin and other leaders of China in the near future.

We have had successful observance of the 20th anniversary of the establishment of the diplomatic relations between our two countries and again this has helped the good relations between our two peoples.

In our economic relations, the President himself, has been pressing us to increase trade between the two countries.

We have had fairly rapid increases in the expansion in our trade. Between 1993-1994, our trade grow by more than 50%. I think that if you will recall both Secretary Navarro and I myself committed to Minister Wu Yi the elimination of the restriction on trade with China and the President did abolish those restriction and so there is ground for hope that the President's target will be met.

The Philippines-China Joint Trade Committee just concluded its 18th Meeting, just earlier this month I think. The annual trade protocol which again should pave a way for further expansion of our trade this year.

One of our problems is that sometimes there is not enough understanding of Chinese laws and procedures of the manner of doing business. We appreciate very much China's willingness to conduct seminars for our businessmen in order to clarify China's laws, policies and regulations so that we could do more trade with each other.

Just a couple of weeks ago, the Philippine government ratified the agreement between our two countries on the Protection of Investments and the protection of promotion of investments and this would be again very helpful in the economic relation between the two countries.

We hope that we could start negotiation soon on the treaty on Double Taxation, a draft of which had been forwarded to the Chinese side and I think now it's a matter of agreeing on the dates between our taxation authorities. It's a matter of scheduling but we are committed in principle.

So this is what I have to say about our bilateral relation at this point. As I said, the other aspects of our relationship are going quite well: exchange of visits, scientific and technological cooperation and cultural exchanges. The cultural exchanges go on not only within the framework of the cultural agreement but now, there are more and more exchanges being done by private people. And again this is good for the relationship.

WANG:

I very much appreciate what you have said just now. I also appreciate very much the positive attitude from the Philippine side concerning the development of bilateral relations. We attach great importance to the development of good neighborty relations and cooperation with the Philippines and we have all along believe there are potentials in this area.

Just now you talked about exchanges of visits between our two countries including high level exchange of visits, I think these are very important.

It is very important for us to increase our mutual understanding at this level but more important than this is the increase of understanding among the leaders and among the decision makers of our two countries through more contacts.

Mr. Undersecretary you can be assured that from the side of the Chinese Foreign Ministry, we will work actively so that our leaders could visit your country.

I think this round of consultation has actually provided a very good condition for the contact as I haver referred to.

As for some urgent matters that should be dealt quickly, we hope to see results coming up quite soon because this will also provide positive conditions for high level exchange of visits.

However, I want to emphasize again that we should strengthen

the contacts and exchanges at various levels between our two countries.

I very much appreciate the measures taken by the Philippine side concerning enhancing economic relations including the elimination of trade restrictions.

Not long ago, the Joint Trade Committee of our two countries had very good talks and came up with measures to enhance our trade. I think through the efforts from both of our two sides, we can realize the goal of 1 billion trade volume as proposed by President Ramos.

As for the Agreement concerning the dual taxation, we will have consultation with your side in a positive manner so that we can reach an agreement quite soon.

I'm very satisfied with this round of consultation and especially satisfied with the fact that we have consensus over the fundamental matter that is, we have to strengthen, consolidate and expand our good neighborly relation and cooperation.

The Chinese government will continue to attach great importance to our relation with your country and value the progress we have made during the last 20 years.

It is quite difficult for two countries not to have any dispute at all but the countries should not let the dispute hamper the development of the relations.

It is very important to both of our two sides to agree on the enhancement of cooperation in various fields.

As we are running out of time, I want to emphasize again that I am very satisfied with this constructive consultation we have.

I also like to thank Mr. Undersecretary and other colleagues for your cooperative and friendly spirit.

SEVERINO:

Thank you very much for your kind words and your positive attitude to our broader relationship. Now there is just another thing that I wanted to bring up. As you will recall in their conversation in Bandar Seri Begawan, Secretary Siazon raised the issue on the question of the two Filipinos who have been convicted by the Xiamen Court. I think their case is now on appeal but they are also appealing for clemency. If this could be carefully considered by the Chinese government, we would very much appreciate it. I just wanted to reiterate this appeal for clemency and consideration.

After this matter was raised by Secretary Siazon, we took note of it and we inquired the relevant authorities in Xiamen about this matter.

I won't use a legal process but I would say that this matter is also

a headache for us. Because during recent years, drug smuggling has been very serious specially in the so-called Golden Triangle Area where Southern China actually shares a border with Myanmar and Laos.

Also in China's open coastal area. Drug smuggling is also a very serious matter. There is also international concern amounting over this issue. So China can not but take very strict measures.

Of course we can understand the wish and request from the Philippine side but what I can undertake here is only that after gong back to China, we will look after the matter.

SEVERINO:

I think we will close this consultations right here pending the drafting of our Joint Statement. I just like to reiterate that the situation in the Mischief Reef is still of concern to our people and I hope that your side could look at the possibilities that could be considered in addressing this matter in the light of the concerns of our people. As I said at the beginning of our consultations, we in the government are convinced that China has no aggressive intentions or any hostile intentions behind this move but our people remain concerned because of the proximity to our main archipelago and the suddenness with which this was discovered.

Dealing with this question in a mutually satisfactory way would tremendously improve the atmosphere and the effect would be calculable.

Now, it is for me now to express to you Mr. Assistant Secretary my appreciation and gratitude of my delegation for the cooperative spirit with which you approached this consultations and that of your delegations and we have been able to count on understanding on many areas and which could not but contribute to the strengthening of our bilateral relations and to the stability and tranquility of our region.

There are differences that remain between us of course - these differences. I am convinced that both our sides will approach those differences in a peaceful and amicable way and find some way of accommodating each other and on the way to an eventual resolution.

Thank you once again for your cooperation.

WANG:

Thank you very much for your friendly remarks. As for how we can mention the Meiji Reef issue in our Joint Statement, I hope that our friends in the Philippines can use your wisdom so as to find a very constructive wording acceptable to both of us.

I also know that you in the Philippines are very much concerned with this issue. I can understand your thinking. We can leave it to them for their discussions if they have difficulties, I think you can have some unilateral statement concerning this. I hope this statement can be constructive and acceptable to both of the two sides and then we could

talk about the consensus and understanding we have reached. This may be a way for them to tacke this. I hope you can consider it.

Severino:

I agree to this procedure, that we will leave it to the ingenuity of our officials to come up with the formulation for which both of us can agree despite the disagreement. If not, then we will just have to resort to our own respective formulations but taking care that the formulation is non confrontational, constructive and positive.

Wang:

Thank you very much for considering my proposal. I think between our two sides, if we can proceed from the spirit of seeking common ground and putting aside differences, a lot of things will be easy discussed.

I will continue to have this attitude and my cooperation with my friends from the Philippines.

In conclusion, I would like to express our thanks on behalf of the Chinese delegation to you for your warm and friendly hospitality.

Severino: Thank you very much for your cooperation.



EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA

No. PG(98)-46

The Embassy of the People's Republic of China in the Republic of the Philippines presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to state the following.

On 11 March twenty-nine (29) Chinese fishermen on two Chinese fishing vessels, which are Zhongyuanyu No. 311 and Zhongyuanyu No. 313 from Hainan Province, were apprehended by Philippine Navy during their fishing activities in the vicinity of Huangyan Dao which has been Chinese territory since ancient times and a traditional fishing ground for Chinese fishermen. The said twenty-nine fishermen and two fishing vessels were then brought to Subic, Zambales.

The Embassy hopes that the safety of the twenty-nine fishermen and the two vessels can be ensured. The Embassy also demands that the competent authorities in the Philippines handle this matter properly, and twenty-nine fishermen and the two vessels together with previously apprehended twenty-two fishermen and two vessels be released as early as possible, and all items belonging to Chinese fishermen taken by local authorities in either La Union or Zambales be returned.

The Embassy of the People's Republic of China in the Republic of the Philippines avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines, the assurances of its highest consideration.

Department of Foreign Affairs Republic of the Philippines Pasay City



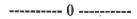
JOINT PRESS COMMUNIQUÉ PHILIPPINES-CHINA FOREIGN MINISTRY CONSULTATIONS MANILA, 29-31 JULY 1998

- 1. The 10th Foreign Ministry Consultations between the Government of the Republic of the Philippines and the Government of the People's Republic of China were held in Manila on 29-31 July 1998. In commemoration of their 10th anniversary, the bilateral consultations were held at ministerial level with H.E. Domingo L. Siazon, Jr., Philippine Secretary of Foreign Affairs, and H.E. Tang Jiaxuan, Foreign Minister of China, heading their respective delegations.
- 2. Both sides reviewed the progress of their bilateral relations since the establishment of diplomatic relations in 1975 with particular emphasis on the last decade. They agreed to further intensify cooperation and make common efforts in promoting a 21st century-oriented partnership of good neighborliness, mutual trust and cooperation between the two countries. The two sides also agreed to maintain the momentum of exchanges at high level between them. The Chinese side welcomes President Joseph Ejercito Estrada to visit China at a convenient date.
- 3. Both sides reiterated the importance they attach to their economic relations as well as to their cooperation in the field of science and technology. They agreed to make concerted efforts in promoting the exchanges and cooperation in the areas of trade, investment, and science and technology. Both sides indicated that they will adopt positive measures to promote balanced trade.

- 4. The two sides exchanged views on the question of the South China Sea and reaffirmed their commitment that the relevant disputes shall be settled peacefully in accordance with the established principles of international law, including the United Nations Convention on the Law of the Sea. Both sides agreed that the disputes should not affect the development of normal relations between them. They reaffirmed their commitment to the principles governing a code of conduct in the South China Sea between the Philippines and China. Both sides expressed satisfaction over the progress of the work of the Philippines-China Expert Working Groups on Fisheries Cooperation and on Marine Environmental Protection in the South China Sea, and agreed to convene the Philippines-China Expert Working Group on Confidence-Building Measures at a mutually agreed timeframe.
- 5. Both sides acknowledged the need for a more coordinated approach and greater regional efforts to resolve the present financial crisis affecting the economies of East Asia. The Philippine side appreciated China's efforts to maintain the value of the Renminbi.
- 6. Both sides noted that the 26 July 1998 elections in Cambodia have been generally satisfactory and expressed the hope that all parties in Cambodia, under the leadership of King Sihanouk, would respect the results of the elections and exert concerted efforts to restore stability, promote unity in the country, and develop the economy in the spirit of national reconciliation.

7. Both sides expressed grave concern over and strongly deplored the recent nuclear tests in South Asia, which exacerbated tension in the region and raised the specter of a nuclear arms race. They expressed support for the United Nations Security Council Resolution 1172 issued on 6 June 1998.

8. Both sides had extensive exchange of views on other regional and international issues of common interest.





10th Philippines-Chine Foreign Ministry Consultations Manils, 30 July 1998

RECORD OF PROCEEDINGS

TIK: Allow me to begin by congestulating you on the following: two things: first is on your excellent chairmanship of the times (3) ASEAN related mostings which went on very amouthly and you did a lot of achievements. And, secondly, also congratulate you on continuing to stay on your job as Foreign Minister in the new government of the Philippines.

And I and my colleagues would also like to thank your government and the Department of Foreign Affairs, in particular, for the warm reception accorded to us during our stay in Manile, either in the first stage or the second stage of our yield. And thanks to your thoughtful arrangements, every day that we have been in Manile has been very full and pleasant.

Those under the careful errangement of our host, starting from yesterday afternoon I had the honor of meeting the President of your Senate, the Vice President of your country and also last night, I gathered with the Secretary for Trude and Industry.

DLS: Well, Foreign Michaer Tang Jiaxuan and the members of the Chinese delegation. I would like to welcome you all to Marilla on this felicitous occasion.

I am happy that on the occasion of the 10th anniversary of our bilateral consultations, that these consultations are being held at the level of Poreign Ministers.

And I am happy to note that we share a common vision of our role, or our roles, in East Asia. And that we are both contributing to the maintenance of stable, political, military and economic conditions in our part of the world.

I am also happy to note that our bilateral relations have improved substantially and that we are now both sailing in estmer waters.

We are having this meeting, of course, against the background of two very important developments which, if not controlled, could lead to serious implications for our part of the world. I would like to mention in particular the present economic crisis in East Asia and the recent nuclear testing by India and Pakistan, And I believe that as part of this important region of Asia, both China and the Phillippines should convey to the interestional community more or less a common view on how to deal with these two major important problems facing our region, namely the economic orisis and secondly, nuclear weapons proliferation. Of course, our colleagues have prepared a provisional agends which you have

before you and if this finds scoopshores, then we shall follow this draft provisions: sgenda in proceeding with today's meetings.

- Thank you, May I just for the sake of information introduce on colleague Undersecratory -- Laune Hair. He is the only happy person bene. He gets paid to Ministry and also APEC and Westmen, was important, the Women are the most Undersocentry Reserve Marsalo who takes ours of Ambasador, he has two limitical in this Missistry. B he is the companies of the President Ą
- TIX: Congrapulations on your two buts.
- Į On the night, is Mr. Blocalin, Aser. Secretary for legal and he is also a countrier of the Civil Aviation Board - 1980 finistium but only one salary.
- Ħ Blookline He houted hands for us when we were in Paijing has Pabeway
- Second to the Left is Anni. Imag. Assistant Secretary for Asia Pacific. the economic exists, he has the most problems. That's way had is abuget all P

industry penson. He's the penson negotiating WTO and all the crimes and To the other laft, the one in green, is left. Edsel Custodio, He's our trade and 8

Director in the Asse Passing and also desting with Chiling. In the extreme right w She is in Hang Kong, so every weekend, someone moves our Consul General in Guangerhou, Mr. Luis, Crus. And the lady to the right of Mr. Bladain is Mrs. Phoebs Churses, who is Exc

- Rebours of Trade and Industry and also Mr. Ferres, also with DFA. To the left of Mr. Custodio. & Frank Cimethones who death with Crims. Then, Mr.
- D B And also allow me to introduce the Chinese delegation. Assistant Foreign Minister Wang YI. He will be with in order before 12:00 males. He has to fix back after Life to the second of the seco

appreciation to the positive rule that the ASEAN troiks has played.

And here I went to emphasize in particular the very important role that King Shemout has played in ensuring domestic stability and promoting the election process in Combodia.

And now we're hearing different comments and different analysis into the outcome of the election, both inside Cambodia and also in the international community. In my view the most authoritative analysis and comment should some from the Cambodian people who have made their own choice through the election.

And the Chinese side hopes that all the political parties in Cambodia will respect the choice made by the people of Cambodia. And we hope that the situation in Cambodia will become stable as soon as possible and Cambodia will achieve an early stability and cease this historic opportunity to build very commonly at home, and also to contribute stability and development in the region.

The Chinese side fully respects the decision that the Cambodian people have made for themselves and we shall continue to develop the already existing friendship and cooperation between China and Cambodia on the basis of the five principles of peaceful operations and the Chinese side also topes to see Cambodia become a member of the ASEAN at an early date.

DLS: Thank you. I have received reports from our Ambassacker in Cambodia and generally the reports are positive, even the Joint International Observers Group (JiOG) statement is positive. Of course there are some problems, as normally happens in elections, particularly in developing countries. I was surprised to note because I have the individual results of the Observer Teams of the UN and their overall assessment, they had 192 Teams; those who said very good 96 teams, good 74, average 11. So that is already 181 teams cut of 192 will say good, average on very good. Poor 5, very poor 6. So out of 192 observer teams international, only 11 is very poor in the places where they stayed And this is, I would say from my perspective - a very good result.

Our major problem now is how to convince the losers that they should stay and go to partiament because otherwise we will not have \$2 members of parliament and there could be no government and we will have again serious political instability in Cambodia. In the next few days I will be consulting with my other ASHAN colleagues to determine so ASHAN position on this I know I or 2 of them. They have already have positions but for us again, Cambodia Troiks - ASHAN Troiks on Cambodia and maybe Friends of Cambodia, we have to convince the political leaders who participated in the election that they should respect the results otherwise we go back to zero again. The other is of course if the evaluation of the whole process of election meaning, in this case, registration, voting, counting and then acceptance of results — if these are good, then I believe Cambodia will be a

Director from the Asian Department, holes after the comprehensive aspect of diplomacy. "I'm the interpreter for the day. My name is Xu Hui:" So, there's a Company The Semination on the Asia Par N W. W. Winderson and Debruik Kurjum. I believe you still resonanter Mr. Kino Olim who was with me witen we talked with you at midnight on an energency matter. Mr. Kino Qian our Deputy Again of Mindales Wang. It is the Secretary to Pereign Mindales Tang. His is on to the laws. Challen in charge of Asian Division in the Resign Ministry. On the Briendly bridge linking the two sides expect of Middle Base issue and also im South Auda lessue. Chicogo Bentsusy in the Philippines to charge of political affairs. interpretation depurement of the Facelgo Ministry. and also the Director General of the Asian Department. However, he only gots ma coop to seal. Mr. Zhang Fulton, be tiso weste two hats. He's the Ambessador 1 Director Chantal (Implica), Counsellor Leafy Yang from the department of the Porceign Ministry. Mr. Sun, Counsellor of the

the floor first or I will do or we can shift on the different numbers. I don't I move how the shall proceed according to the apenda whether you shall take

- DIS: You're the guest. You have the right to be first.
- support gives by leading of our two countries in graces, we believe that we should give a positive evaluation of the development of our relations in the past for years. The Diplomatic Consultations we are hearing been today cames in especially should be a quite a long period as compared to the world we are living in During sheet und to anythich the fature and we need to discuss the specific measures with important theme of our talk today should be to review and sum up the past, look apparedate the constructive proposal that Year Bacelleucy boought up to us to upgrade the level of this important Consultations to the Foreign Minister level on the occasion of the 10th suniversary. And I'd like to thank you for providing us sometricative role in further promoting the mutual makerinaring and trust between the two countries and the speady growth of our billateral relations. And I highly expending Applying pure depresentate man floor supply departs on which point and evening I severated depart that and thomps involved and this Department Director level. And all these consultations played so important and between the two Foreign Ministries, either at the Yice Foreign Ministra level or the be just a very start manners as companied to the entire labelery. However, our years The constitutions between the two Bereign Ministree. University of impostant significance for it marks the 10th anniversary of the setablishment of the the past years, China and the Parligness had eight county of Consultations Them the concentral substantial both sides and also the eart and

In gracest, there has maintained a good management of steady growth in our relations which has the following characteristics. first, the traditional interesting between us as well as the common interest we share in the resistic world provid

e sound besis for the development of our relations. The past ten years saw an ever more enhanced mutual trust and cooperation between the two governments and the two peoples which also further promoted good-neighborhness and friendship between the two countries and this served the fundamental interest of both sides and also carried the common aspitation of the successive governments of the two countries and the two peoples.

And secondly, we have maintained the commentum of high level contacts and dislogues between the two countries which provide a fundamental granules for the steady growth forward of our relations. In 1993, former President Ramos paid a visit to China and in the end of 1996, Chinese President Jiang Zemin also made a successful visit to the Philippines. In the exchange of visits between the two presidents, important common ground were reached for the establishment of good neighborly and mutual trust oriented toward, the 21st century. During these visits, the guiding principles have also been defined which will guide the future development of our relations, so they have a far and profound impact for our efforts to schieve a stable and sound growth of our relations.

And, thirdly, we have made significant headway in our exchanges in the economic, trude, military, cultural and other fields and we also have cooperation in all in these fields as compared with ten ago years when our bilateral trade volume only stood at US\$335 million. Lest year, we saw our trade volume increase to US\$1.66 billion. And our cooperation in the field of science and technology have also been fruitful. Our military-to- military exchanges are increased and our sylation cooperation is also being expanded and the cultural exchanges between the two countries have been developing standily. And people-to- people exchanges are also increasing — all these have brought benefits to both sides and have been enjoying popular support from the people of various circles in both countries.

And fourthly, on the major international and regional issues of mutual interest the Chinese and Pilipino side have stayed in close contact and close mutual communication with each other. Through coordination and cooperation, we have jointly made useful efforts coordinating to peace, stability, security and development in our region. Here I want to state in particular that the exchanges and cooperation between our two foreign departments played a very important role in this aspect.

And fourthly, as to the issues excisting in our bilateral relations including on the question of the South China Sea, in general, both sides proceeded from the overall interest of our bilateral relations and the interest of peace and stability in the region and we worked to strengthen our mutual communication through all these contests and also to achieve a gradual and appropriate solution to these issues through peaceful and friendly negotiations between us. And the two sides also cared, tried to see to it that these specific issues between us will not affect the normal development our bilateral relations on the whole. I would like to stress the point as

a very important one the I believe this is an important factor contributing to the stable growth of our relations and this marked that the relations between China and the Philippines have become a mature relations.

The Chimese side is estimated with the development of Chime-Philippines relations in the hope and we're convinced that through the joint and through the efforts of the two sides, relations between China and the Philippines will make even greater progress particularly in the coming ten years in order to achieve these objectives, we believe that care and attention should be paid to the following: first, to continue to maintain the momentum of high level contacts and exchanges between the two countries in order, in this regard, the Chinese side highly approxists the readiness demonstrated by your new president to further strengthen the bilateral relations between the two countries which we take as a positive gesture. The Chinese government and Chinese people would like to warmly welcome His Excellency President Estads to pay an official visit to China at a time convenient to him.

And now that both countries are having new government, we need to encourage our different departments and people from different circles to have continued exchanges and also to steadily increase their mutual understanding and strengthen their cooperation.

And, thirdly, efforts need to be made in order to continue to expand and deepen our matually beneficial cooperation in different fields.

And thirdly, to maintain and further strengthen cooperation between us in regional and international issues. And to this end, the Chinese side would like to suggest that in future, on these regional and international issues and in this regional and international that such as China within the APEC, ANEM and the United Nations, we continue to carry forward the tradition between our two countries and further strengthen coordination and mutual support between China and the Philippines so that we may make new contribution in safeguarding our numbal interest and in promoting stability and devalopment buth regionally and globally.

And fractily, we believe that we need to make continued efforts in order to properly address the insues existing between our bilateral colations. The Chinese eide highly appreciates the commitment made by the new government of the Philippines to continue to follow the one-Chine policy ... the new president made the commitment to continue to follow the one-Chine policy and we hope that on the Taiwan question we will continue to enjoy the understanding and support from a the Pilipino side because it present, with the background of the Bast Asian financial crisis, the Taiwan authorities are trying to do all it can to make use of this opportunity to further expand the so-called international space for Taiwan, and with regard to the Southward diplomacy". And the question of Taiwan stands at the very core of Chine's external relations with the rest of the world, including our

relations with the United States. So we hope that both the Chinese and the Pilipine side will attach great importance and pay great attention to the new tendency shown by the Taiwan authorities in this regard and that we can be on the alert on both sides so we will not see the improper handling of the Taiwan question for that would have a negative impact on the sheedy established and strengthening friendship and good-neighborhiness between China and the Philippines. And if we can do that, we will ensure that we will have a sound development of our bilateral relations.

The question of the South China See is a question left over from history and this question involves a lot of complicated factors and matters therefore both sides need to proceed from the overall interest of our bilateral relations and the interest of peace and stability in the region and work to explore gradually the solution to the question and we need to work in order to transform the political readinest between the two countries to build good-neighborhiness and friendship into the driving force to develop our bilateral relations for that will help to set up a good atmosphere for our bilateral relations and it would also strengthen our assummic cooperation in order to overcome the temporary difficulty that we are seeing at the moment and we can work together and contribute to the early restoration of the economic and financial stability in Asia.

Now, I would like to use fince sentences to conclude the part of my speech devoted on the review of the ten past and envision the future ten years. First, we believe that Chine-Philippines relations have already achieved satisfactory and pleasant achievements.

Secondly, the Chinese side is ready to work with the Filipina side in order to build together a better tomorrow for our bilateral relations.

Thirdly, we are always confident and optimistic about the future of our bilateral relations. So, PH just stop here on the first item of the agends.

II.S: Thenk you very much. Well, we share your assessment of the China-Philippines billateral relationship. We are generally satisfied with the overall development of this relationship. Of course, in recent years, this relationship has been strengthened by the reconnect wisits of our heads of state and government and I know that, in the case of President Estrada, who visited China when he was Vice-President that he wishes to visit China as one of the first few countries which he will visit during his presidency.

And of course, for us, we will always recall the visit of President Jiang Zemin to the Philippines in 1996 when, in fact, there was this yow between our two presidents to pursue good-neighborly relations oriented towards the 21st century based on mutual trust and cooperation. This policy has found expression in many concrete activities between our two countries, in the cultural, scientific and

relationships that were longed between our two countries and we have need the frequent flow of visitors between our two countries. All these we countries important for the strengthening of relations between China and the Philippines. We have noticed the increase of sister-ecovines and alteresting

the Phillippines it is a major unding partner it is a source of investment also a to, one year other the return of Hong Kong to Chine, 'we would like to omgratulets you for the positive developments in Hong Kong, Hong Kong is very important to Ex us, we committee Health Konig as an important partner and again, we would like who are working them, including my youngest son and, my only grandcitid is also pures of tourists and, of course Hong Kong is host to, I think, 170,000 Filipines

invacues is the Philippines. related to trade definits could be resolved by giving greater market access to that Chine is such a group manythorusing country in terms of industry that our reads default has grown to, I think, about a billion dollars only in one year, last Philippine products in China, and two, to try mai increase Chinase ar exapenses Of course, a trade district is not always bed. We know that in the case of Japan and Konso in their early years, and all of the countries that move toward whomewer the deficit states to grow substancially, our people start to get worried yeen. And we seculd like to see how we could further improve our ability to, We have seen a positive evolution in our trade. Of course, our main problem is least, diminish this gap. We know that it will not be nowable, but of come it is decident to import espirit goods.

people are so aggressive. They offer, in they offer. They told inc case, "Mr. Secretary, If Mr. So and So will visit us, we will invest \$1 billion in your capica;" I suid, "I'm soor, Ten not for sale," But it is so bistent It's head to imagine this CONTRACT THE NOT DESCRIPTION THE SIMP COURT STREET AND METERS OF THE TRIPES neighburs wedcoming Thiwas because of their escatamic problems. The not functive to these presences myssiff as Floreign Mitchier. I have very strong People's Republic of China is known and not the Taipel sepresentative. in the Philippines, expecially in my west, in the north. So that the Ambassatur of insuguration, aircsely we had a very vocy tolg problem and I had to get involved. Provident Ramost had to get involved to stoo. This is also the reason when Amb. Cluss first errived in the Philippines I advised him to visit the different provinces. <u>proseura tham the Chinese Milipido business sector have but pro Tubera.</u> ... Taiwan is also Chinesa. Minister Tang theady tedaped to the problem of our boog. Amb. Chun kuswa tina very well. Two days betwee our President's

sary for both our Amisusudor and our Conneclies

at the Eminessy to go out of Manila as much more as possible. You just put forth a constructive proposal which I highly, fully concur. And I'm instructing him right now to make as much more visits outside Manila as possible. And I would also like to count on you to provide him as more conveniency and facility as possible when he goes cutaids, particularly to your area. I fully concur with your suggestion.

Diffe Amb. Guer implements my suggestion immediately because after a few weeks he was here, I saw him. Chinese New Year, February, in Bagnio City. I was there for enother meeting on anti-terrorism, I met him. I joined the Filipino Chinese community in the dinner with him. Now, of course, another espect of making the People's Republic of Chine more visible here, more known, is the implementation of our cultural agreement. There has been very busy exchange. This is alright. But, I think it's important to be more active in this country because Taiwan is so near. They're averywhere here. I think we will be discussing also, on August 17..., 16.... 18. We have another Taiwanese business group here with Mr. Weng, Minister Wang of Beonomic Cooperation. Japanese-speaking also, I think. They will be here. They will have business meetings.

As far as I'm concerned, I don't meet them. I meet them on APEC meetings but not an any other occasions. We, also, of course, well, for your information, in my case, I have never been in Taiwan. You will not believe it. Yes, My province is only 100 kilometers from Taiwan. Only a clear day you can see the south from the northern island. I have never been to Taiwan. Even when I was a student in Japan, it's very near, just go straight. So, my one-China policy is very clear.

Our sejentific and technical cooperation has been also quite active and very useful.

And of course, we had a major improvement in our air pervious agreement. Thanks to very good understanding from both sides. We still have to reacive one small item, on the issue of taxation.

And on consular matters, I think our relations are quite good. You have granted our request for some of our prisoners for commutation of death sentences to lighter penalties.

And perhaps, again, in terms of promoting trade and investment, from our side, we think it is important that we have in the Philippines, a bank from People's. Republic of China operating in the Philippines. I think we will have one slot open when the Singapore Development Bank buys into a private bank so they will leave that slot. Of course, we would also wish to have, on the basis of reciprocity, the ability to have a Philippine branch bank in China. We think this is important for trade and also investment.

On the outstanding issues between China and the Philippines particularly on South China Sea, on overlapping claims of soverelapity over islands, and overlapping claims of maritime jurisdiction which involve Exclusive Recommic Zones, and here I-wish to refer, in particular, to Mischief Recf or what you call Meijijao and as Minister Tang said, we hope that this will be recolved passefully and that we may be able to find solutions to these constanding issues, taking into account, of course, the importance of maintaining very good relations between our two countries.

And on the international and regional issues, I arrangly support the suggestion of Minister Teng that we should try to strengthen our mutual exchange and coordination so that we may be able to develop positions to protect our interest in APBC, ASEM, in the UN and other interestional force.

May I and this with one final conclusion; our relations with China are good and we hope to be able to further still improve these relations, both in the political and sconomic field.

- If you wish, we can now proceed to a more detailed discussion of some of the tiens.
- Pirst of all, I would like to brief you on the situation in Hong Kong as well as the archenge and contacts across the Talwan straits. Hong Kong has been rather severely hit by the financial trials in East Axis, in particular the sharp fall of the Japanese year, has brought considerable pressure on Hong Kong. And over the years, the economic and financial section of Hang Kong have enjoyed good foundation and good quality and also after Hong Kong's return to China, the central government of China attached great importance in custoing continued prosperity, stability and development in Hong Kong. And the central government has also given Hong Kong strong support in this regard. And with all these . Hong Kong has been able to rise up to all these severe challenges as brought about by the financial crisis.

However, now the financial crisis is still deepening and further spreading so it may even bring new impact on the economic and financial sector in Hong Kong.

And also, there is unstable and also weak element concerning the economic and financial sectors to Hong Kong because for many years the economy of years had been depending on the development of the real estate, on the stock market, on the exchange rate market and also the tertiary industry, therefore should the financial orisis continue to evolve it may continue to have serious impact on Hong Kong.

And in general the measures taken by the HKSAR Government as headed by C.H. Tung to manage the Hong Kong economy and to tackle the problems of the financial crisis have been effective and the confidence of the people is still there and stability and development have been maintained in Hong Kong.

sery pleasant my m Hong Kong. this regard, your younger son and your only grandehild will continue to here i current status about all those Filipinos living to Houg Kong. And I believe that in ome of the important elements cockellenting to our policy of inesping a studie toward the Hong Kong SAR is a very clear one which I believe everyone of you is current circumstances so I bolices that you shall rest assured concerning the aware of and the specific policy measures will also stay mechanged under the about the future prospect of the Hong Kong SAR. And we shall continue to take a currency to to maintain antility in Hong Kong. In the litting, the central government of China will give even stronger support to section of specific politry micesures to support Houg Kong. So, the everall politry And allow me to be very famic with Your Excellency that We are still full of confidence

INTS: Thank you way mach

including the very successful visit to Taiwan by Dr. Zim Lilan, one Science and Tradinology Minister in the new government. This visit has generated a very For resently several important figures from the Mamband went to Taiwan Excellency has been very much informed about this east you know this full well. As for the contacts and exchanges serioss the Taiwan Strates, I believe that Your

representative figures from the Talwan side have been coming to the Mainland for counterpert association, which is called the Streit Exchange Foundation. In Soc. Taiwan Strain from the Mainland side is call having his visit in Thiwan with his is going to Taiwan under the ear-ear background, sides. And now the Deputy Secretary-General of the Mainland side from ARATS Have spen latiter active exchanges ecross the Taiwan Strains between the two and apper Jospaty Secretary-General of the Assurantan for Relations Aware is to all time, including the representatives of the DIP.

coming the state of box ditry under the one-class gardespote. And so the same time rearrification between the two sides, the two sides shall have negotiations first on all the total throat and the comment of the comments of the total the street of the core of the eight-point proposal is that so the first step, the two sides can onto eight-point proposit, both in Turwan and also the international community. And SEE should further strengthen their contagn and increase their exchange of visite we also believe that the two susceptions on the two sides, namely, ARATS and For back in March of 1998, Thesident Jiang put forward eight (8) propositie for the And in this regard, we wedcome Mr. Koo Chen-fit, the Chairman of the Street Exchange Poundation from the Taiwen side to visit the Mainland and have his accepting to the cas-China principle. unic magnificates on officially ending the date of bostlifty basiness the two side advancement of peaceful remainsolition of China and this has been called listing! So that means if the Tuiwan authorities

meeting with the counterpart. Mr. Wang Daohan, Chairman of the Association for Relations Across Taiwan Straits from the Mainland side. And in the recent pest, we have received people from SEF of Taiwan to the Mainland and now, the Deputy Secretary General of ARATS is in Taiwan. All those exchanges are simed at laying down the groundwork for the talks between Mr. Wang Daohan and Mr. Koo Chen for.

And now the main problem concerning all this is the rather subborn attitude as demonstrated by the Taiwanese authorities, particularly by Lee Teng-hui. For the overall policy from our side is a very clear-cut one and a very flexible one. And despite the fact that Lee Teng-hui has said rather good words, pleasant words to the our at different occasions, there still has not been a major charge with regard to the basic attitude of the Taiwan side.

And with regard to our prepasal of sciting up the three direct links between the two sides, namely, in the field of trade, postal and aviation services, although the Taiwan side has been trying to dodge an open statement, an open commitment to this proposal, actually we have been seeing the contacts in the three fields already between the two sides. And sometimes because of restrictions on the part of Lee Teng-hui, we have seen indirect activities in this regard. However, as the general tendency, we are seeing more and more direct, instead of indirect activities.

And also before leaving Belling for Manila, I had the meeting with all the ASEAN Ambassadors in Belling. During our meeting, I briefed them about President Clinton's trip to China. In particular, I talked with them about the most comprehensive and sharp ever presentation made by Chinase President Jiang Zemin to President Clinton on the question of Taiwan and I believe that your embassy has already briefed you on this. So, I shall not repeat them here. But before we move on to the next topic, I want to make one clarification. I just talked about the Taiwan question and one clarification. It is our consistent policy that we do not challenge the non-governmental economic and trade exchanges active to the Philippines and Taiwan. However, from the Taiwan side, we still believe that there is a hidden political purpose behind the re-called non-governmental economic and trade exchanges with same Southeast Asian countries. And according to what you said to me, Mr. Southary, I believe that the Filipine aids, particularly Your Excellency yourself, is clearly fully sware of all this. This is the edditional comment I just made.

- DLS: Thank you. Well, on the Clinton China visit I must congratulate you because I think when he said the three nots, that is a major, major activement on the Chinese side. I think he deviated from the Shanghai Communique.
- TJX: The place of Shanghai is the city where more often than not major activities are conducted, including the Shanghai Communiqué just mentioned. And naw President Clinton also chose Shanghai as the place to say his three no's. And the

responsible people from the Shanghal government said to me accord times that the people of Shanghal feel very proud that Shanghal served as an important stage for the development of China-US relations.

- DLS: Two times. Because immediately after this was announced, I streatly had several phone calls from different governments saying, "What is the Philippine policy?" I said, "One-China policy. Period." We're not big enough to get involved in the second two questions.
- I don't want you to elaborate any further on that. We shall talk about economic and trade and science and technology and also financial cooperation. I don't think I should follow the ARC exactly. It's rather comprehensive. And we also talked about the cultural exchanges as well. And yesterday, during the meeting with the Vice President the Vice President talked to me about the imbalance of trade between the two countries. The Chinese side attaches great importance to the fast that the Pilipino side mised the jame and we also attach importance to the reactions you made previously. For we have all along maintained that the originately we need to follow is that, should there be an imbalance of trade, we need to work regether to solve it, in particular the party which is enjoying the surplus, it is all the more necessary that it should work. However, what we need to see is a theritive balance. We need to work to achieve a balance madually while positively developing our trade relations. We couldn't see it to be advisable to achieve only a negative belence, to not likelitate trade and limitness activities and other relevant exchanges. So, in general, I believe that both sides need to work together to tap the potential we gill have in this regard and to improve the structure of import and export communities and also to further develop a multi-dicated trade relations between up in order to unadually narrow the trade deficit between us.

So, when I go back to Beijing I shall convey what Your Excellency said to me here in our Political Consultations to the relevant department in China, namely MOFTEC. And I shall also convey to them what the Vice President said to me yesterday and I also suggest that our mixed commission on economic and trade activities have further discussions on specific measures to be taken. Starting from 1977. China and the Philippines have convened altogether 20 seasions of this Juint Trade Commission and I believe that we should even make better use of the existing mechanism to solve the realistic moblems between us. A related comment on that, I believe, the Chinese market is a broad one where a lot can be done, and can be additived. However, China it also working to build a market economy with Chinese characteristics. Therefore, on this broad and notential Chinese market, competition is also very figure among different countries, either governmentally or non-governmental. I believe that both the Chinese and the Pilipino side need to carry our even more effective and positive conceasion and coordination so that we may see on the bread Chinese market high quality goods from the Phillippines which can really serve the need of the Chinese outlemers. And one information for Your Excellency, the new government has expressed the

great importance that it attaches to expanding the coordinac cooperation and trade with our neighboring countries and now the relevant department in China are also coaltively....

Change of two-

... such as machines and equipments that serve the need of the Southeast Asian countries including the Philippines and set up joint ventures with you on a cooperative basis in all these areas related. And the Chinese nide may provide the necessary machines, equipment and related technology whereas your side can provide labor and land resources and so on. And after several years of ecopagation, the Chinese side may give up its control of the shares in all these joint venture factories to the Filipino side so in this process we can also help you in train the professional personnel to meet the needs of this joint enterprises. So we believe this is a new idea by our new Premier and is also been actively studied by the competent departments in China. By saying all thees, I mainly want to say to Your Excellency that given the common circumstance particularly the financial crims that has empted, it is all the more necessary that we need to explore some new way and open some new way of thinking in order to adapt to the new situation and the new changes so that we may further expand our economic cooperation. I believe this has come at a more urgent and it carries a miller reeligiic sier illicance.

China enjoys a rather leading edge in terms of the technology for the production of the machinery, equipment, including irrigation equipment and small and modium-sized tools...(coughing in the background ... interpreter insudible) ... to the countryside of the Philippines and also we offer good quality products with these prices. I believe that if we can really open such ways for cooperation in these areas, there's a lot that we can accomplish.

And in terms of cooperation on science and technology, we hope that we need to pay attention to first of all being mutually beneficial and to act on a reciprocal basis. And second, we need to pay attention to the actual results of our cooperation. For followed by these principles and spirit we believe that in addition to the two governments our different localities and different provinces and cities which have friendly links between them can also play a role to further strengthen our exchanges in science and technology and we should also pay attention to combine the use of technology with the economic and trade cooperation as a new ... (coughing in the background ... interpreter insudible)

I suggest that we have a more exchanges between our professors and scientists. And this shall also be true not only in the anadomic circle but also in the applied technology. And I'm sure that your Ambassador knows very well the current status and progress we have made in terms of actively exchanging with other countries.

and technology into a full ministry in terms of solence and belinslogy so pure of the rearganization of governmental institutions. with our neighbors, the new government has remained the commission for science expanding solence and technology conjectation with the next of the world including or respective the numerous design and securitating out appropriate to appropriate the property of the property

basis. And in August this year, we shall sign the program for the period 1998.

1999. And such exchanges cover a wide range of areas inclining the culture. the exchange of visits by artistic troupes by expent, by exchange of visits implementation of entirest exchanges between the two comments on a fathering with Claims. Our two expansions have stready algored a notal of table programs by publishing industries of the two sametries. They also take on a cich form sook as erdistis, editophism encliningen und also exclusioner between sectial autorioss und die And the Phillippines in the carless ASHAN country to sign the Cultura Agreement selvent selvent personnel and also by bolding of exhibitions in each other s

as scheduled and, secondly, I believe that they ellouid improve the quality and In terms of the commercial artivities, we see in quite a numbers of hig horsis in have been affected by this finencial crisis so they have failed to be conducted filth popular, the the one that entertained in during the dinner you boated for the foreign ministers. The problem at the moment seems to be that first of all their China, Milipino banda which are quite popular. in China, such bands are quite

theticars. So, in general, the Chinese side is positive towards developing and strongtheeting estabanges and competation with the Philippines. I would like to more appealing the question of taxability concerning the Philippines, I autagest that the competent department enter into As for the matter occussions are a considered as a constant of the sales of the sal direct negotiarious on this way specific

Ebank you. I think on the trade, economic and financial economits, in provising actualled suggestions which can be considered by the technical people. I'll just reed we do purifyings in reads him and exhibitions you have annually. These are no type mechanism which will facilitate unde in critical and bulk commodicas such compared a real in China. Another one is the establishment of a obsering housesupport in case we have mide thin and exhibitions its some markets in China of it These suggestions have been considered by the China Council for Promotion of the establishment of a Philippine bended wasshouse and display cause in major rescrings we have made some suggestions and this is the, if we sould get some them. I do not need a reply from Foreign Minister Tang. Apoline proposal was egyen, ferdizen, grams, camani and sommositus, similar of this payers

30 pp

ential—. It is apparently in the court now in Guengdong for resolution.

shipment, at least four fine way we look at it, belongs to him. I do the Chinese Kilpino businessman, he has sheed paid for this cargo Phillippines, was officeded in the port of Zhanjiang, Changolong Province and apparently the owner of the ship and smother Chinese party there must have been company also. But what imprimed was that informant, on the way to the from ... I think this is a tertilizer cargo ship own belonging to a Chinese Filipho whether be less not paid sophing or he owes then anything. At least this is how Chang. 196's & well-known Chings Filipina busingsman. So we hope that you On a teads issue, well, we have one outstanding problem, involving the purchase we received the information from him. latter of ecodit and the has been bothering me. He has also been visiting Amb in collusion because somebody claimed this cargo and are more trying to self it but bought fertilizer from a Smoothern company in Lordon but tim is company - named Mr. Uygongeo, the La Hilliator Uygongeo Corporation

- After the matter occurred to Mr. Ambasastor Gran, this propert the chemical and f in China according to the law of China. beginners rights and interests of Fillphos enterprises will be offerfively protected China is in the process of trying over this case. Personally, I believe that the from the judicial department of China and now the judicial department of
- Thank you. Of course his wony is this feedlizer, you know, fertilizes have a time duation. I think some time, the longer it gets the less effect of the fertilizer. No.
- E We may go back on how the Crustagoons province and urge them to set on the
- private sector bank bere in the Philippines is interested. They havemee they open here Chinase PROC bank opens have then the Philippine bank will then apply for a branch in China. But it's the teleport bank there in the Philippines. Also Two members that it less one major bank.
- they have intely took developing the business cooperation with their counterpar in The Bank of Chica as a big international bank and countlative bank in Chica bas all along attached importance to the financial market in the Philippiness And also the Philippines. On many occasions the responsible person with the Bank of China, including the president of the bank blimsoff expressed their will and what of setting up a beauth in the Philippines and they make a request to the Central Bank

And we boys that the Kilipine government will consider this matter invocably and

both sides but also will, to be objective, pay a very succomaging role in helping to alleviate the impact of the dissection before in Sombess Asia. China can formally set up the beauta bere in the Mulliphines, it will not only benefit in particular new that we are seeing the financial writin in Bast Asia it the Bank of

As for your suggestion of sexing on a reciprocal basis of having the Filipina bank also present in China, when I go back, I shall make this matter in person with the people responsible for the financial set-up in China.

Throw that the Metrobank in the Philippines has been muher authusisedo about this responsible person in the financial Beld of China and do some facilitating jet in and made their request to the Chinese side. the or and values only the

Filipano side bought trom China and imported 25,000 tons of case. Se that I hope On mother matter sensewing trade, I'm rappy to learn that not long up the We can provide you with Chinese cam of a good quality and low price. when you intend to import som from other countries you give top pubrity to Chins distinctions were posterious contributions in assume the subsection of project of the same states and

I don't know whether we have left my mater willing this area

The Country with the bank way I say that I have been sulking with our Country Bank Consumer. soundfring. So, we will deser craigs it if the minimum in 520 billion asses. No we put our first 6 banks together , we will not get \$20 billion susces. But I think the Metochank is the largest Philippine... at one point they had \$2 billion or now, Singapure Development Bank was inving that slot but may they are buyin was the incorposed are that under our law we could allow 10 foreign bands. But bank to the Philippines is big enough We will have to antique that but the Cannel Bank Governor already with pie. In open. So, there will be an opportunity for Back trans People's Republic of China 66% of a Philippine bank, Back of Southeast Asia, so that fixedgo bank alog wil China the minimum asset requirement for a bank is \$20 billion, I think. Even if

On the com and nos, we continty will be importing more this year. reason, the National Ford Agency before was buying rice through private agents previous administration had already imposted 1.8 million tons. But I think by November-December we have to impost more because of the impact of the before the Deputy Prime Minister of Vistness visited us, to change the policy, we ha sagnited by other governments. of the El Mino has been quite severe and we expect is Nina in a the will also obsume the system of buying also 50-50 % chance. So we will be buying tho: We're strong in inual with Linked with Personal Salanda, yesterday, 7

will buy direct to government. I think it will be better for both our governments not to pay commissions to middleness. This should save a lot of money for the Philippine government and at the same time, China or Chinese producers will get a better price for their product but we appreciate the offer to give us good quality and very good prices.

- TIX: For the hemefit should be restricted only within friends internally, but not to the counts.
- Thank you. On science and technology, I agree with Foreign Minister Tang. We should rry to involve also people who are working on the applied science side. In fact we have a request for assistance in securing the services of Dr. Xu Weishu. Director for the Center for Marine Biotechnology in the Ocean University of Jintso. Because we have problems with tespect to our string growing and I think he is an expect on this. We certainly hope also that if we have some areas in which we have expectise, like tropical disease etc. that these exchanges will be facilitated also from our part. And of course President Estrada is very eager to send his agricultural team to China. I don't know whether our Minister for Agriculture has developed or been in touch with you. Dar:
- DLS: We would lilke ... Mr. Hetrada wents this team to visit to China.
- TIX: Ambassador Guan just told me that the Chinese side welcomes the visit, and the visit has already been decided upon so the only question is the specific timing.
- DLS: I'll tell Mr. Dar because the President wants to really observe agricultural sector, rice-growing but I think you should also show them your irrigation systems with small irrigation systems, or you know you have pumping machines from water, from river, for the rice fields. I know that we used to have exoperation with Chine in UNIDO on small pumping machine for African countries and it's cheap. It's easy to catalish because I think in the Philippines, instead of hig dame, which takes 7 years to construct. For some of the areas small systems are better. And I know that Chine is very good in that.
- TIX: And this is exactly one area where China enjoys an advantage. Actualty we encountries with these machines. So, if you do need these small pumps, we shall be happy to produce. And this will help to settle belanced trade between us.
- DLS: It will increase my deficit. If a okay because I will buy less rice.
- TLX: All I'm thinking in my mind is how to respond to your calls in order to achieve a better balance of trade. I just said that we can sell a large amount of corn to you and if you buy it large quantity, we can offer them with cheap prices.

DLS: Very good. I will check on it.

TIX: If China increases its expert, it will drive up the impart net we have from your occurry in order to achieve a balance. Actually I feel that the question of trade balance is also similar to the country to country relations. Sometimes they're interactive. And if you intend to increase the sale of certain commodities from the Philippines to China, I suggest that you may send some people to China or sak your conbarry officials to make de facto or realistic studies on the Chinase market situation and see what are the products that can really meet the amount of the Chinase customers so that we can increase impact from the Philippines.

DLS: I'm not like the United States. I don't worry too much about trade deficit because I look at my trade globally but I'm interested in increase commercial and comomic relations. In the end I think we can balance somewhere and that's why if there's new technology or if you can help us in this small irrigation systems, then my importation of rice, 1.8 million tens this year times \$200, it's a lot of money then that will decrease my total deficit. And also if there is new investments from companies from PROC to Philippines than maybe we can join in experting to other countries because after all there are GSP quotas which you might have all used up. United States or others, Canada, or Australia.

I think on the economic and financial attration in Asia we already had very extensive talks. We don't need.

On the South China [Sea] issue we have dealt with that and I'll tell a statement, I understand that you have a new law, a law entered into force on the date... premulgation pursuant to Presidential Order #6. We are of comes studying this but we are concerned about implications with respect to additional overlapping of economic zones and, of course, continental shalves. But maybe our concerns or our wonics are not justified. We don't know, We are studying this law because it's a new law. Our initial reading in the case is that there could be additional overlapping of economic zones and continental sholves.

TIX: And as you probably know, many countries has promulgated their own laws concerning exclusive economic zones and continental shelves and China satisfied the UN Convention on the Law of the Sea and then became a State Party to the Convention in 1986. And the law that we have published recently on the exclusively economic zones and continental shelves are based on the UN Convention on the Law of the Sea with the purpose of safeguarding our severeign rights and interests and jurisdiction over our exclusive economic zones and continental shelves and this is an important part of the overall legislation that China has on the concerns you have expressed.

As for the overlapping claims that China and the neighboring countries have

of views, through discussions, consultations and negotiations. cousaing madima jurisdiction, we suggest that the two sides pay have exchange

is no coccerning the overlapping claims of maritims jurisdiction between China at the exclusive expressive some and continuants shall be chinese <u> Constituitativa de concercios estabantes internas en misor ora visalminativa de 10 de 10</u> and continental shelves combons to the provisions of the UN Convention on the and our neighboring commetes through incadily negotiations and friendly talks. And in our view, the law Chibs has premulgated on the exclusive economic zons Consumerant is ready to fish ow the regulations in this regard and properly settle the

and the on the basis of international law. And this effected our intention that neighboring countries will be agreed upon on the busis of the principle of fixtures of the exchains somewhic space and examinated shalves between China and the once there is an overlapping claim, they can be settled properly through dislogned Chima. It has been written very alouty into that new law of China that the beautimy And now you said that the expects on the Filipings side are studying the new law of

- E lust to make sum that we do not have a public relations problem. People set excited, worthed I think it would be medial if our legal experts could mest just for consultations
- Ħ Laiso believe that if necessary, our logal experts can have an exchange at views and
- DES That's right
- the swell mist neve par stated pas enotions and government may the will use During these contents, we can make our explanations and you one clao find an

consultations between us over the recent years, the two stiles agreed of suprements and understanding in which the on South China Sea. paints I want to make about the South Chical San Janua

affects to address the South China Sea lang. the district and also seek for joint development concerning the South When President Ropy Zemin was here for his vish in the Philippines, he and former President, Romes resolved the understanding of peepsful negotiation, And I believe that these should serve as the guiding principle in our

the matter by reasoning means so that the dispute versions in will not effect the of acknowledged principle of international law molnting the UN Convention on the Law of the Sea and have the bilateral negotiations in order to seek solution to And secondly, the two sides also agreed to have blisters! negotiations on the basis

fundamental principle guiding our effices to properly settle the question on the South China See. development of relations between us-

right and postd positive results in this regard. sides need to finther promote such mechanisms in that it can play a more effective mechanism to explore ways of cooperation concenting the South Cities Sea and actually the two expects group on finiseries exoperation and also on maritime environmental protection have but their two meatings, respectively, and the two And thirdly, we have already combinated between us the bilance constitution

begome en obstacle to our religions exessing to affect the consecutative or sound development of our relations of to farmes, for it not only searces our interest but also in a certain seams, redisect the that it serves the interest of both countries that the allustion remains so in the Taken as a whole, the situation on the South Clubs, See is stable and we believe

cooperation and we need to lamen as quick as possible our expert group on considence building messures. And as for the time, the content and level of the first meeting of the expect group, they can be discussed and agreed upon through In this regard, I suggest that we shall finther promote mutual trust and despen ou

And here I want to use our occasion today to restate to Your Excellency what I've said to you in Leudon during the ASEM meeting on one matter. Naturally, this

For our exchange views with Your Exactlency on the quanton of the Chinese that also is related to the question of the Humpyon Island. The proxition of the Chinese side on the question of Husagyan Jahan has been consistent and observant Substance and Chinese Coling boats being held in quanty by the Pilipins also and

to the question that has necessed in the recent past and take effective measures in order to prevent the recurrence of similar incidents in the future. legitimate and legal operation and production scriptiles in the waters of the fivenesses between the fitting and will attend importance integrossibile dati Chinese fishermen and Chinese beats have

erapsendap Survey jo wajindishie CONCERNING THE SOUTH CHIMA SEA The Chinese adds also attaches importance to and appreciate the fillipino

And in the joint statement that was issued after the compilation between the two

H

nseful busis for more specific discussions and negotiations between the two sides on formulating this Code of Conduct. So the Chinese side is ready to continue our the South China Sea and these principles and spirit that was fishowed formulate the which are to be followed ecocarting the establishment of the Coste of Conduct in further discussives and study on the matter exchange of views with the fillipino side and to be more specific, I suggest that the expert group on confidence building measures to be existinged in future have partuscuts in 1995, the was sides reacted agreement on the principles

the beginning of our talks. For the position of the Crimese side is also a very element. That is, the impallations on the Medic Rest are simply wind sheltwing life of the Climese flehe men operating to that part of the water and the Chinese you may go and find shelter in that Melli Reef. That's all I inhed to say on the side incends that when conditions are ripe, we shall open these facilities to the A bright reforming to the question of the Meiji Reef which you also briefly referred at fighterman of other countries, including the fighternen from the Phillippines and then incilities and they are absolutely necessary in ensuring the safety of production and For the position of the Chinese side is also a very slaw

DLS: Thenk you We eathinly support the holding of the working group on Childs as new lass you have promulgated. soon as possible as that they may elso beve bales anchenge, consultations on the

Philippines. We have always used it for many many years now and our fichenness have for long time have been fishing in that region. It's our position that the On Scarborough Shoat, we have always maintained that this is a part of the Maccies Beld and the Southersugh are not really the same group of latercle. Maccies Beld — you call it. "Zongaha": Zongaha and Dinangyan Duo are not one

nespect to cases of Chinese fisherman have been guite uno-active in the Degarment of Foreign Affairs sepecially will billipson Redenation. Timing Tang, to try to provide some food and water to us particularly the Bureau of Immigration are wally not very good and in cornein situations of the government, the conditions in some of our bolities THE OF OUR OWNERS OF BOTTOMENT Department of Jundes and also the Coss. Copied but sometimes it these a little histogram. But in our system, we always, have a very difficult time with our Ministry of Roceign Afficia always tries to shellthate the release of ships and good neighborry religions and whosever Amb. Com sells me, the December on On the Chinese finderness of course, we have slavely followed the ortholist o assince again Amb. Ous. Inows, I personally get in cough with the Chinese anger than we would like it to be in the Department of Foreign Affairs but this is Of course in view of the difficult budgers,

Now we approxima that recently, we have been information from your Embassy whenever there are many ships, Chinoso ships going through Philippine territory or some of our waters and this has helped create stability in our relations with respect to the South China Sea. Thank you.

TIX: An for the release of Chinese fishermen and Chinese boats, we would like to express our gratitude towards the DFA for the work that you have done in handling the matter which contributed to the development of our relations.

As for the question concerning the Huangyan Island, the two sides do have different positions and different claims in this regard, however, I shall not elaborate comprehensively today. For I talked for dozens of hours with Mr. Severico, now the Secretary General of ASEAN on the question, either here in Manila or in Beijing.

What I just want to repeat here is just that the title of the preposition of the Chinese side which I expanded in our meeting with Mr. Severino in the past

The first point I made to him is that the Huangyan Dao is not a sand bank but rather an island.

And second, that Huangyan Jaland has always been Chinese territory since ancient.

thines.

And thirdly, according to the Filipino treaties concerning the territorial composition and territorial scope of your country, the Philippines is in no position to exercise jurisdiction and therefore raise territorial claim over the Huengyan Island.

And fourthly, the incident that aboutd not have happened last year, came all of a sudden to the people concerned and the conditions... the responsibility does not lie with the Chinese side. I don't feel it's needed that we enter into a new round of debate at this 10th anniversary of our Consultation mechanism so I just dwell on the simple theme of my talk. I did not further elaborate.

DLS: Thank you because we have also other interpretations, you see. Our treaty limits and everything. But these are all contentions issues, and in fact we have agreed on a procedural approach to this, to give it to the the working groups and to the CRMs. The guiding principle has already been agreed to by President Zemin and President Ramos that these issues have to be settled prescribily and two, that these issues should not affect the pornual development of good and friendly neighborly relations between China and the Philippines. And three, of course we'll be working to a scenario where we could have common development of same of these areas. We just have to time this properly in our domestic political content because that is important especially in a country like the Philippines.

- IIS: Tagose with you. I understand
- DLS: You see President Ramos used to say that in the Philippines there are two favorable part times. No 1. is politice, No. 2 is bastethall
- DIS: But with President Baracle, It may be No. 1, backwitell, No. 2, politica
- Title How about galf? How about tennis?
- DLS: No termin. Haskerthall. Now he cannot play backerball. That's why he has a bad
- DLS: They all think they're still 20 years aid, you see.
- Cooperation in Southeast Asia. Asia Nuclear Weapon Free Zone, You mentioned another two impurious liques. You mentioned on the other is on the Santhessa One is the Treaty of Amily and

As we baye repositedly stated to you that China has all long supported the purposes and principles of the Theaty of Amily and Cooperation in Satisfaces Asia and we appreciate the positive role that the tresty plays in safeguarding pears and stability and properting unity and econdination in Southerst Asia.

Aspea, part it jos aik may botasausian en akkakaji. engiseod en Ausa se Aresti en with regards to the interpretation of right and obligation of the Tresty. give us the impresence that the members of ASEAN are not cotally identified as And the ASEAN aide has expressed hope on many occasions that China accedes to

about the relevant inforceation and execute study over all relevant courses of the And Chica will consider asserting to the Treaty after we have made careful study

fully support your effort to establish a Nuclear Wespon Free Zone in Southess filendly country to ASBAN as a whole and to the ASBAN member states, Crims Conserming the Treaty of the Southeast Asia Nuclear Weapon Pres Zone, as a

the ASEAN ride, always following a positive and frank attende. of the Treaty you marks in February demonstrated a postative and Decilia suffunde. the Chinese side gave our feedback to the ASBAN revision of the Treaty or the text As for our righting on the Protocol to the Trucy, we have test consultations with

there is no major difference between China and the ASBAN on this point and our And personally I believe that with count to the Proposit of the Traffy, actually position are moving over along to one another Also in Bering I stud to the

Ambassadors of ASEAN countries in Beijing that the main difficulty now does not lie with the Chinese side.

Now I believe the main difficulty does not lie with the Chinese side but some other countries such as the United States. And we hope that the ASEAN side will respond positively and also have coordination to the Chinese side which demonstrated our sincerity and the Chinese side will continue to have contacts with the ASEAN aids. With positive and pragmatic statitude, I believe that with concerned efforts of both sides, the matter will be resolved properly.

Some other comments but off the record. I believe that there is every possibility that Chins becomes the first to sign on the Protocol. This has been the consideration on the part of the Chinses side which has also been supported by the administration. What is needed is further efforts made by both sides. Please set to it that these are off the records.

- DLS: Thank you. I think on TAC well, we're happy that now it's open to con-Sautheast Asian countries. On SHANWFZ we have taken a decision among the ASEAN Foreign Ministers and we have mandeted the Singaporean Minister to immediately start intense consultations with the Nuclear Weapon states with a view in having finalized version in time for the December summit in Victuam. Of course we appreciate China's very immediate response to the leaves that have been called with respect to SEANWFZ. And we certainly would velocine if China will be the first to accede to the Protucol, particularly since it is the Nuclear Weapon state that is located in the Arian region. Of course, India would like to be the second but I'm sure, we shall not agree to that:
- TIX: I believe it is all the more significant that we're talking about the treaty on Nuclear Weapon Free Zone because we have acts the nuclear issue in South Asia which developed into a nuclear crisis. So if China becomes the first one to sign on it, it will have a positive implication. So we're ready to pay our due and constructive role in this regard.

And with your permission, I'd like to say something on the Cambodia issue.

DLG Year

If X: And now the general election in Cambodia has been smoothly completed sud, according to the reaction that the Chinase side has collected at the preliminary stage, the Chinase side believes that, basically, the election reflected the principles of being open, democratic and free and it also reflected the will of the people of Cambodia.

And this has some about as the result of the concerned affort of all parties in Cambodia and also from the international community. We express our

member of ASEAN in December in time for the Summit and also in time for the ASEAN meeting with the President of China. So it will be a good occasion. But this is how I look at it, that's why I'm saying that our draft communiqué should say something a little bit more positive on Cambodia. We want to encourage the political leaders to respect the results of the elections.

- TIX: I agree to your suggestion. The Chinese side will also do some work with the Cambodian side through our own channels.
- DLS: Presuse it is dangerous.
- TIX; King Sihanouk shall continue to play an even more constructive role and he should be allowed to play that role in this regard. If it had not been of the King, FUNCINPEC would not have win this (... unintelligible). This is just a normal sense.

I think our political consultations has been rather fruitful and clearly officient. We can conclude with only half a day, only this meming.

- DLS: I think the last two we can even include while, during buch.
- TJX: As far the visit by your President to China since it is a very formal matter we fact it is necessary we discuss it here. This will show our deep respect for your President.

As for the President's visit, first of all we welcome the President for an official visit to China at a convenient time for him. As to when he latends to go, the Chinese government fully respects his own intention. And the two Poreign Ministries may stay in touch with one another and work out a good program that will satisfy the President.

And personally, I suggest that the President make Ximnec one of the stay of his visit in China.

Charge of tape

- DLS: Later, but I think, the formula of arranging the dates, convenient dates, through the diplomatic channels would be the best. The communique, our colleagues, they can look at it.
- TIX: According to one of my colleages, he reported to me, we can confirm the communique as the draft. There's no any objection on the Chinese side
- DLS: Maybe we just need to improve a little the one on Cambodia because it's tenneutral. Samething more positive. But it's generally satisfactory. And while we are drinking, we can settle this. Thank you very much.

Annex 185
Note Verbale from the Department of Foreign Affairs of the Republic of the Philippines to the Embassy of the People's Republic of China in Manila, No. 983577 (5 Nov. 1998)

No. 983577

The Department of Foreign Affairs presents its compliments to the Embassy of the People's Republic of China in Manila and has the honor to inform the Embassy that the Government of the Republic of the Philippines has received verified information regarding the repair, renovation, construction, reinforcement and fortification works presently being undertaken on the illegal structures in Panganiban Reef by personnel on board PRC vessels escorted by PRC navy ships. The Government of the Republic of the Philippines strongly protests and manifests its objections to these activities which are prejudicial to the existing friendly relations between the Philippines and China as well as the peace and stability of the region.

The Department of Foreign Affairs wishes to convey the Philippine Government's displeasure and disappointment with the actions of the Chinese Government over Panganiban Reef as it violates the spirit of the Manila ASEAN Declaration on the South China Sea of 1992 and the understanding of the agreement reached between the Philippine Government and the Chinese Government during the Philippines-China Consultations on the South China Sea and Other Areas of Cooperation held in August 1995. The Joint Statement issued as a result of this meeting expressly states that "efforts must be undertaken to build confidence and trust between the two parties, to enhance an atmosphere of peace and stability in the region, and to refrain from using force or threat of force to resolve disputes."

Furthermore, the present actions of the People's Republic of China contravene the common agreement reached at the Meeting of the Heads of State/Government of the Member States of ASEAN and the President of the People's Republic of China on 16 December 1997 in Kuala Lumpur, Malaysia as contained in the Joint Statement issued where "the maintenance of regional peace and stability served the interests of all the parties, they undertook to resolve their differences or disputes through peaceful means, without resorting to the threat or use of force."—The Statement further reads: "In the

interest of promoting peace and stability as well as enhancing mutual confidence in the region, the parties-concerned agreed to exercise self-restraint and handle relevant differences in a cool and constructive manner.

The Department of Foreign Affairs reiterates that the position of the Philippine Government on Panganiban Reef, a geographic feature that is permanently submerged under water, has always been clear and consistent and this has been supported by the international community. The Philippine Government, in faithful compliance of these agreements with China as well as their spirit and understanding, has observed self-restraint in order to promote good neighborly relations, build confidence and trust, and enhance peace and stability in the region.

The Department of Foreign Affairs conveys the demand of the Government of the Republic of the Philippines for the Government of the People's Republic of the China to immediately cease and desist from doing further improvements over the illegal structures it has built in Panganiban Reef and to dismantle any repair works, renovations, reinforcements, fortifications and/or improvements made therein. The Philippine Government expresses its optimism that the Chinese Government will adhere to the spirit of the Manila ASEAN Declaration on the South China Sea of 1992 and the understanding reached during the Philippines-People's Republic of China Consultations on the South China Sea and Other Areas of Cooperation of 1995 and the Meeting of the Heads of State/Government of the Member States of ASEAN and the President of the People's Republic of China on 16 December 1997 in Kuala Lumpur, Malaysia.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of People's Republic of China the assurances of its highest consideration.

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Annex 186
Note Verbale from the Department of Foreign Affairs of the Republic of the Philippines to the Embassy of the
People's Republic of China in Manila, No. 2000100 (14 Jan. 2000)

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No. 200100

The Department of Foreign Affairs presents its compliments to the Embassy of the People's Republic of China and has the honor to convey to the latter the serious concern of the Philippine Government over the six (6) Chinese fishing vessels which were sighted within and in the vicinity of Scarborough Shoal on 06 January 1999. The presence of the Chinese vessels in the area is a violation of the sovereignty and territorial integrity of the Republic of the Philippines, of which Scarborough Shoal is an integral part.

The Department also wishes to inform the Embassy that two (2) of the Chinese fishing vessels were found to have had corals on board, which, to all indications, would have been gathered from Scarborough Shoal. This illegal activity disturbed the tranquility of the ecosystem and habitat of important species of marine life and, at the same time, caused irreparable damage to the marine environment of the area. It might be noted that the gathering and trade of corals violate the provisions of three (3) international conventions to which China is a signatory, namely, the Convention on Biological Diversity which entered into force on 29 December 1993; the RAMSAR Convention adopted in Iran in 1971, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which entered into force on 01 July 1975.

In view of the foregoing, the Department hereby conveys the request of the Philippine Government for the Government of the People's Republic of China to take resolute action against the fishermen concerned, who illegally entered Philippine territory and caused destruction to the marine environment in Scarborough Shoal, and to ensure that, in the future, Chinese fishermen do not again conduct fishing and other unauthorized activities within Philippine territorial jurisdiction.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.





(Translation)

(2002) Bu Ya Zi No. 3

The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the Republic of the Philippines in China and has the honour to enclose herewith the application for R/V Xiangyanghong 14 of the State Oceanic Administration of China which plans to conduct investigation of marine environment (sediments) in the Exclusive Economic Zone of the Republic of the Philippines from 15 June 2002 to 15 July 2002.

The Ministry of Foreign Affairs would appreciate it very much if the application could be approved at an early date.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy the assurances of its highest consideration.

(Seal)

Beijing, 8 January 2002

Embassy of the Republic of the Philippines, BEIJING

2//2-



中华人民共和国外交部

菲律宾共和国驻华大使馆:

中华人民共和国外交部向菲律宾共和国驻华大使馆 致意,并谨向大使馆转交中国国家海洋局关于所属"向阳 红14号船"拟于二〇〇二年六月十五日至七月十五日赴菲 律宾共和国专属经济区进行海底环境(沉积物)调查的申 请材料(附后)。

如蒙大使馆尽快同意上述申请,外交部将不胜感激。顺致崇高的敬意。



(2002)部亚字第3号



Final Agreed Draft

JOINT PRESS STATEMENT
OF THE GOVERNMENT
OF THE REPUBLIC OF THE PHILIPPINES
AND THE GOVERNMENT
OF THE PEOPLE'S REPUBLIC OF CHINA
ON THE STATE VISIT OF
H.E. PRESIDENT GLORIA MACAPAGAL-ARROYO
TO THE PEOPLE'S REPUBLIC OF CHINA
1 – 3 September 2004

DMC4/17:20H

IMPORTANT: PLEASE EMBARGO UNTIL 1900H TODAY, 3 SEPTEMBER 2004



Monsyt

Joint Press Statement Of the Government of the Republic of the Philippines And the Government of the People's Republic of China

Upon the invitation of His Excellency Hu Jintao, President of the People's Republic of China, Her Excellency Gloria Macapagal-Arroyo, President of the Republic of the Philippines paid a state visit to China from 1 to 3 September 2004.

The visit was aimed at promoting the existing close traditional friendship and good neighborly relationship between the two countries, enhancing mutual understanding and trust and facilitating economic cooperation and development.

During the visit, President Arroyo held talks with President Hu Jintao. She also met His Excellency Jiang Zemin, Chairman of the Central Military Commission, and His Excellency Wen Jiabao, Premier of the State Council.

Leaders of the two countries exchanged views on bilateral ties as well as international and regional issues of common interest in a sincere and friendly atmosphere. They noted with satisfaction the significant progress in the bilateral relationship and the steady expansion and deepening of cooperation in all fields. They reaffirmed their commitment to work on the comprehensive development of their ties. They agreed to further promote the healthy and steady development of the relationship, guided by the principles enshrined in the Joint Statement on the Framework of Bilateral Cooperation in the 21st Century signed by the two Governments in 2000.

The two sides agreed to prepare for the celebrations of the 30th anniversary of the establishment of Philipplnes-China diplomatic relations in 2005.

The two sides agreed to strengthen ties and to sustain highlevel contacts exchanges at all levels in all fields of government, business, academic communities, media and non-government organizations of the two countries. They also agreed to further strengthen various consultation and cooperation mechanisms, including the foreign ministry consultations, consular consultations, the Joint Trade Committee, the Joint Committee on Agriculture and the Joint Committee on Science and Technology.

Both sides acknowledged the strong complementarity between the two economies. Noting the remarkable progress achieved in bilateral trade in the recent years, they agreed to promote the further expansion of bilateral trade, the improvement of the trade structure and the development of potentials in trade and services.

Both sides expect the Philippines' participation in the Early Harvest Program of the ASEAN - China Free Trade Area on 1 January 2005. The Philippines expressed appreciation for China's flexibility.

The Philippines recognized China's market economy status.

In the interest of expanding mutual investment, they agreed to encourage entrepreneurs to invest in each other's countries, particularly in the fields of infrastructure, agriculture, resources, information and communications technology among others. The Philippine side expressed appreciation for China's support for the agricultural development program and the Northrail project of the Philippine government.

The two sides agreed to promote cooperation in tourism and encourage their nationals to visit each other's countries.

The two sides indicated their readiness to enhance people-topeople exchanges with further cooperation in educational, cultural and other fields.

Both sides believed that expanded exchanges and dialogue in the military and security fields will strengthen the level of mutual political trust between the two countries. They agreed to study the possible establishment of the annual defense security consultation mechanism between their defense departments. They also agreed to strengthen ways and means to implement cooperation agreements concerning judicial assistance, drug control and transnational crimes. M : KINCHENGPENSHOU

The Philippines reaffirmed its adherence to the one-China policy and understands efforts by the Chinese government to maintain national unity.

The two sides reaffirmed their commitment to the peace and stability in the South China Sea and their readiness to continue discussions to study cooperative activities like Joint development pending the comprehensive and final settlement of territorial disputes and overlapping maritime claims in the area. They agreed to promote the peaceful settlement of disputes in accordance with universally-recognized principles of international law, including the 1982 United Nations Convention on the Law of the Sea. They agreed that the early and vigorous implementation of the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea will pave the way for the transformation of the South China Sea into an area of cooperation.

The two sides agreed to continue to promote cooperation between ASEAN and China, pursue the realization of the ASEAN-China free trade area and strengthen the ASEAN plus 3 process.

They recognized that the Philippines and China should continue to work with other developing countries for fairness and balance in the global free trade regime.

They shared the view that maintaining peace and stability in the region was of critical importance. The Philippines acknowledged China's efforts to bring about denuclearization and development in the Korean Peninsula.

President Arroyo expressed appreciation for the warm hospitality and friendship extended to her and her delegation during her visit to China.

President Arroyo invited President Hu Jintao to visit the Philippines at a mutually convenient date. President Hu expressed appreciation for the invitation. Both sides will prepare for the State Visit of President Hu to the Philippines.

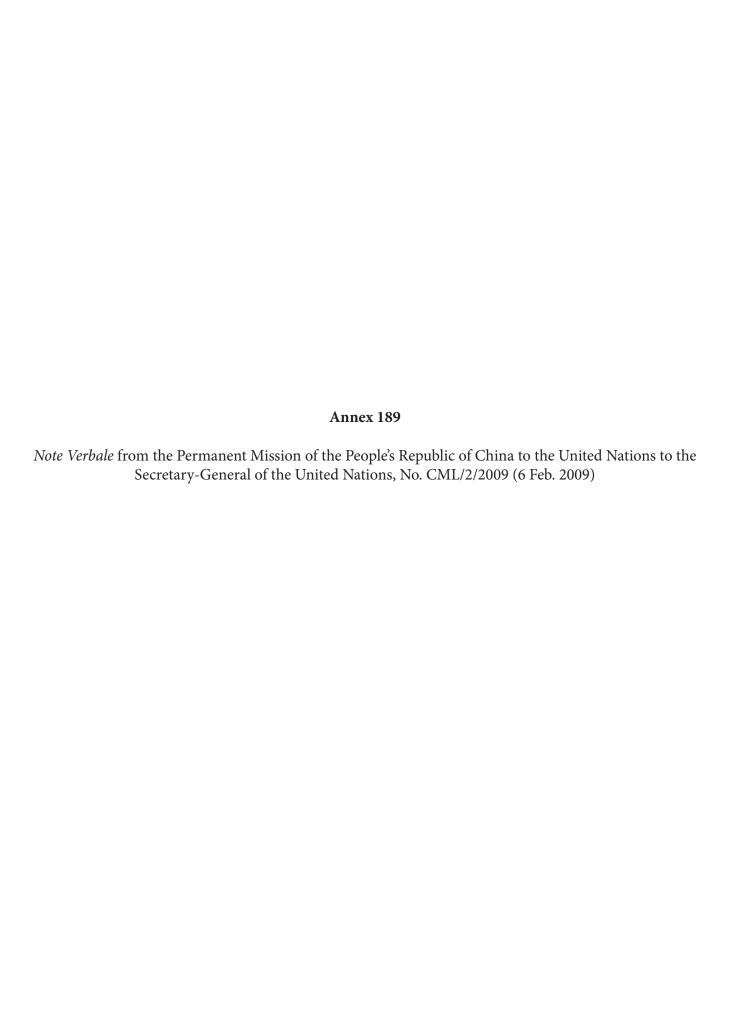
Philippines-China

Ties between the Philippines and China reached a turning point in 2004 with our expanding economic cooperation and enhanced level of confidence at the political level. As of 2004, China was the fastest-growing market for Philippine export commodities, the sixth largest trading partner and a strong partner in development cooperation, particularly in agriculture and infrastructure.

During her state visit to China in September, President Arroyo and President Hu Jintao affirmed that bilateral relations are at its highest point at the approach of the 30th anniversary of diplomatic relations in June 2005. The fact that this was President Arroyo's first foreign visit after assuming her new term reflected the high level of importance the Philippines attaches to its relations with China.

During that visit, the Philippines and China set a trade target of US\$ 20 billion in the next five years till 2009 and agreed to expand cooperation in agricultural research and production, mining of nickel and copper, and railway development. The bilateral trade volume, as of 2004, reached nearly US\$ 14 billion with the balance in the Philippines' favor. China affirmed its support for the Northrail project, further to its US\$ 400-million soft loan for the Kalookan-Malolos leg. Eleven (11) business deals were signed. This involves investments worth at least US\$ 522 million in mining, glass manufacturing, telecommunications, agriculture, transportation and pharmaceuticals and trade deals worth more than US\$ 9 million for resource-based Philippine exports to China.

Also during that visit, China agreed to grant flexibility to the Philippines to facilitate its participation in the Early Harvest Program of the ASEAN-China Free Trade Area by 1 January 2005. The Philippines formally granted recognition of China's market economy status.



(Translation)

CML/2/2009

New York, 06 February 2009

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Japan's Submission, dated 12 November 2008, to the Commission on the Limits of the Continental Shelf(hereinafter referred to as "the Commission") concerning the outer limits of its continental shelf beyond 200 nautical miles, has the honor to state the position as follows:

The Chinese Government is of the view that, under the United Nations Convention on the Law of the Sea(hereinafter referred to as "the Convention"), States Parties shall have the right to submit information on the outer limits of the continental shelf beyond 200 nautical miles. While exercising such right in establishing the outer limits of their continental shelf beyond 200 nautical miles, States Parties shall also have the obligation to ensure respect for the extent of the International Seabed Area(hereinafter referred to as the Area"), which is the common heritage of mankind, and not to affect the overall interests of the international community as a whole. All States Parties shall implement the Convention in its entirety and ensure the integrity of the Convention, in particular, ensure that the extent of the Area is not subject to any illegal encroachment.

The Chinese Government has carefully studied the Executive Summary of Japan's Submission, and has noted, in particular, of 200-nautical-mile extension of its continental shelf measured from the basepoint Oki-no-Tori Shima Island, as well as the three regions, namely SKB, MIT and KPR, of the continental shelf extended beyond 200 nautical miles from the Oki-no-Tori Shima Island. It is to be noted that the so-called Oki-no-Tori Shima Island is in fact a rock as referred to in Article 121(3) of the Convention. Therefore, the Chinese Government wishes to draw the attention of the members of the Commission, the States Parties to the Convention as well as the Members of the United Nations to the inconformity with the Convention with regard to the inclusion of the rock of Oki-no-Tori in Japan's Submission.

H.E. Mr. BAN KI-MOON Secretary-General The United Nations NEW YORK Article121(3) of the Convention stipulates that, "Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf". Available scientific data fully reveal that the rock of Oki-no-Tori, on its natural conditions, obviously cannot sustain human habitation or economic life of its own, and therefore shall have no exclusive economic zone or continental shelf. Even less shall it have the right to the extended continental shelf beyond 200 nautical miles.

Since the rock of Oki-no-Tori does not have any ground to claim continental shelf, it is not within the mandate of the Commission to make any recommendation on the portions of continental shelf both within and beyond 200 nautical miles measured from the rock of Oki-no-Tori as contained in Japan's Submission. Therefore, the Commission is kindly requested not to take any action on the above mentioned portions.

The Permanent Mission of the People's Republic of China to the United Nations requests that this note verbale be circulated to all members of the Commission, all States Parties to the Convention and all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

Annex 190
Note Verbale from the Permanent Mission of the Republic of Korea to the United Nations to the Secretary-General of the United Nations (27 Feb. 2009)

REPUBLIC OF KOREA

PERMANENT MISSION TO THE UNITED NATIONS

27 February 2009

MUN/046/09

The Permanent Mission of the Republic of Korea to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the submission made by Japan to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission") on November 12, 2008.

The Permanent Mission of the Republic of Korea has further the honour to make a comment regarding the data in the executive summary provided by Japan, in accordance with Annex III, section II.2 (a) (v) of the Rules of Procedure of the Commission, which permits the State Parties to the United Nations Convention on the Law of the Sea (hereinafter referred to as "the Convention") and the Member States of the United Nations to make comments on the submission by a coastal state.

Article 121, paragraph 3 of the Convention clearly states that "rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf."

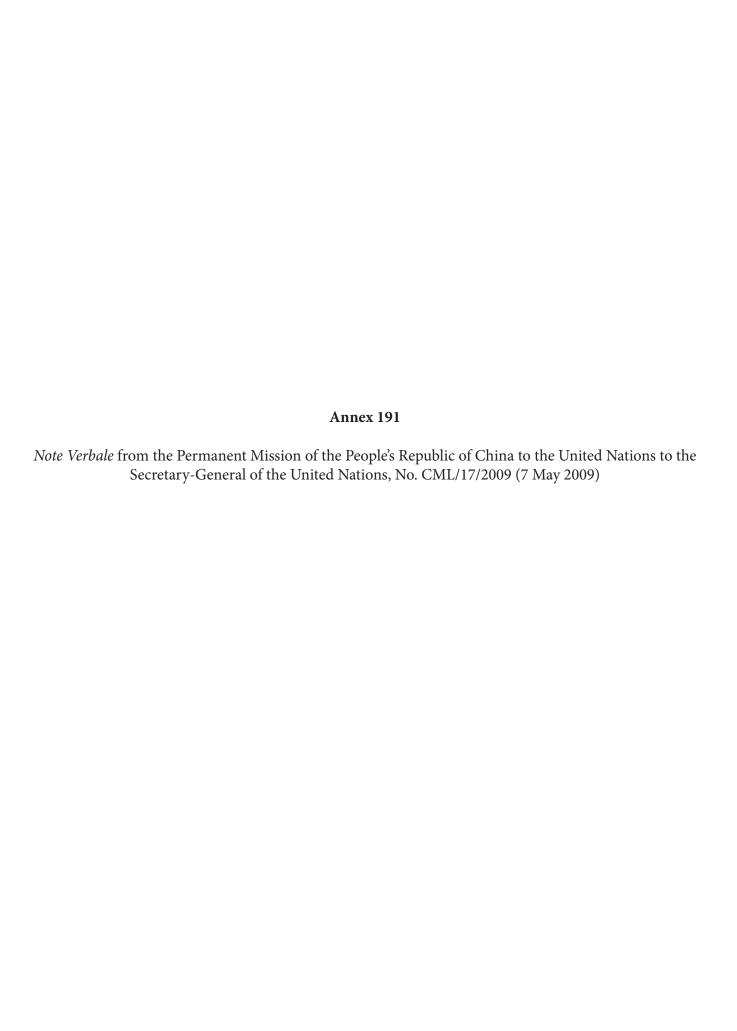
In this regard, the Republic of Korea has consistently held the view that Oki-no-Tori Shima, considered as a rock under Article 121, paragraph 3 of the Convention, is not entitled to any continental shelf extending to or beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, as defined in Article 76 of the Convention.

The Republic of Korea, furthermore, believes that the legal status of Oki-no-Tori Shima is not a scientific or technical matter involving the establishment of the outer limits of the continental shelf, but rather a matter concerning the interpretation and application of Article 121 of the Convention, which is beyond the purview of the Commission.

Consequently, the Republic of Korea respectfully requests that the Commission set aside the portions relating to Oki-no-Tori Shima from its action on the submission made by Japan.

The Permanent Mission of the Republic of Korea to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

Secretary-General
The United Nations
New York



(Translation)

CML/17/2009

New York, 7 May 2009

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Joint Submission by Malaysia and the Socialist Republic of Viet Nam dated 6 May 2009, to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission") concerning the outer limits of the continental shelf beyond 200 nautical miles, has the honor to state the position as follows:

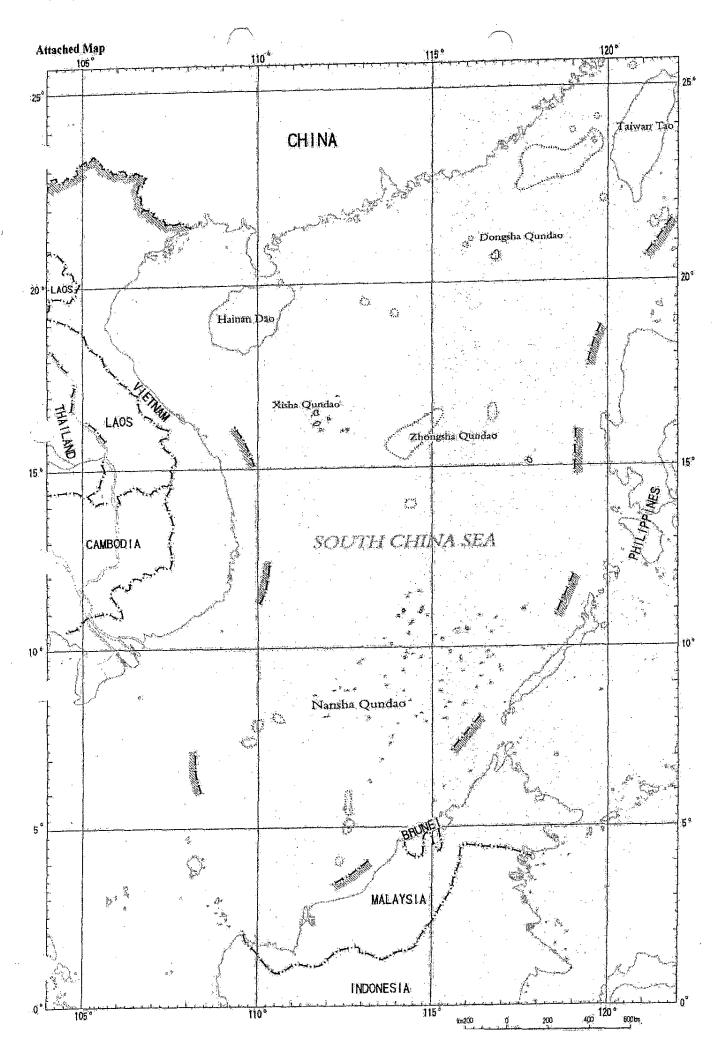
China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see attached map). The above position is consistently held by the Chinese Government, and is widely known by the international community.

The continental shelf beyond 200 nautical miles as contained in the Joint Submission by Malaysia and the Socialist Republic of Viet Nam has seriously infringed China's sovereignty, sovereign rights and jurisdiction in the South China Sea. In accordance with Article 5(a) of Annex I to the Rules of Procedure of the Commission on the Limits of the Continental Shelf, the Chinese Government seriously requests the Commission not to consider the Joint Submission by Malaysia and the Socialist Republic of Viet Nam. The Chinese Government has informed Malaysia and the Socialist Republic of Viet Nam of the above position.

The Permanent Mission of the People's Republic of China to the United Nations requests that this Note Verbale be circulated to all members of the Commission, all States Parties to the United Nations Convention on the Law of the Sea as well as all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

H.E. Mr. BAN KI-MOON Secretary-General The United Nations NEW YORK



中华人民共和国常驻联合国代表团

PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE UNITED NATIONS

350 East 35th Street, New York, NY 10016

TEL.: (212) 655-6100

CML/17/2009

纽约 联合国秘书长 潘基文先生阁下

中华人民共和国常驻联合国代表团向联合国秘书长致意, 并谨就马来西亚和越南联合于2009年5月6日向大陆架界限委 员会(下称"委员会")提交的二百海里以外大陆架划界案表达 如下立场:

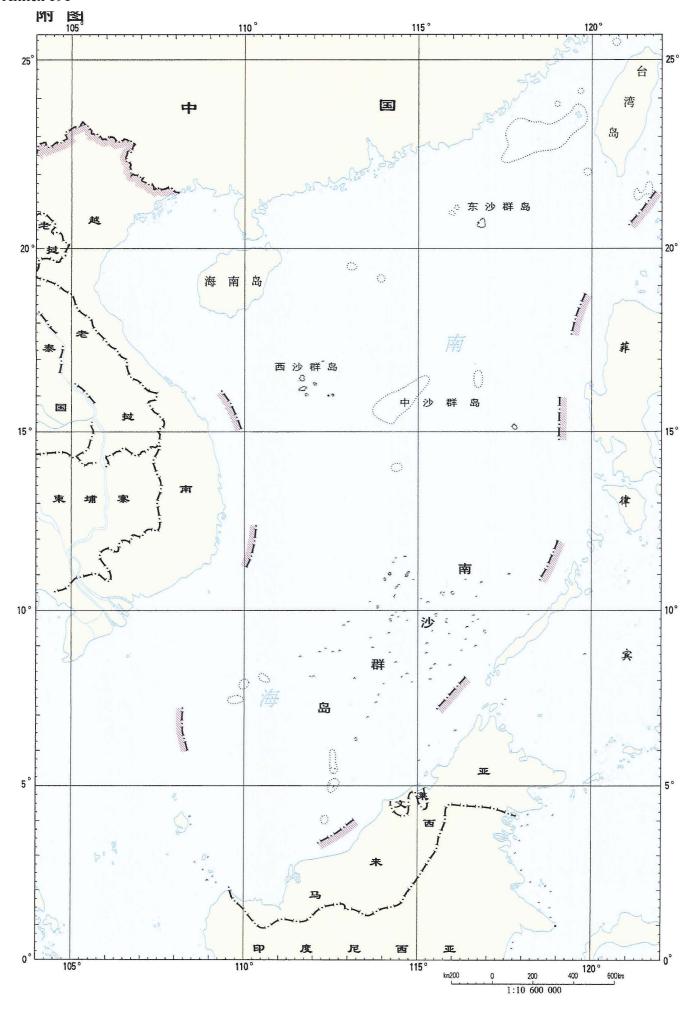
中国对南海诸岛及其附近海域拥有无可争辩的主权,并对相关海域及其海床和底土享有主权权利和管辖权(见附图)。中国政府的这一一贯立场为国际社会所周知。

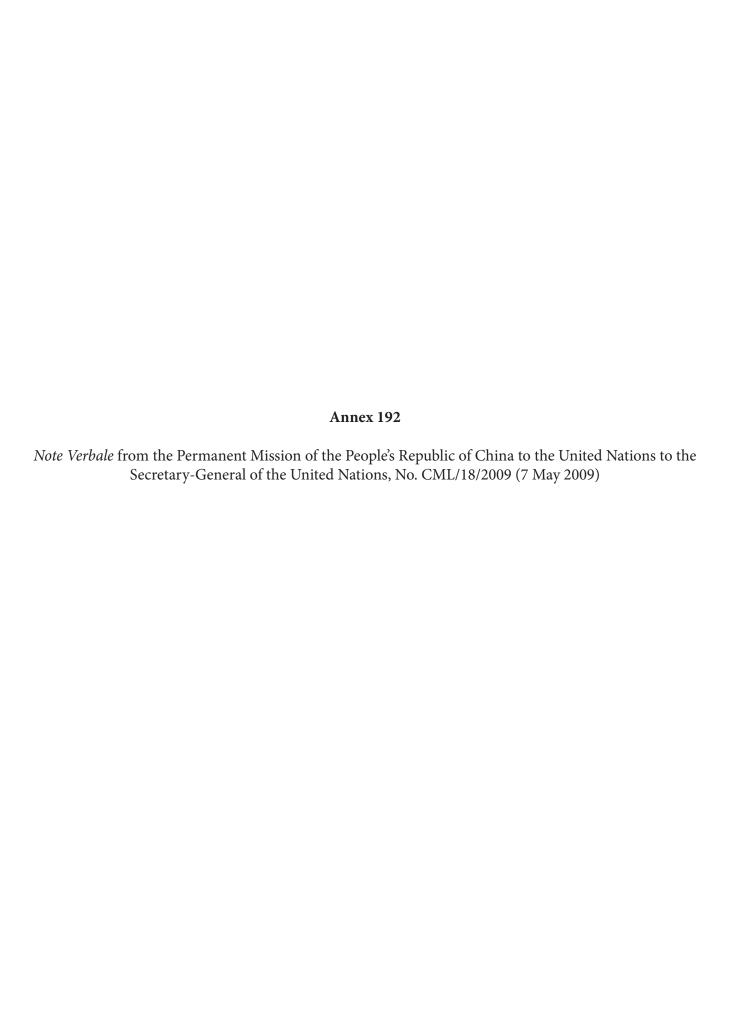
上述马来西亚和越南联合划界案所涉二百海里以外大陆架区块,严重侵害了中国在南海的主权、主权权利和管辖权。根据《大陆架界限委员会议事规则》附件一第5条(a)项,中国政府郑重要求委员会对马来西亚和越南联合划界案不予审理。中国政府已将上述立场知会马来西亚和越南。

中华人民共和国常驻联合国代表团请秘书长将本照会周知大陆架界限委员会全体委员、《联合国海洋法公约》全体缔约国和联合国全体会员国。

顺致最崇高敬意。

二00九年五月上月于纽约





(Translation)

CML/18/2009

New York, 7 May 2009

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Submission by the Socialist Republic of Viet Nam dated 7 May 2009, to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Commission") concerning the outer limits of the continental shelf beyond 200 nautical miles, has the honor to state the position as follows:

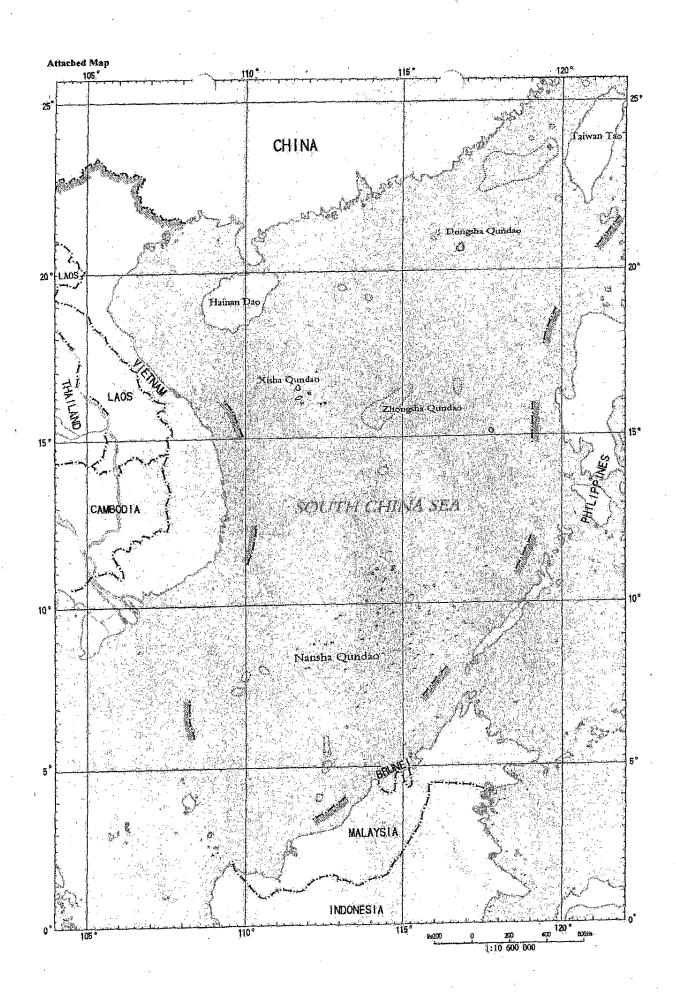
China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see attached map). The above position is consistently held by the Chinese Government, and is widely known by the international community.

The above Submission by the Socialist Republic of Viet Nam has scriously infringed China's sovereignty, sovereign rights and jurisdiction in the South China Sea. In accordance with Article 5(a) of Annex I to the Rules of Procedure of the Commission on the Limits of the Continental Shelf, the Chinese Government seriously requests the Commission not to consider the Submission by the Socialist Republic of Viet Nam. The Chinese Government has informed the Socialist Republic of Viet Nam of the above position.

The Permanent Mission of the People's Republic of China to the United Nations requests that this Note Verbale be circulated to all members of the Commission, all States Parties to the United Nations Convention on the Law of the Sea as well as all Members of the United Nations.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

H.E. Mr. BAN KI-MOON Secretary-General The United Nations NEW YORK



中华人民共和国常驻联合国代表团

PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE UNITED NATIONS

350 East 35th Street, New York, NY 10016

TEL.: (212) 655-6100

CML/18/2009

纽约 联合国秘书长 潘基文先生阁下

中华人民共和国常驻联合国代表团向联合国秘书长致意, 并谨就越南于 2009 年 5 月 7 日向大陆架界限委员会(下称"委 员会")提交的二百海里以外大陆架划界案表达如下立场:

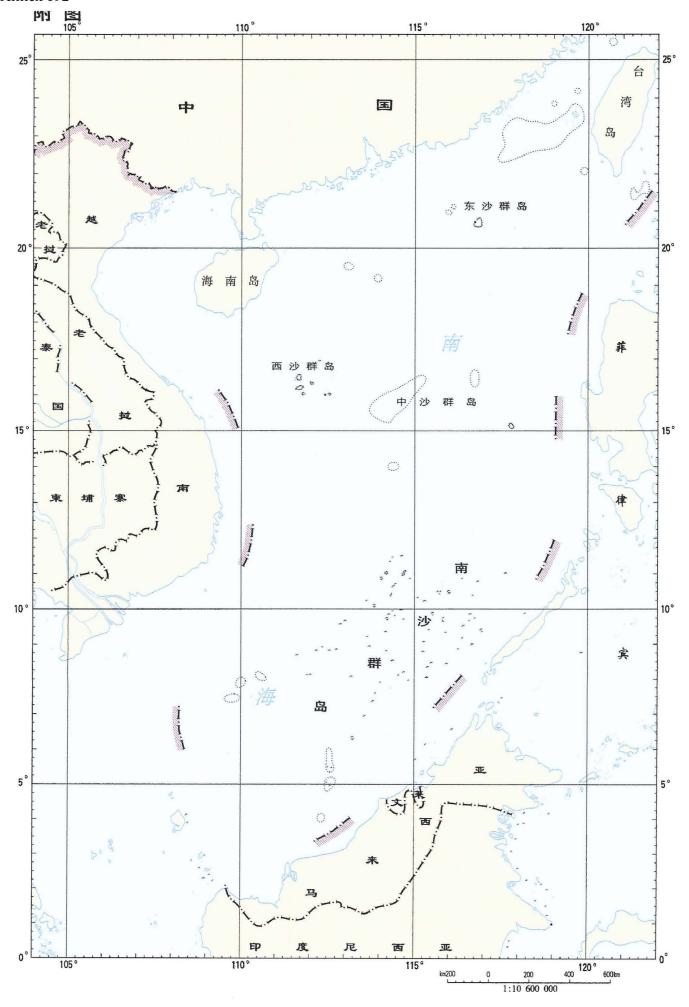
中国对南海诸岛及其附近海域拥有无可争辩的主权,并对相关海域及其海床和底土享有主权权利和管辖权(见附图)。中国政府的这一一贯立场为国际社会所周知。

上述越南划界案,严重侵害了中国在南海的主权、主权权利和管辖权。根据《大陆架界限委员会议事规则》附件一第 5条(a)项,中国政府郑重要求委员会对越南划界案不予审理。中国政府已将上述立场知会越南。

中华人民共和国常驻联合国代表团请秘书长将本照会周知大陆架界限委员会全体委员、《联合国海洋法公约》全体缔约国和联合国全体会员国。

顺致最崇高敬意。

二00 九年五月七日于纽约







PERMANENT MISSION OF THE SOCIALIST REPUBLIC OF VIET NAM TO THE UNITED NATIONS

866 U.N. Plaza, 4th Floor, Suite 435 New York, N.Y. 10017 (212) 644-0594 . (212) 644-0831 (212) 644-2535 . (212) 644-1564 Fax (212) 644-5732

No. 86/HC-2009

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Notes Verbale CML/12/2009 of 13 April 2009, CML/17/2009 of 7 May 2009 and CML/18/2009 of 7 May 2009, addressed to the Secretary-General of the United Nations by the Permanent Mission of the People's Republic of China to the United Nations, has the honor to state the position of the Government of the Socialist Republic of Viet Nam as follows:

Viet Nam's Submissions to the Commission on the Limits of the Continental Shelf concerning the outer limits of Viet Nam's continental shelf beyond 200 nautical miles, including its Joint Submission with Malaysia, constitute legitimate undertakings in implementation of the obligations of States Parties to the 1982 United Nations Convention on the Law of the Sea, which conform to the pertinent provisions of the said Convention as well as the Rules of Procedures of the Commission on the Limits of the Continental Shelf.

The Hoang Sa (Paracels) and Truong Sa (Spratlys) archipelagoes are parts of Viet Nam's territory. Viet Nam has indisputable sovereignty over these archipelagoes. China's claim over the islands and adjacent waters in the Eastern Sea (South China Sea) as manifested in the map attached with the Notes Verbale CLM/17/2009 and CLM/18/2009 has no legal, historical or factual basis, therefore is null and void.

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations requests that this Note Verbale be circulated to all States Parties to the 1982 United Nations Convention on the Law of the Sea as well as all Members of the United Nations.

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

H.E. Mr. BAN KI-MOON Secretary-General United Nations New York, 8 May 2009



Annex 194
Note Verbale from the Permanent Mission of Malaysia to the United Nations to the Secretary-General of the United Nations, No. HA 24/09 (20 May 2009)



HA 24/09

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Secretary General of the United Nations and, with reference to the Note Verbale CML/17/2009 dated 7 May 2009 from the Permanent Mission of the People's Republic of China to the United Nations, has the honour to state the position of the Government of Malaysia as follows:

The Joint Submission of Malaysia and the Socialist Republic of Vietnam to the Commission on the Limits of the Continental Shelf (hereinafter referred to as "the Joint Submission") to establish the limits of the continental shelf appurtenant to Malaysia and the Socialist Republic of Vietnam beyond 200 nautical miles from their baselines from which the breadth of their respective territorial seas is measured in respect of the southern part of the South China Sea constitute legitimate undertakings in implementation of the obligations of States Parties to the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982), which conform to the pertinent provisions of UNCLOS 1982 as well as the Rules of Procedure of the Commission on the Limits of the Continental Shelf.

The Joint Submission is made without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts in consonance with Article 76 (10) of UNCLOS 1982, Article 9 of Annex II of UNCLOS 1982, Rule 46 to the Commission's Rules of Procedure, and Paragraphs 1, 2 and 5 of Annex I to the Commission's Rules of Procedure. Similarly, the Joint Submission is without prejudice to the position of States which are parties to a land or maritime dispute in consonance with Paragraph 5 (b) of Annex I to the Commission's Rules of Procedure.

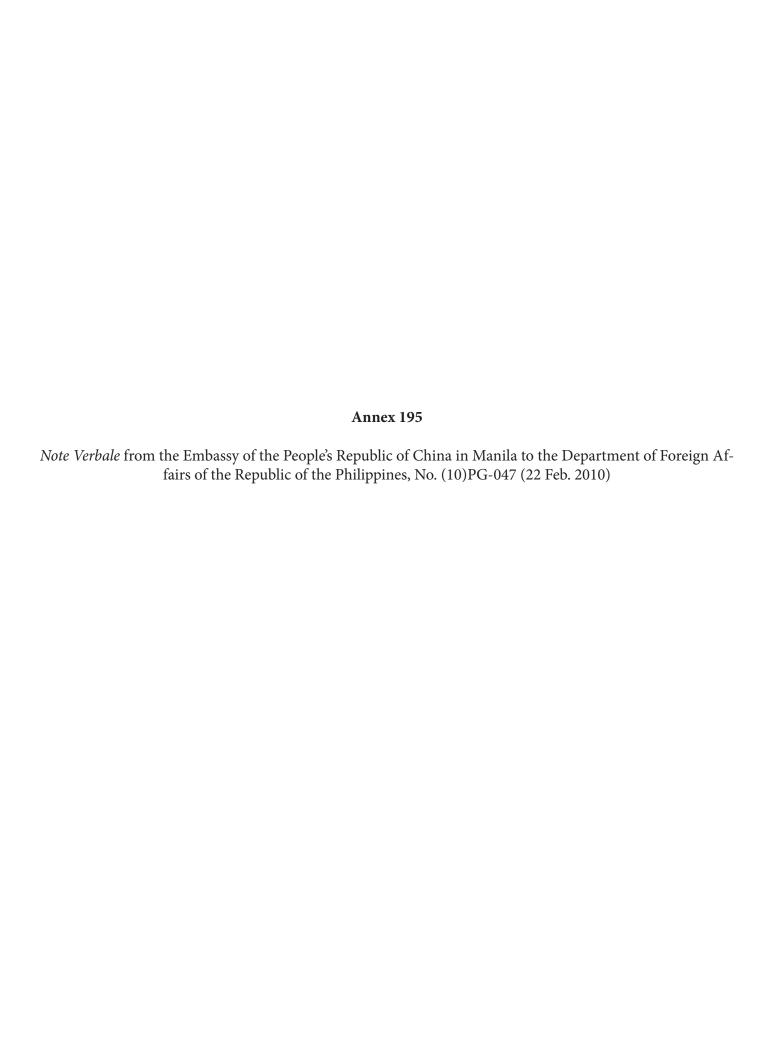
The Government of Malaysia has informed the People's Republic of China of its position prior to the submission of the Joint Submission to the Commission on the Limits of the Continental Shelf.

The Permanent Mission of Malaysia has further the honour to request that this note be circulated to all members of the Commission on the Limits of the Continental Shelf (CLCS), all States Parties to the United Nations Convention on the Law of the Sea 1982 as well as all Members of the United Nations.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretary General of the United Nations the assurances of its highest consideration.



H.E. Mr. BAN KI-MOON Secretary General United Nations





中华人民共和国大使馆

No. (10) PG-047

The Embassy of the People's Republic of China presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to lodge its solemn protest as follows:

On 15 February 2010, the Philippine side awarded the Service Contract relating to the so-called "GSEC101" license to Forum (GSEC101) Limited. The Chinese side expresses its strong objection and indignation to the aforementioned act of the Philippine side.

China has indisputable sovereignty, sovereign rights and jurisdiction over Nansha Islands and its adjacent waters. The so-called "GSEC101" is situated in the waters of China's Nansha Islands. The aforementioned act of the Philippine side has seriously infringed upon China's sovereignty and sovereign rights and goes contrary to its commitments on the South China Sea issue and to the maintenance of peace and stability in the South China Sea. It is illegal, null and void.

The Chinese side urges the Philippine side to honor its commitments to China-Philippines relations as well as peace and stability in the South China Sea, abide by the *Declaration on the Conduct of Parties in the South China Sea*, withdraw the



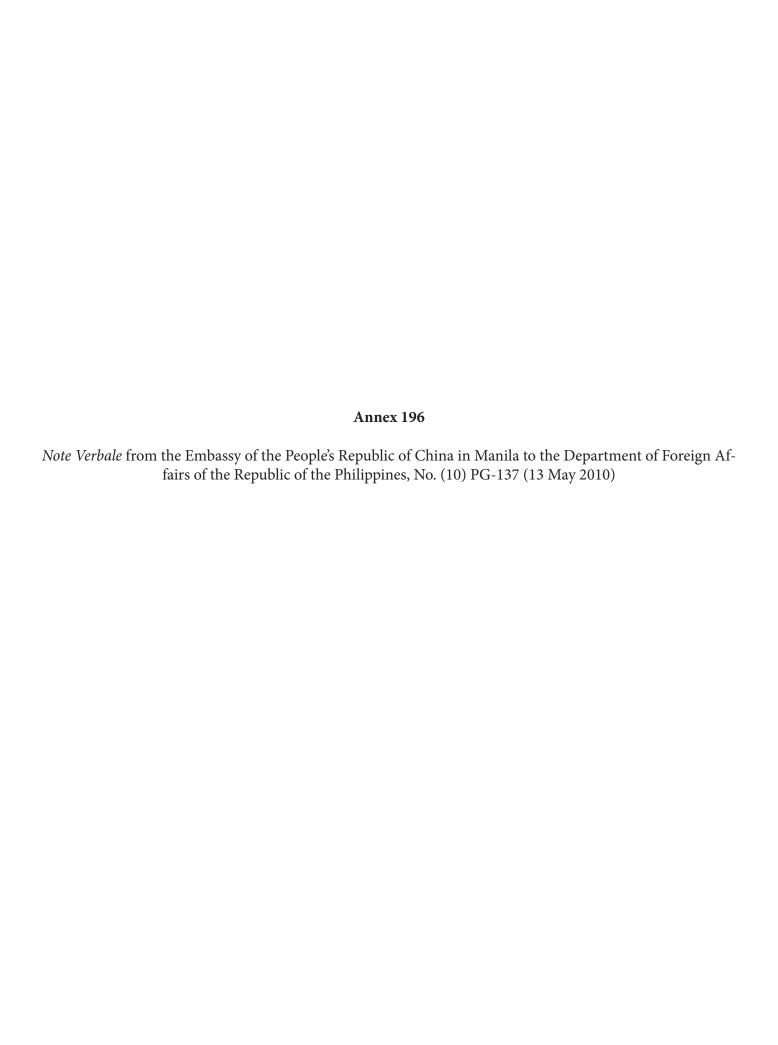
中华人民共和国大使馆

Service Contract immediately, and refrain from any actions that might infringe upon China's sovereignty and jeopardize peace and stability in the South China Sea.

The Embassy of the People's Republic of China avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines the assurances of its highest consideration.

2010

Department of Foreign Affairs Republic of the Philippines





中华人民共和国大使馆

No. (10) PG-137

The Embassy of the People's Republic of China presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and reiterates China's position on the decision of the Philippine Government to award the Service Contract relating to the so-called "GSEC101" license to Forum (GSEC101) Limited as follows:

Referring to Note (10)PG-047 of the Embassy of the People's Republic of China dated 22 February 2010, the Chinese side re-emphasizes that China has indisputable sovereignty over Nansha Islands and its adjacent waters. The related action by the Philippine side has seriously infringed on China's sovereignty, sovereign rights and jurisdiction, and is therefore illegal and invalid.

The Chinese and Philippine sides have exchanged views on the so-called "GSEC101" issue on many occasions. The Chinese side noted the solemn statements from the persons in charge of the Department of Foreign Affairs and the Department of Energy of the Philippine Government that the Philippine side is willing to work together with the Chinese side toward a solution acceptable to both sides, so as to maintain the overall interests of China-Philippines friendly relations. The Philippine side also expressed its willingness to discuss with the Chinese side on addressing the issue in the mode of joint development. The Chinese side hereby urges the Philippine side to immediately withdraw the decision to award Service Contract relating to the so-called "GSEC101" area to Forum (GSEC101) Limited, refrain from any action that might undermine China's sovereign rights and complicate or escalate the disputes in the South China Sea. The Philippine side shall take concrete actions to comply with the Declaration on the Conduct of Parties in the South China Sea, and maintain in real earnest the overall interests of China-Philippines friendly relations and stability in the South China Sea.

The Chinese side urges the Philippine side to honor its commitment and continue active discussions with the Chinese side in a responsible and constructive manner for appropriate solutions, including the joint development in the waters concerned which shall not hold prejudice to the position of each side on its sovereignty, sovereign rights and jurisdiction, in purpose of concluding the agreement on joint development as soon as possible.

The Embassy of the People's Republic of China avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines the assurances of its highest consideration.

Department of Foreign Affairs Republic of the Philippines





PERMANEMP MISSION OF THE REPUBLIC OF INDONESIA HE UNITED NATIONS NEW YORK

UNOFFICIAL TRANSLATION

No. 480/POL-703/VII/10

The Permanent Mission of the Republic of Indonesia to the United Nations presents its compliments to the Secretary General of the United Nations and with reference to the circular note of the Permanent Mission of the People's Republic of China number CML/17/2009 dated 7 May 2009, especially its attached map depicting the so-called "the Chinese indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and its sovereign rights and jurisdiction over relevant waters as well as the seabed and subsoil thereof", has the honor to state the following:

- Indonesia is not a claimant State to the sovereignty disputes in the South China Sea, and as such, Indonesia has played an impartial yet active role in establishing confidence building measures among the claimant States and creating an atmosphere of peace through a series of workshops on the South China Sea since 1990. This endeavor eventually paved the way for the adoption of the "Declaration on the Conduct of Parties in the South China Sea" in 2002;
- Indonesia also follows closely the debate over the above mentioned map which has also been referred to as the so-called "nine-dotted-lines map". Thus far, there is no clear explanation as to the legal basis, the method of drawing, and the status of those separated dotted-lines. It seems that those separated dotted lines may have been the maritime zones of various disputed small features in the waters of the South China Sea. Regardless of the owner of those features, Indonesia should like to take this opportunity to refer to the position of the People's Republic of China in matters relating to the maritime zone of very small islands and rocks as shown from the following statements:
 - a. The statement of the Head of Delegation of the People's Republic of China, H.E. Ambassador Chen Jinghua, at the 15th Session of the International Seabed Authority (ISBA) in Kingston, Jamaica on June 2009, in particular by mentioning that "Claim on exclusive economic zone and continental shelf with the rock [...] as the basepoint concerns important principles of the Convention and the overall interests of the international community". He further went on by referring to the statement of Ambassador Arvid Prado of Malta that "if a 200 mile limit of jurisdiction could be founded on the possession of uninhabited, remote or very small islands, the effectiveness of international administration of ocean space beyond national jurisdiction would be gravely impaired".
 - b. The statement of the Chinese delegation at the 19th meeting of the State Parties on the Law of the Sea (SPLOS) held on 22-26 June 2009 in New York, reiterating that "according to Article 121 of the UNCLOS, rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf".

- In this connection, the statements of these distinguished representatives of the People's Republic of China are also relevant to the situation in the South China Sea and thus it is only correct to state that those remote or very small features in the South China Sea do not deserve exclusive economic zone or continental shelf of their own. Allowing the use of uninhabited rocks, reefs and atolls isolated from the mainland and in the middle of the high sea as a basepoint to generate maritime space concerns the fundamental principles of the Convention and encroaches the legitimate interest of the global community.
- Therefore, as attested by those statements, the so called "nine-dotted-lines map" as contained in the above circular note Number: CML/17/2009 dated 7th May 2009, clearly lacks international legal basis and is tantamount to upset the UNCLOS 1982.

The Permanent Mission of the Republic of Indonesia has further the honor to request that this note be circulated to all members of the Commission on the Limits of the Continental Shelf (CLCS) and all State Parties to the United Nations Convention on the Law of the Sea as well as all members of the United Nations.

The Permanent Mission of the Republic of Indonesia to the United Nations avails itself of this opportunity to renew to the Secretary General of the United Nations the assurances of its highest consideration.

H.E. Mr. Ban Ki-moon Secretary General of the United Nations United Nations Fax. 212-963-2155

Cc.

Division on Ocean Affairs and Law of the Sea (DOALOS)
Office of Legal Affairs – United Nations
New York
Fax. (212) 963-5847





2011-38

REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No.

11 0526

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China, and has the honor to express its serious concern over the following incident involving violation by Chinese vessels of Philippine sovereignty and jurisdiction:

At 9: 36 a.m. today, 2 March 2011, two Chinese surveillance vessels "Zhongguo 71 and 75" threatened a Philippine-authorized seismic survey vessel operating in Philippine waters around Reed Bank, and demanded that it stop its activities and immediately leave the area.

The area where the incident took place has the following coordinates:

Corner	2.0	LAT	LONG
1		10°40'00"N	116°30'00"E
2		10°40'00"N	116°50'00"E
3		10°20'00"N	116°50'00"E
4		10°20'00"N	116°30'00"E

The Philippine Government views the aggressive actions of the Chinese vessels as a serious violation of Philippine sovereignty and maritime jurisdiction.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

·2 March 2011

Embassy of the People's Republic of China MANILA



Annex 199
<i>Note Verbale</i> from the Department of Foreign Affairs of the Philippines to the Embassy of the People's Republic of China in Manila, No. 110885 (4 Apr. 2011)

REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 11 0885

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and has the honor to refer to its Notes Verbales Nos. (10) PG-047 and (10) PG-137 dated 22 February and 13 May 2010, respectively.

In the said Notes, the Embassy of the People's Republic of China objected to the Philippine Department of Energy's (DOE) awarding of Service Contract relating to the so-called "GSEC 101" license to Forum Limited. It essentially cited as reason for its objection the following:

"China has indisputable sovereignty, sovereign rights and jurisdiction over Nansha Islands and its adjacent waters. The so-called 'GSEC 191' is situated in the waters of China's Nansha Islands. The aforementioned act of the Philippine side has seriously infringed upon China's sovereignty and sovereign rights and goes contrary to its commitments on the South China Sea issue and to the maintenance of peace and stability in the South China Sea. It is illegal, null and void."

At the outset, the Government of the Republic of the Philippines wishes to emphasize that it attaches great importance to its close and friendly relations with the People's Republic of China. Maintaining said relations with the People's Republic of China based on mutual respect for each country's sovereignty and dignity is indeed an important component of Philippine Foreign Policy. In this context, the Department of Foreign Affairs states the following:

FIRST, the Republic of the Philippines has sovereignty and jurisdiction over the Kalayaan Island Group (KIG);

SECOND, even while the Republic of the Philippines has sovereignty and jurisdiction over the KIG, the Reed Bank where GSEC 101 is situated does not form part of the "adjacent waters," specifically the 12 M territorial waters of any relievant geological feature in the KIG either

under customary international law or the United Nations Convention on the Law of the Sea (UNCLOS);

THIRD, Reed Bank is not an island, a rock, or a low tide elevation. Rather, Reed Bank is a completely submerged bank that is part of the continental margin of Palawan. Accordingly, Reed Bank, which is about 85 M from the nearest coast of Palawan and about 595 M from the coast of Hainan, forms part of the 200 M continental shelf of the Philippine archipelago under UNCLOS;

FOURTH, Articles 56 and 77 of UNCLOS provides that the coastal or archipelagic State exercises sovereign rights over its 200 M Exclusive Economic Zone and 200 M Continental Shelf. As such, the Philippines exercises exclusive sovereign rights over the Reed Bank.

Therefore, the action of the Philippine Department of Energy is fully consistent with international law. It does not impinge on the sovereignty of the People's Republic of China, or violate the ASEAN-China Declaration of Conduct on the South China Sea (DOC). However, the Republic of the Philippines is committed to the peaceful resolution of disputes in the South China Sea.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.



Manila, 4 April 2011



MISTON NG PILIPINAS SA NGA NAGKAKAISANG BANSA



558 EJFTH AVENUE NEW YORK, N.Y. 10036 TEL. NO. (212) 764-1300 2 of 4

PHILIPPINE MISSION TO THE UNITED NATIONS

RECEIVED

APR 75 2011

AND THE LAW OF THE SEA

No. 11011228

The Permanent Mission of the Republic of the Philippines to the United Nations presents its compliments to the Secretary-General of the United Nations (UN), and has the honor to refer to the People's Republic of China's Notes Verbales CML/17/2009 dated 7 May 2009 and CML/18/2009 dated 7 May 2009 addressed to the Secretary-General of the UN.

The Philippine Permanent Mission notes that the said Notes Verbales were reactions specifically on the Unilateral and Joint Submission for the extended continental shelves (ECS) in the South China Sea (SCS) by the Socialist Republic of Vietnam and Malaysia. However, since the justification invoked by the People's Republic of China in registering its reaction to the said submissions touched upon not only on the sovereignty of the islands per se and "the adjacent waters" in the South China Sea, but also on the other "relevant waters as well as the seabed and subsoil thereof" as indicated in the map attached thereat, with an indication that the said claims are "widely known by the international community", the Government of the Republic of the Philippines is constrained to respectfully express its views on the matter.

On the Islands and other Geological Features

FIRST, the Kalayaan Island Group (KIG) constitutes an integral part of the Philippines. The Republic of the Philippines has sovereignty and jurisdiction over the geological features in the KIG.

On the "Waters Adjacent" to the Islands and other Geological Features

SECOND, the Philippines, under the Roman notion of dominium maris and the international law principle of "la terre domine la mer" which states that the land dominates the sea, necessarily exercises sovereignty and jurisdiction over the waters around or adjacent to each relevant geological feature in the KIG as provided for under the United Nations Convention on the Law of the Sea (UNCLOS).

At any rate, the extent of the waters that are "adjacent" to the relevant geological features are definite and determinable under UNCLOS, specifically under Article 121 (Regime of Islands) of the said Convention.

On the Other "Relevant Waters, Seabed and Subsoil" in the SCS

THIRD, since the adjacent waters of the relevant geological features are definite and subject to legal and technical measurement, the claim as well by the People's Republic of China on the "relevant waters as well as the seabed and subsoil thereof" (as reflected in the so-called 9-dash line map attached to Notes Verbales CML/17/2009 dated 7 May 2009 and CML/18/2009 dated 7 May 2009)

4 of 4

outside of the aforementioned relevant geological features in the KIG and their "adjacent waters" would have no basis under international law, specifically UNCLOS. With respect to these areas, sovereignty and jurisdiction or sovereign rights, as the case may be, necessarily appertain or belong to the appropriate coastal or archipelagic state – the Philippines – to which these bodies of waters as well as seabed and subsoil are appurtenant, either in the nature of Territorial Sea, or 200 M Exclusive Economic Zone (EEZ), or Continental Shelf (CS) in accordance with Articles 3, 4, 55, 57, and 76 of UNCLOS.

The Permanent Mission of the Republic of the Philippines to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 05 April 2011





Annex B

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(Translation)

CML/ 8/2011

New York, 14-April 2011

The Permament Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Republic of Philippines' Note Verbale No.000228 dated 5 April 2011 addressed to the Secretary-General of the UN, has the honor to state the position as follows:

China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof. China's sovereignty and related rights and jurisdiction in the South China Sea are supported by abundant historical and legal evidence. The contents of the Note Verbale No.000228 of the Republic of Philippines are totally unacceptable to the Chinese Government.

The so-called Kalayaan Island Group (KIG) claimed by the Republic of Philippines is in fact part of China's Nansha Islands. In a series of international treaties which define the limits of the territory of the Republic of Philippines and the domestic legislation of the Republic of Philippines prior to 1970s, the Republic of Philippines had never made any claims to Nansha Islands or any of its components. Since 1970s, the Republic of Philippines started to invade and occupy some islands and reefs of China's Nansha Islands and made relevant territorial claims, to which China objects strongly. The Republic of Philippines' occupation of some islands and reefs of China's Nansha Islands as wll as other related

H.E.Mr. BAN KI-MOON Secretary-General The United Nations New York acts constitutes infringement upon China's territorial sovereignty. Under the legal doctrine of "ex injuria jus non oritur", the Republic of Philippines can in no way invoke such illegal occupation to support its territorial claims. Furthermore, under the legal principle of "la terre domine la mer", coastal states' Exclusive Economic Zone (EEZ) and Continental Shelf claims shall not infringe upon the territorial sovereignty of other states.

Since 1930s, the Chinese Government has given publicity several times the geographical scope of China's Nansha Islands and the names of its components. China's Nansha Islands is therefore clearly defined. In addition, under the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, as well as the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone (1992) and the Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China (1998), China's Nansha Islands is fully entitled to Territorial Sea, Exclusive Economic Zone (EEZ) and Continental Shelf.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurance of its highest consideration.

中华人民共和国常驻联合国代表团

PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE UNITED NATIONS

350 East 35th Street, New York, NY 10016

TEL.: (212) 655-6100

CML/8/2011

组约 联合国秘书长 潘基文先生阁下

中华人民共和国常驻联合国代表团向联合国秘书长致意,并谨就菲律宾于 2011 年 4 月 5 日向联合国秘书长提交的 000228 号照会表达如下立场:

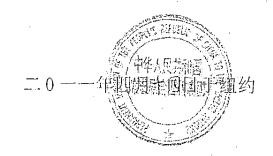
中国对南海诸岛及其附近海域拥有无可争辩的主权,并对相关海域及其海床和底土享有主权权利和管辖权。中国在南海的主权及相关权利和管辖权有着充分的历史和法律根据。对于菲律宾 000228 号照会所述内容,中国政府不予接受。

菲律宾所称的"卡拉延群岛"完全是中国南沙群岛的一部分。在确定菲律宾领土范围的一系列国际条约及 20 世纪 70 年代以前的菲律宾国内立法中,菲律宾从未对南沙群岛及其任何组成部分提出领土要求。20 世纪 70 年代起,菲律宾开始侵占中国南沙群岛部分岛礁并提出有关领土要求。中国政府对此坚决反对。菲律宾对中国南沙群岛部分岛礁的占领及相关行为构成对中国领土主权的侵犯。根据"非法行为不

产生合法权利"的法律原则,菲律宾不能援引其非法占领行为支持其领土要求。同时,根据国际法上"陆地支配海洋"的原则,沿海国提出的专属经济区和大陆架主张不能损害其他国家的领土主权。

中国政府自20世纪30年代以来多次公布南沙群岛的地理范围及其组成部分的名称,中国南沙群岛的范围是明确的。按照《联合国海洋法公约》、1992年《中华人民共和国领海及毗连区法》和1998年《中华人民共和国专属经济区和大陆架法》的有关规定,中国南沙群岛拥有领海、专属经济区和大陆架法。

顺致崇高敬意。



Annex 202
Note Verbale from the Embassy of the People's Republic of China in Manila to the Department of Foreign Affairs of the Republic of the Philippines, No. (11)PG-202 (6 July 2011)

2011 - 28

DEPT. OF FOREIGN AFFAIRS
AECORDS DIVISION

JUL 0 7 2011

DATE:



民共和国大使馆

No. (11) PG-202

The Embassy of the People's Republic of China presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to request the latter's attention on the following matter:

On 30 June 2011, at the launching of Fourth Philippine Energy Contracting Round (PECR4), the Department of Energy of the Philippines offered 15 petroleum blocks to local and international companies for exploration and development. Among the aforesaid blocks, AREA 3 and AREA 4 are situated in the waters of which China has historic titles including sovereign rights and jurisdiction.

China has indisputable sovereignty, sovereign rights and jurisdiction over the islands in South China Sea including Nansha Islands and its adjacent waters. The action of the Philippine Government has seriously infringed on China's sovereignty and sovereign rights, violated the Declaration on the Conduct of Parties in the South China Sea (DOC), cannot but complicate the disputes and affect stability in the South China Sea.

The Chinese side urges the Philippine side to immediately withdraw the bidding offer for AREA 3 and AREA 4, refrain from any action that infringes on China's sovereignty and sovereign rights and violates the DOC, and honor its commitment to peace and stability in this region.

The Embassy of the People's Republic of China avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines the assurances of its highest consideration.

Department of Foreign Affairs Republic of the Philippines

CC:

Department of Energy Republic of the Philippines





(Translation)

CML/59/2011

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Japan's Submission, dated 12 November 2008, to the Commission on the Limits of the Continental Shelf(hereinafter referred to as "the Commission") concerning the outer limits of its continental shelf beyond 200 nautical miles, and to the Note Verbale CML/2/2009 from the Permanent Mission of China, dated 6 February 2009, and the Note Verbale MUN/046/09 from the Permanent Mission of the Republic of Korea to the United Nations, dated 27 February 2009, both addressed to the Secretary-General of the United Nations and against claiming exclusive economic zone or continental shelf with the rock of Oki-no-Tori as basepoint, has the honour to state the position as follows:

The Chinese Government consistently maintains that, the rock of Oki-no-Tori, on its natural conditions, obviously cannot sustain human habitation or economic life of its own. According to Article 121(3) of the *United Nations Convention on the Law of the Sea*(hereinafter referred to as "the Convention"), the rock of Oki-no-Tori shall have no exclusive economic zone or continental shelf. After Japan made its Submission, a number of States, including China, have expressed serious concern on claiming outer continental shelf with a rock as basepoint.

The Chinese Government has noted that the Commission had acknowledged, in the Statement by its Chairman concerning its 23rd session, that it had no role on matters relating to the legal interpretation of Article 121 of the Convention. At its 24th session, the Commission decided that it shall not take action on the part of the recommendations prepared by the Subcommission in relation to the rock of Oki-no-Tori, until the Commission decides to do so.

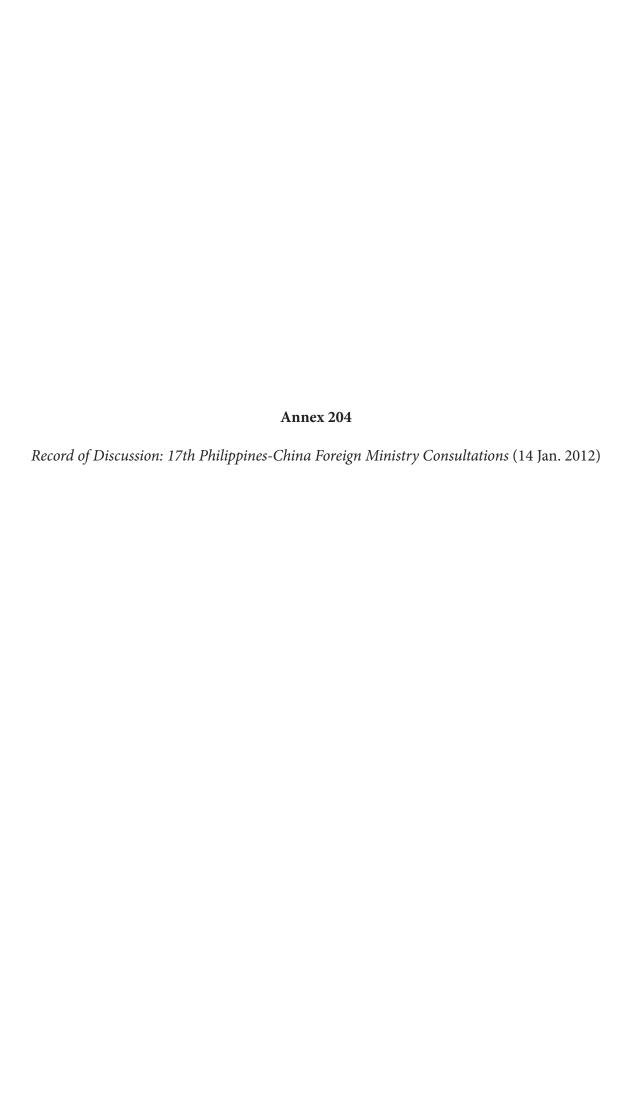
H.E Mr. BANKI-MOON Secretary-General The United Nations New York The Chinese Government holds that the above-mentioned statement and decision of the Commission are justifiable. As a body consisting of experts in the fields of geology, geophysics and hydrography, the Commission should avoid the situation in which its work influences the interpretation and application of relevant provisions of the Convention, including Article 121. The application of Article 121(3) of the Convention relates to the extent of the International Seabed Area as the common heritage of mankind, relates to the overall interests of the international community, and is an important legal issue of general nature. To claim continental shelf from the rock of Oki-no-Tori will seriously encroach upon the Area as the common heritage of mankind. If the Commission makes recommendations on the part of Japan's Submission in relation to the rock of Oki-no-Tori before its legal status has been made clear, and recognizes the claim of extended continental shelf measured from the rock of Oki-no-Tori, it would have adverse impact on the maintenance of an equal and reasonable order for oceans.

Therefore, the Chinese Government holds that the Commission should adhere to its decision at its 24th session, and take no action on the part of the recommendations prepared by the Subcommission in relation to the rock of Oki-no-Tori.

It would be highly appreciated if this note verbale could be circulated to all members of the Commission and all States Parties to the Convention.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurance of its highest consideration.

New York 3 August 2011



RECORDS OF DISCUSSION OF THE 17TH PHILIPPINES-CHINA FOREIGN MINISTRY CONSULTATIONS Beijing, 14 January 2012

WELCOME REMARKS

Assistant Minister Liu:

- 1. Again, I would like to extend our condolences to the victims of Typhoon Washi.
- Confident that the Philippines will be able to rebuild and that China will provide assistance.
- 3. Any typhoon that hits the Philippines, China will also be hit.
- 4. The Philippines is the first country that I have visited since taking over as the Assistant Minister for Asian Affairs. The visit was a good preparation for the State Visit of the President.
- 5. It has been 24 years since the Foreign Ministry Consultations mechanism was established. The FMC has played an important role in enhancing cooperation and coordination between our both sides.
- 6. The FMC will focus, take stock and plan well for our future cooperation.
- 7. With us today is Amb. Ma keqing who will soon assume her post as the new Ambassador to Manila. I am confident that we will support her when she is in Manila. I would also like your support so that she will be able to present her Letters of Credence and make the relevant courtesy calls.
- 8. China is looking forward to having the new Philippine Ambassador to China.
- 9. Allow me to introduce the following members of the Chinese delegation (Pls. see delegation list.)

Undersecretary Basilio:

- 10. On behalf of our delegation, I would like to thank Assistant Foreign Minister Liu Zhenmin and our Chinese Foreign Ministry friends for welcoming the Philippine delegation.
- 11. In the past year, Assistant Minister Liu and I have met on a number of occasions and I believe we have become friends.
- 12. I welcome this opportunity to sit across you, today, your Excellency, to review the Philippines' relations with China in the past two years, as well as have a frank discussion of issues that would impact on the future of our bilateral relations.

- 13. Many things have transpired in our bilateral relations since your predecessor, Assistant Foreign Minister Hu, and I held the last round of Consultations in Manila in 2010.
- 14. On the whole, Philippines-China relations are strong, multifaceted, and growing.
- 15. Cooperation in all fields—politico/security, trade, investment, agriculture, tourism, cultural, law enforcement, justice, and people-to-people exchanges, and regional cooperation— are at good levels, which have benefited our two countries and peoples.
- 16. This round of consultations is also very well timed:
- 17. It is happening right after the State Visit of President Aquino where we both agreed that 2012-2013 will be the Years of Friendly Exchanges;
- It is also the start of the implementation of the Five Year Development Program for Trade and Economic Cooperation (2012-2016); and
- 19. It is happening in the year our two countries will be celebrating the 37th year of the establishment of diplomatic relations.
- These developments, your Excellency, bring new hope and add vigor to our pursuit of a mutually beneficial partnership with China.
- 21. We have a comprehensive agenda for today's consultations. I would like to assure your Excellency, of the Philippines' desire and commitment, to bring our bilateral relations and cooperation forward to a higher level. I trust that our two Foreign Ministries will continue to work together and forge concrete steps to reap the gains and benefits of our strengthening bilateral relations.
- 22. And we very fortunate, your Excellency, that you are sending Ambassador Ma. We have been working with her predecessor, Amb. Liu and we have worked very closely together to forge closer relationship with your government.
- 23. I would be remiss in my duty if I do not acknowledge with deep appreciation, your kind expression of deep sympathy and condolence to the ill-fated victims of the natural disaster that hit southern Philippines. And also the very generous donation you have sent to alleviate the plight of our people.
- 24. I would like to introduce the members of our delegation (pls. see attached list).
- 25. On this note, thank you again, Mr. Assistant Minister, and your delegation for welcoming us to Beijing. We look forward to fruitful discussions with you this afternoon. This consultation in our view is another milestone in our relationship. We would like to be in close touch with you and let's work together to invigorate our relationship. Thank you very much for your time.

OVERVIEW OF PHILIPPINES-CHINA BILATERAL RELATIONS

Assistant Minister Liu:

- Madame Undersecretary, thank you very much for your remarks. And now let me make some remarks on my views on China-Philippines relations.
- 27. Last year, China-Philippines relations developed smoothly with cooperation across the board proceeding in a positive manner and our leaders have maintained a high level of exchanges.
- 28. From your country, President Aquino, House Speaker Belmonte and Foreign Affairs Secretary Del Rosario visited China respectively. And on China's part, NPC Vice Chairman Zhang Shushang, Councilor and Defense Minister Liang Guanglie visited the Philippines.
- 29. It is worth mentioning that during the visit of President Aquino, the leaders of our two countries agreed that the year 2012-2013 are the Years of Friendly Exchanges between our two countries. And they jointly witness the signing of important agreement such as the Five Year Development Program for Trade and Economic Cooperation. All this is a full testament to the strong desire of our two countries to develop our relations in a sustained and sound manner.
- 30. As our two countries are friendly, close neighbors, to deepen our commitment to develop the strategic cooperative relations for peace and development, serve the governmental interest of our two countries and our two peoples. It is also conducive to development and prosperity in this region.
- 31. China stand ready to work with the Philippines earnestly implement the important agreement reached between our leaders and facilitate fresh progress in our mutually beneficial cooperation.
- 32. China welcomes government officials, parliamentarians and people from various sectors from your country to visit China and we have received the invitation of Vice President Binay to our Vice President Xi Jinping. We thank you for this invitation. The Chinese leadership is actively considering visiting the Philippines at a time convenient for both sides.
- 33. I believe that the most important task before us now is to implement Important to talk to plan well for the Years of Friendly Exchanges to promote our cooperation in all fields. If you agree, I would like to present to you China's ideas on this matter.
- 34. The Years of Friendly Exchanges in 2012-2013 are aimed to enhance traditional relationship between our two people and promote exchanges on various fields and promote strategic cooperation and growth in our relationship. China would like to join hands with the Philippines to work out a good plan for the Years of Friendly Exchanges and facilitate practices modes of cooperation in all fields. With this in mind, we would like to present the following ideas.

- 35. First of all, on the launching ceremony of the Years of Friendly Exchanges, our tentative idea is to hold a large reception which is concurrently the launching ceremony of the Years of Friendly Exchanges. Together with the high-level visits between our two countries and all the visits of the ministerial officials in the cultural field.
- 36. And one people-to-people cultural exchanges, next month, Governor Luo Huining of Qinghai Province of China will bring with him top ethnic and art group to the Philippines to hold performances and art exhibitions. China also welcomes the Philippines to hold exhibitions and performances in China. So for Amb. Ma, this will be the first big event for her after she assumes her office.
- 37. During the years of friendly exchanges, China will provide government scholarship to seventy (70) students from the Philippines annually. We hope that our two sides will reach an agreement on the third Confucius Institute in the University of the Philippines as this year marks the 10th anniversary of China sending volunteers to teach the Chinese language to the Philippines. The National Hanban or the Confucius Institute Headquarters will hold a series of celebrations and it also plans to invite a hundred (100) students from the Confucius Institutes to China this year and next year.
- 38. China welcomes the visit of the delegation of ten (10) eminent young people from the Philippines in 2013.
- 39. We already have 27 pairs of sister-cities and China plans to hold a China-Philippines Sister-Cities Forum in 2013. We can also discuss the possibility of establishing a China-Philippine Friendship Association during the Years of Friendly Exchanges.
- 40. And the third area is on tourism. Like the year before the last, in the last year, the number of mutual visitors between our two countries again exceeded one million person times. The number of Chinese tourists making the Philippines the first stop in their trips increased by 22.3% year on year. We hope that our two sides will work together to implement well the action plan for 2011-2013 of the MOU concerning Tourism Cooperation and enhance mutual visits by tourism competent authorities. We also suggest the establishment of a China-Philippines Tourism Cooperation Working Group to better plan and manage cooperation and market and work together to sustain the momentum of growth in our two-way travel and to reach the goal of two million person times mutual visitors by 2016.
- 41. Moreover, we also hope to invite from each other's countries tourism professionals and delegations of tourism journalists to visit, cover and take part in relevant tourism expo and exhibitions to enhance the promotion of each other tourism market and resources.
- 42. And fourth area is on exchanges between political parties of our two countries. China welcomes the visit of the president of the Liberal Party, Mr. Mar Roxas, to China during the first half of this year. China also welcomes the visit of female political leaders from the Philippines during the second quarter of this year led

by Madame Georgina Perez de Venecia, the wife of former House Speaker Jose de Venecia. We also welcome the representatives of the main political parties of your country to participate in the program of political party leaders of Southeast Asia organized by the International Department of the China Central Committee of the Communist Party in November this year. The International Department of the Central Committee of the Communist Party of China Central Committee is also considering sending a delegation at the ministerial level to the Philippines at first half of this year to enhance exchanges and understanding with political parties in the Philippines.

- 43. On economy and trade, China and the Philippines are each other's important trading partners. Last year, our economic cooperation trade maintained some momentum of growth and it is certain that our trade volume exceeded 30 billion US dollars for the whole year of last year and it might hit 31 billion US dollars.
- 44. China would like to import more marketable and popular products from the Philippines and our two sides need to have a more open market and enhanced coordination to improve our trade mix and expand size our trade so as to strive for the 60 billion dollars of bilateral trade volume in 2016. China will continue to encourage well established and suitable Chinese companies to take part in the economic and social development of the Philippines.
- 45. China suggests that the 28th session of the Joint Committee on Economic and Trade Cooperation between our two sides be held this year with the focus on the implementation of the Five Year Program on Trade and Economic Development. Based on this framework and the public-private partnership of your government as well as the remaining 1.4 billion US dollars of China's concessional export buyer's credit, we suggest carrying out new cooperation projects and China will soon send investment consultants experts to the Philippines' administration of investment (China Division note: this refers to the Chinese Investment Officer to be assigned to the Board of Investment).
- 46. The 2nd phase of China-Philippines Agriculture Technology Center (PHILSCAT) will be officially launched in the first half of this year. China is actively considering the projects proposed by your side on maritime connectively and coconut flake (China Division note: Coco Coir project proposed by NEDA/DA) processing cooperation. We suggest that relevant competent authorities of our two countries conduct consultations on these.
- 47. And on the sixth area is on disaster relief. Both our countries are vulnerable to natural disasters and every year we suffer from huge losses of life and property due to natural disasters. Whenever one of our two countries is hit by a disaster, the other side lends a helping hand and help tide over the difficulties at the earliest time possible. China would like to enhance exchanges and cooperation with your side on weather forecast, disaster preparedness and relief and relevant departments can start with information and resources sharing and discuss specific cooperation needs.
- 48. The next on poverty alleviation, both our two countries are developing countries and in recent years, we have had some cooperation and exchanges and

training on poverty alleviation. The Office of Poverty Alleviation of China's State Council would like to carry out cooperation with the Department of Social Welfare and Development (DSWD) of the Philippines for policy dialogues and possible mechanisms and actively study the cooperation possibilities and expand the size of poverty alleviation exchanges and training.

- 49. The eighth area is on maritime cooperation. China would like to carry out cooperation with the Philippines in areas of real sensitivities such as maritime and scientific research, ecological protection and disaster prevention and relief and would like to promote the signing of relevant cooperation MOUs. We also welcome the participation of maritime affairs institutions of the Philippines to take part in the international maritime cooperation project led by China. We suggest that China, Philippines, and Vietnam, enhance communication and continue to promote joint maritime cooperation. The China State Oceanic Administration is willing to establish bilateral cooperation mechanism with maritime affairs institutions of the Philippines as appropriate.
- 50. On the defense area, we suggest that the 4th Defense Security Consultation between our two countries be held sometime during the Years of Friendly Exchanges. China welcomes the Defense Minister and senior leadership of the army (China Division note: Military) of the Philippines to visit China at a time convenient to both sides. From 2011-2012, China provided 11 trainings for the military of the Philippines and would like to enhance the level of training programs for the Philippines, if necessary. And China is also ready to send people to take part in the programs and training of the military institutes of the Philippines.
- 51. And the tenth area is on law enforcement and judicial cooperation. The Public Security Ministry of China would like to invite the Secretary of the Department Interior and Local Government (DILG) and the commandant of the Coast Guard of the Philippines to visit China within this year. The Public Security Ministry is also actively considering inviting the head of the National Bureau of Investigation and the head of the Bureau of Immigration to visit China.
- 52. To enhance institutional building of our cooperation, China would like to discuss with the Philippine side the feasibility of the establishment of a "law enforcement and judicial hotline" mechanism.
- 53. China would like to further enhance cooperation with the Philippines on personnel training and intelligence exchanges, to jointly fight terrorism, human trafficking, drug-making trafficking, and telecommunications fraud and other transnational crimes in a joint effort to protect the safety of life and property of our two peoples and maintain social stability.
- 54. The senior official of the Ministry of Justice in China would like to visit the Philippines at a time appropriate during the Years of Friendly Exchanges.
- 55. In accordance with the request of your side and our arrangement with relevant agencies, we would like to give it a positive consideration on launching the

- negotiations on the bilateral treaty on the Transfer of Sentenced Persons during the Years of Friendly Exchanges.
- 56. China ratified the China-Philippines Mutual Legal Assistance Treaty in April 2001. We hope that the Philippines will complete the approval procedures as early as possible to that this Treaty will come into effect at an early date so as to provide a solid foundation for our judicial cooperation.
- 57. And the eleventh area is on cooperation between our two foreign ministries. We suggest that to implement in an all-around way the MOU on enhancing cooperation signed by our two foreign ministers last year to enhance consultation between relevant departments of our two ministries and we shall also carry out exchanges between the Chinese and the Philippine diplomats especially young diplomats. We can also discuss the establishment of training programs in the China Foreign Affairs University and the Philippines' Foreign Service Institute.
- 58. We can start with the mutual visits of official delegations within 2012 and the department of information of China's Foreign Ministry and relevant departments welcome the visits of media delegation from the Philippine side. We hope that we can stay in close touch and to do a good publicity job during the Years of Friendly Exchanges.
- 59. We suggest that the 5th Consular Consultations be held within 2012. And we also want to strive for the establishment a Consulate General in Davao of the Philippines during the Years of Friendly Exchanges. We hope that your side will complete relevant procedures as soon as possible to that the China-Philippines Consular Agreement will come into effect.
- 60. I talked about 11 areas of cooperation during the Years of Friendly Exchanges and there are also two other matter that I would like to talk about. One is a political matter and the other is a specific matter.
- 61. And this political matter is about Taiwan. As we speak, Taiwan is holding elections and this has drawn attention from all sides. The position that China would like to express to our Philippine friends is that no matter what the results of the elections may be, no matter how the situation across the Taiwan Straits may evolve, the Chinese Government uphold the One China policy, opposes one China one Taiwan, opposes two Chinas, opposes Taiwan independence and opposes the signing of any document with sovereignty implication on Taiwan by countries having diplomatic relations with China and this position has not changed and will not change. Upholding the One China principle is the political foundation of our bilateral relations.
- Recently, the Philippines said that it would launch the feasibility studies with Taiwan on the negotiations on an economic cooperation agreement and was considering publicly announcing this decision. China has expressed its great concerns with the Philippines on many occasions because we believe that the signing of the negotiations on the so-called economic cooperation agreement between the Philippines and Taiwan is not a simple matter of economy or trade.

It involves complex and sensitive political factors and it takes careful handling. Pending the approval of the Chinese Government, any contact or negotiations between the Philippines and Taiwan or any public announcement, run counter to the One-China principle. We hope that the Government of the Philippines honors its commitments and will stop the relevant contacts and properly handle Taiwan-related issues and not send any wrong signal to undermine the bilateral relations between our two countries and free trade cooperation in the region.

- 63. And the second specific issue is about the land of the Chinese Embassy in the Philippines. Madam Undersecretary, as you and your colleagues in the Foreign Ministry of the Philippine may know that China's embassy is in urgent need of more houses with better conditions and we need to buy land for new premises and we ask you to agree as quickly as possible that China buy land from the market and we hope that you will provide active assistance. When I paid a visit to the Philippine last year, I also went to the Embassy myself and I looked at conditions on the ground and it is fair to say that the Embassy in the Philippines is the least, the poorest condition among China's embassies in the Southeast Asian countries. I promised Amb. Ma that during her office in the Philippines, I would make the new houses available for her.
- 64. During previous consultations, your side agreed that China can get 70 years of land use rights in the Philippines. But most of the available land in Manila is private property. If China buys land from private persons. China will have the land ownership. And we would like to ask you to give specific ways on how to handle this matter. Moreover, we heard that the Philippines side will soon transfer the titles of two properties still under the name of the so-called Republic of China to the name of the Government of the People's Republic of China.
- 65. I have talked about China's ideas on the Years of Friendly Exchanges and bilateral cooperation in 11 areas. I've also talked about 2 specific matters and now I would like to listen to your view Madam Undersecretary and I hope that after our consultation, we will start implementing these ideas. Thank you for your patience.

Undersecretary Basilio:

- 66. Your Excellency, as close neighbors and partners linked by geography and centuries of friendship and people-to-people ties, the Philippines considers its relations with China as one of the most important that it has in the international community.
- 67. Philippines-China relations in the past 36 years have been mutually beneficial covering a broad range of cooperation involving the three branches of government, and the various sectors of society.
- 68. To underscore the importance of China to the Philippines, there are now seven (7) Philippine diplomatic and consular missions in China the Philippine Embassy here in Beijing and the Philippine Consulates General in Guangzhou, Shanghai, Xiamen, Chongqing, Hong Kong and Macau.

- 69. The Philippines also continues to be committed to the Philippines-China Joint Action Plan for Strategic Cooperation (JAP) signed in October 2009 which signaled the beginning of a strategic and cooperative relationship for peace and development between our two countries.
- 70. The State Visit of President Aquino to China in September last year, his first state visit outside ASEAN, is a milestone in the bilateral relations. The occasion showed the importance the Philippines attaches to its relations with China.
- 71. I wish to thank the Chinese government, once again, for the very warm hospitality and excellent arrangements which were extended to the President and to all us who were members of his delegation. I do believe that the visit was truly a successful one. I do believe that the visit was truly a successful one and I look forward to a visit to the Philippines of your leader.
- 72. During the state visit, our two countries set several economic targets and I am very glad. Your Excellency, that you mentioned that there is an urgency to reach that trade target in 2015 and another increment of 10 billion in 2016 to make it 60 billion us dollars in 2016. We will urge our business community to work closely with their Chinese counterparts to ensure that we are able to reach the targets which you have so generously set for us and the rest of the country.
- 73. We also look forward to meaningful activities and exchanges to flesh out the "2012-2013 Philippines-China Years of Friendly Exchanges (YFE)" which was agreed upon during the State Visit. And related to here, the long list of commemorative activities which that we like to match the same with a 5-paged paper which we have prepared. We will be celebrating this Philippines-China Years of Friendly Exchanges project in the Philippines and we try will do our utmost in the Philippines to ensure that every province will be made aware of the deepened ties between our two countries through commemorative activities. We will also do our part here in China, our Embassy here in Beijing we have prepared the launch of the Years of Friendly Exchanges in Beijing by having a ceremony to which we hope that the most ranking official of your government can come and also we will be having a reception that is successful.
- 74. China Division note: Usec. Basilio named a few of the Philippine proposals. Please see attached list of projects. We have a long list
- 75. We have a long list and we will just provide you with this. We have covered areas like sports, youth camps, Ballet Philippines would like to come and perform, and then of course the Foreign Service Institute of the Department of Foreign Affairs would like to publish a monogram on Philippines-China relations, and they will work closely with their counterpart to have a good monogram on Philippines-China relations. So we look forward to the activities and exchanges and will work closely with Ambassador Ma and our Charge d'affairs, Mr. Chua, will work closely with his counterpart with the Ministry of Foreign Affairs and other related agencies and we will have a very successful commemoration of these two very important years of Years of Friendly Exchanges.

High-level Exchanges

Undersecretary Basilio:

- 76. I share with you the important role played by high level exchanges our various sectors and the private sector when they come to China.
- 77. We will continue the same. I hope your Head of State will come to the Philippines. Failing that, perhaps your Vice President can visit upon the invitation of our Vice President Jejomar Binay.
- 78. We also look forward to the visit of the Chinese Minister for Justice Wu Alying to the Philippines. Justice Secretary Leila de Lima is keen on having her counterpart to Manila following their fruitful and successful meeting in Beijing in August last year.

Economic Cooperation

Undersecretary Basilio:

79. With regard to economic cooperation, I already dealt with economic cooperation. We will continue working closely together with the private sector to ensure that the trade and investments, our public-private partnership and also your active participation in connectivity projects and in major infrastructure projects are solicited.

Tourism

Undersecretary Basilio:

80. In the area of tourism, we are very glad that more Chinese nationals are visiting the Philippines and we would like to enlist your active support to ensure that more of your people can visit our archipelago. We are 7,107 islands so there are many places which they can go to. Watersports are very much actively promoted in our country in the Northern Luzon. We are the surfing capital so we want you to come to La Union, my province and your people should go there. White water rafting, snorkeling, diving, you name it any water sports we do it. I think there are many things that your people can do. We are the bargain basement I think in that part of Southeast Asia so shopping is good. They can enjoy the sun, the wind and the surf. There are many things that they can do.

Inter-Party Cooperation

Undersecretary Basilio:

81. With regard to inter-party cooperation, yes, we welcome closer interaction with various political parties in the Philippines and the Communist Party of China

and we are gratified that you warmly welcome the visit from the Philippines (Sec. Mar Roxas) and also the visit of lady parliamentarians led by Congresswoman Georgina Perez de Venecia.

Investment

Undersecretary Basilio:

82. We would like to see more investments in the Philippines. I think that this is an area where we can further deepen our ties. There are many private-public projects that are up for bidding and Chinese investors, particularly, Chinese corporate citizens are most welcome to participate in the bidding of major infrastructure projects.

Energy

Undersecretary Basilio:

83. The Philippine Development Plan of 2011-2016 and we have identified the interesting areas for cooperation between our government and yours. And we hope that ... because we are very much interested in energy efficient vehicles and countryside electrification. This is an area which you may wish to look into for possible investment. We would like to benefit from the many strides that you have attained in the area of construction of energy efficient vehicles so we would like to avail ourselves of this. Countryside electrification is being promoted because we want to reduce the cost of production in our country and also to ensure that there is energy sufficiency throughout the country.

Science and Technology

Undersecretary Basilio:

- 84. In the area of science and technology, we would like to propose renewed collaboration on this field. Perhaps in the future or in this Year of Friendly Exchanges, we can look at areas like: genomics and nanotechnology applications on health, agriculture/fisheries, alternative renewable energy like solar, wind and micro-hydro energy, and natural hazard early warning systems. You have alluded to the disasters that have struck our country so this is an area where we would welcome your active participation.
- 85. The Philippines would also like to learn from China about applicable technologies in the fields of agriculture we have one that is ongoing and very useful to farmers and to the people at large, energy conservation, water resources, environmental protection, and disaster prevention and mitigation.
- 86. In this regard, the Philippines would like to propose the convening of the Joint Committee Meeting on Science and Technology to pursue these proposals.

Disaster mitigation

Undersecretary Basilio:

- 87. With regards to disaster mitigation, we wish to express my Government's gratitude for your very generous donation of one million US dollars to help the victims of Typhoon Sendong (Washi).
- 88. We have learned and continue to learn from these unfortunate events.
- 89. We would also like to learn from China about early warning technologies. We would like to enhance what we have now and we would like to look at digital landslide technology because the recent disaster that hit Southern Philippines was a landslide. We would like to learn more about natural disaster monitoring prevention information systems. So, this is a proposal for best practices exchange and sharing of information so we would like to look at the best practices of China with respect to disaster mitigation, adaptation and prevention.

Poverty reduction

Undersecretary Basilio:

- 90. And also with regard to poverty alleviation, we would like to inform you that we have been doing out utmost to ensure that we can reduce the number of poor people in our country through conditional cash transfer program, anti-hunger program, Philippine Health Insurance Corporation's indigent program which provides health insurance for the people at the village level, we want to upgrade of public hospitals, we have been deploying of more nurses in underserved areas, and we also make available scholarships and student loans to make sure that students coming from poor families have greater access to not only to basic education but to secondary education and tertiary education. We look forward to working with you on these kinds of projects which might be of interest to you.
- 91. And as enunciated by Your Excellency that you wish to work with the Department of Social Welfare and Development. We also have a national commission that works with the poor and so they can work in tandem. The Department of Social Welfare and Development is the cabinet level ministry that takes care of this and rightly so, your identification on the question of social welfare is very apt.

Maritime Cooperation

Undersecretary Basilio:

With regard to maritime cooperation, we welcome your proposals and we will study these and we will study these very closely. 93. We have been in early consultations broached the idea of linking ourselves with some of the Chinese ports and because we have as part of the Philippine participation in the Master Plan on ASEAN connectivity, we have identified the RORO initiative which is one way of realizing this. So we hope that we hope that we will be able to hook ourselves with some of your ports.

Defense and Security Cooperation

Undersecretary Basilio:

94. With regard to defense cooperation, the Department of National Defense and the Armed Forces of the Philippines have enjoyed the active cooperation of their counterparts in China and we are glad that you have plans for furthering; expanding the cooperation is well taken. We live up on this and we hope that our officials can meet with their counterparts so that they can work on this area of cooperation.

Law enforcement cooperation

Undersecretary Basilio:

95. With regard to law enforcement cooperation, we are very keen to expand this cooperation in information exchange, sharing of best practices, capacity building and technical assistance

Proposed PH-China Transfer of Sentenced Persons Agreement (TSPA)

Undersecretary Basilio:

96. And we are also pleased that you mentioned that you are keen to start negotiations on a Philippines-China Transfer of Sentenced Persons Agreement (TSPA). I think that this is something that we can do quite fast and perhaps as soon as the negotiation (finishes) we hope that the early negotiations and signing of the agreement.

Foreign Ministry Cooperation

MOU between DFA and MFA on Strengthening Cooperation

Undersecretary Basilio:

97. We look forward to the consultations between our two foreign ministries which we are doing now.

Consular Agreement

Undersecretary Basilio:

98. With regards to the Consular Agreement, we will try to fast track the internal procedures for the ratification of the Consular Agreement. We have been working on this; we need to work with the Senate Foreign Relations Committee to ensure that the ratification of the same will be done.

Property Issue

Undersecretary Basilio:

- 99. With regard to the property issues, we welcome your desire to obtain a property in the Philippines. Given the deepening of our ties and expansion of our relations, we would like to address the needs of your diplomatic and consular posts to be able to acquire land and to construct a building for them and of course we will be very happy if you will build the coziest building for Amb. Ma.
- 100. At the same time, we would like to earnestly request you to also allow us to buy a property in Beijing and eventually for the Posts in the (7) consular posts that we have for us to be able to buy. We are here to stay in China so we would like to have a permanent home not only for our Embassy but also for the Consulates General that we have and we suggest that the Philippines-China Working Group on Property Issues convene again at the soonest possible time to discuss the matter.
- 101. But in the Philippines, we always grant requests of foreign governments on a reciprocal basis. So, we understand the laws of your country will not allow us to buy property but as a concession during this time of friendship and exchanges, we earnestly request for permanent home in Beijing and eventually for the (7) posts that we have because we are here to stay you know, it's not a short term stay. Over the succeeding centuries, we will be here. I think it would be very good for you to allow us to buy at piece of real estate in Beijing initially and then later on, in the various consular cities, posts where we have (7). In Hong Kong, we were able to buy our residence of our Consul General. We also bought part of the building for our Consulate. So, there are already precedents for this. So I hope you will allow us to have a permanent home in Beijing. Because you know, our building at the back is, you know, like the apartment for the Ambassador, so we would like to be able to, just like you to expand and have perhaps, a separate quarter for the residence of the ambassador.

One-China Policy

Undersecretary Basilio:

102. With regards to the One- China Policy, we have always adhered with, Your Excellency, to the One-China Policy. In the Department of Foreign Affairs, we only have a division which takes care of China and our relations with China is handled not only by Dir. Rau, she is under the strict supervision of Assistant Secretary Lazaro. I, as Undersecretary for Policy, pay particular attention to relations with China. Secretary Albert Del Rosario also, on a daily basis, would

like to know how we deal with China. We never deal with Taiwan in the Department of Foreign Affairs and in any of the executive departments of the government since President Marcos signed the agreement, we have always adhered to it. This idea of informing your Ambassador about this, there was a plan to do a scoping exercise. The scoping exercise doesn't mean that MECO that takes care of our relations with Taiwan will enter into one. We just want to see how best, if there are benefits that will go to us. It is not a commitment at all and we in government do not encourage it. We are not going to negotiate, We know that in the region there are countries, governments that have entered into. But we have always mentioned to your authorities that we will not do something that we do not discuss with you ahead, well ahead of time. That is what we did when our Assistant Secretary informed your Embassy in Manila that we heard, there was a heads up for us because our people do not want us to be caught napping. With don't know what is happening, in fact, with Talwan affairs. That is purely MECO affair. It's not government so we don't have anything to do with. A friend of mine told me about it. They alerted your Embassy and it was our view that when we alerted about the forthcoming press statement about it, which did not take place, anyway. We did it with utmost candor and in the interest of friendship, you know, we did not want you to be caught without alerting you about it. And it was in that light that we brought it up. It was not as if, we, as a government, were entering into an agreement.

103. There was a plan, you see Taiwan always approaches us and all other governments who have done agreements with Taiwan. You know the business community in the region, they are very close. Sometimes the corporate holdings are interlinked you see. Government has nothing to do with this. This is a purely business generated interest and they were watching closely that you did it with them and of course business rules (they asked) MECO to just take a look is there something in it for us. In the same way that they are so keenly interested to invest in China, to do business in China. Our major corporations are in China. We have whether it is in services, financial services, banking, manufacturing, they are also in property development .. somebody launched a satellite in China. All these things they did. So, these are business issues that are beyond the purview and its free enterprise in our country but we are very alert to moves that will hurt our relations with you. And it was in that light that our people had to call the Embassy to just alert them. It never happened and so that is the situation. We do not want to; it's not as if we are doing away with our relations with you or that we are not observing the One China Policy. It was in fact to protect the One China Policy of our government that we made that early warning and we were so happy that it never happened. So, i was surprised that we got that strong reaction from you. And I have always emphasized that to Ambassador Liu and to his colleagues in Manila that we personally deal with our relations with you. It is not in our interest to harm the relationship that is why we were surprised. Anyway, they don't understand the context in which it was done. But we are not going to do it. And Government has nothing to do with it and we have advised our executive departments to be very careful that their activities or their actions might hurt our relations. So I want to assure you that we seriously adhere to it. Secretary of Foreign Affairs, myself, Assistant Secretary Lazaro, we are always, we the guardians and the vanguards of the One-China Policy.

Social Insurance Agreement

Undersecretary Basilio:

- 104. I understand that your Government has begun implementing an expanded Social Insurance Law that requires foreign workers in China to enroll in social security programs.
- 105. We are interested to know more about it since we have Filipinos residing here who do professional work; many of them are in corporations, like in Shanghai for instance. Perhaps our Charge d' Affaires can tell you more about it and we would like to propose a bilateral social insurance arrangement with China which will exempt membership of Filipinos working here and to avoid double payment of social insurance contributions. We have a similar agreement entered into with Switzerland. So we can use that as a model agreement, as a template for them. Because when a Filipino citizen goes abroad to work either as a professional or as an employee, they are members of the Philippines Social Security System, they pay their monthly contributions to them and upon retirement they receive a pension. They can also avail themselves of loans, at low interest rates for them to buy a house, to buy a car, or whatever they want to do with their money. And we learned that your government has entered into agreements with the Republic of Korea and Germany in this regard. So, we would like to join this very distinguished group to avail ourselves of this exemption. The Swiss Government was very kind enough to make this possible for our people in Switzerland - are very happy about it. We would like to see the same here. Thank you.

Assistant Minister Liu:

- 106. Madame Undersecretary, thank you very much for the detailed information on bilateral cooperation. From what I said and what you said, we can learn very clearly that both sides have had a thorough preparation for the Years of Friendly Exchanges and we have a lot of cooperation projects to be carried out in many areas. We hope that we will have an agreement so that competent authorities from both countries will get a better idea of our suggestions.
- 107. It takes competent authorities from our two governments to implement these projects. Therefore, we believe that the two foreign ministries and two embassies can play the role of coordination in the implementation of these projects. I am confident that when Amb. Ma arrives in Manila, she will stay in close contact with your Foreign Ministry and I also believe that your Embassy will stay in close contact with our relevant departments so that we can have close exchanges.
- 108. It is fair to say that we will have rich and productive exchanges given that we have so many projects in year2012-2013. I hope that without joint efforts, we

will do a good job in implementing these projects in the Years of Friendly Exchanges.

- 109. The One-China Policy and the Taiwan related issues are always political matters of high interest of China and relevant countries. We have full confidence in the Government and the Department of Foreign Affairs of the Philippines in upholding the One-China Policy. My colleagues in the Chinese Embassy in Manila and in the Foreign Ministry in Beijing in talking about Taiwan issues with you is to remind you as friends, not to do anything that might go against the One-China Policy. Because we know that in the society of the Philippines, many organizations and people have close non-governmental ties and business ties with organizations and people in Talwan. We actually support such acts. As you may know, many ethnic Chinese in the Philippines and people in Southern Taiwan are from the Fujian Province of China. Therefore, they have very close non-government ties because of all these reasons. The Chinese Government supports such non-government exchanges and contacts. There have been political changes in the Taiwan Island and whenever there is a regional election in the Taiwan Island, the politicians like to play up certain issues. So as friends, we remind you of this matter so you will not cross this red line. The development in Cross-Straits relations and the close friendship between Taiwan and the Mainland is the trend of the times and this will not change the position of the One-China Policy and the opposition to the Taiwan independence. We are pleased to note that the Secretary, Undersecretary, Assistant Secretary and Division Director, all of you are vanguards of One-China Policy. Indeed, we do not want any trouble to come up because of this issue.
- 110. On social security, I learned similar matters from other countries as well. This is indeed a new matter in the course of China's economic developement, reform and opening up. We will refer this matter to the Ministry of Social Welfare so that they will pay attention to this matter. Indeed, I fully agree with you in that we need cooperation to find out.
- 111. There is still a specific project in our economic cooperation. The North Rail Project. The first section of the first phase of the North Rail project is the one that has attracted a lot of attention from our leaders. It is also a major project in the infrastructure building in the Philippines. The difficulty now is that this project is forced to suspend due to decisions from your side.
- 112. The Chinese company involved is in a very difficult position. If it cannot find a way out it might have to take some necessary legal means.
- 113. When President Aquino visited China, he expressed to the Chinese side the thanks to the Chinese government and enterprises for getting support to this project and the readiness of your side to find proper solutions on this matter. We hope that competent authorities from your side will soon provide us with a plan that is acceptable to both sides and truly protect and provide for the interest of the Chinese company involved. Actually, if this case is handled well, it is helpful for encouraging Chinese business to invest more in the Philippines.

- 114. On energy cooperation that you talked about, indeed, there is huge space for our cooperation in the energy field and to seek, enhance more cooperation development in this area is a shared interest by both our countries. China's CNOC and PNOC of the Philippines have had a very good cooperation and we hope that they will expand cooperation based on the strategic cooperation agreement already signed. China would like to work with the Philippines to explore the feasibility signed by the cooperation agreement so as to bring our energy cooperation to a new height.
- 115. I would like to also say a few words on the cooperation in science and technology. China attaches great importance to cooperation in science and technology with the Philippines. We hope that our desire to hold the 13th session of the Joint Commission on Science and Technology as soon as possible to explore cooperation in R&D and to enhance our cooperation in this area.
- 116. On people-to-people and cultural exchanges, I agree with you in that the mutual visits of former Chinese ambassadors in the Philippines and former Philippine ambassadors in China are very good. These ambassadors have old friends in each other's countries and their exchanges can help facilitate our cooperation. As you may know, the former Chinese Ambassador to the Philippines, also former vice foreign minister of China, Mr. Wang Yingfan will make a visit to the Philippines next month. And he will make the visit at the invitation of the Filipino-China Amity Club and will have contact and exchanges with relevant departments. I hope that if he contacts the Department of Foreign Affairs, you will give him due assistance.

North Rail

Undersecretary Basilio:

- 117. Before we move on Mr. Chairman, can I just make a quick reaction about what you discussed? About the North Rail because we wanted to inform you about the Philippine Government position.
- 118. The North Rail project, Your Excellency, is very important to the Philippine government and hopes that this project can be completed under a contract that is transparent and economically viable.
- 119. During the visit of President Aquino to China, he enunciated the Philippine position on this matter. We have sent a Note Verbale to your Embassy in Manila to formalize this position.
- 120. Our official position is as follows:

"The Philippines and China will create a whole new project that incorporates several elements of the existing agreement, but which is an entirely new project. The new project continues to be financed by the Chinese EXIM facility. After the Philippine government writes up the Terms of Reference for the new project,

- consistent with the projects financed by the Chinese EXIM, the Philippines will bid out the construction and undertaking of the project among duly accredited Chinese companies."
- 121. So, it is still a Chinese business interest that will participate in this new project that will be crafted. The new Administration would just want to provide several elements of the existing agreement so that it be more acceptable to the ones who will be implementing it. Because you know in the Philippines, you know how vocal our press is. There are many stakeholders at the look at very closely, through a microscope so to speak at the projects that are being done. So, in order to protect the interest of your government, your corporate citizen who will participate in this project we would like to incorporate several elements of the existing project so that the project will still be done to the best qualified Chinese corporate citizen. I hope that you will look at this proposal very closely because we would not want to mar the very good relationship between our two governments and also we want to meet the expectation of Chinese corporate citizens who wish to participate in this newly crafted project and so it remains that the contract will be awarded to the best qualified Chinese corporation that will participate in this project.

Overseas Development Assistance

Undersecretary Basilio:

- 122. And also in the area of Overseas Development Assistance, Your Excellency, we look forward to more cooperation in this field. In particular, the Philippines would like to explore the possibility of a Chinese Technical Assistance Facility to fund the conduct of Philippine feasibility studies for infrastructure projects.
- 123. This is a position that the National Economic Development Authority of the Philippine Government asked us to bring to your attention. We believe that China may wish to consider the provision of capacity building and project management training for local human resources. This will help hone management and engineering/technical skills of government personnel to effectively demonstrate consistent implementation and management of different projects in a proper and timely manner. So we want our people to sit down with your group to ensure that we can do something. With regard to the conduct of feasibility studies for infrastructure projects where your Government may be interested to participate or the relevant Chinese corporation. So, this is something that we would like to see and hope that you will be able to consider this request.

Assistant Minister Liu:

124. On the North Rail Project, we believe that the problems facing the current enterprise concerned should be addressed first. We need first need to resolve the existing problem for this company and then proceed to the new project.

- 125. And the role of this company in the future new project is also a matter that we should discuss. Indeed, this Chinese company that has invested in the North Rail Project has encountered huge difficulties. It is China's sincere hope that the difficulties facing the Chinese company concerned will not undermine cooperation between our two governments and our business communities.
- 126. Given the electoral political system in the Philippines, we believe that you should assure the foreign companies of the high political trust that they can rely on the Philippine Government. Therefore, we believe that the existing problems of the Chinese company should be managed and resolved first. This can also enhance the confidence of the foreign companies to invest in the Philippines.
- 127. The Chinese Government sincerely hopes that through our communication/consultation, we can together settle this problem so that we can enhance the confidence of the Chinese companies in doing business in the Philippines so as to bring our business ties to a new high. This Chinese company that invested in the North Rail Project though is a state-owned enterprise; it is also an independent corporate entity.
- 128. When major interests and rights of this company are at stake, this company has to resort to some legal means and we should do everything in our power to prevent such a thing from happening. We believe that our two sides shall discuss a good solution to this problem. For one thing, it protects the interest of this company concerned. For another, it will improve the environment for Chinese companies to invest in the Philippines.
- 129. There are regular contacts and exchanges between the major Chinese companies and they discuss frequently the environment of the Philippines. Therefore this project is not an isolated case. It concerns the investment environment of the Philippines. China hopes that through our close consultation with the Philippines, we can find a better solution. We shall also refrain from playing this thing up. We make these considerations also to the interest of your side.

Undersecretary Basilio:

130. We will convey the sentiments that you have raised on the North Rail Project. We hope that an acceptable arrangement can be arrived to protect the interest of the original company and at the same time, perhaps we can look at modalities to ensure that other companies can take part in this venture. But we do recognize that it is important to ensure a policy environment conducive to the efficient operation of corporations in our country. So I will convey that.

Assistant Minister Liu:

131. Madame Undersecretary, so we shall focus on the maritime issues. We just a DOC Senior Officials Meeting this morning. I believe this meeting makes it easier for our two countries to discuss maritime cooperation and matters concerning the South China Sea. So we can exchange our views very briefly. So, I'm all ears.

West Philippine Sea

Undersecretary Basilio:

- 132. Thank you, Your Excellency, for giving us the opportunity to share with you our views regarding West Philippine Sea.
- 133. The Secretary of Foreign Affairs met with Foreign Minister Yang Jiechi and other officials of your government with regard to West Philippine Sea so your position on this matter is something that we have been informed about. We have taken it into consideration. And you know very well the Philippine position.
- 134. We look upon our valuable and long-standing friendship with China as one based on mutual respect and equality. To peacefully and finally settle the disputes in the West Philippine Sea, it behooves conflicting claims to be resolved based on the rules-based regime of the United Nations Convention on the Law of the Sea (UNCLOS). The Philippines is prepared to validate its own claims.
- 135. The Philippines believes that a rules-based approach is the only legitimate way in addressing the disputes in the West Philippine Sea.
- 136 The dispute settlement mechanism established in the United Nations Convention on the Law of the Sea is the fundamental principle of the rules-based approach being espoused by the Philippines.
- 137. The Philippines has proposed to ASEAN the Zone of Peace, Freedom, Friendship, and Cooperation as an actionable framework to address China's 9 dash line and resolve disputes through peaceful means by clarifying and segregating the disputed land features from the non-disputed waters of the West Philippine Sea. In other words, we are saying that not all of the South China Sea is disputed.
- 138. The dispute in the WPS is a regional concern as well as a national concern because there are several members of the ASEAN who have competing claims in that area.
- 139. The Philippines is working closely with ASEAN towards the establishment of a more legally binding Code of Conduct in the West Philippine Sea,
- 140. During the November 2011 ASEAN Foreign Ministers' Meeting (AMM), the Philippines, speaking through Secretary Albert Del Rosario, he specifically called for a meeting of the claimant states, including China, to sit down together under the auspices of ASEAN to resolve the competing claims and to define the disputed areas from the non-disputed areas.

- 141. We continue to present this proposal and enlist the assistance of ASEAN colleagues and in this undertaking (and hope that) China will sit down with us. We are now in the process of identifying the main elements that should go to an ASEAN Code of Conduct. Eventually, I think, Vietnam as the coordinator for the ASEAN-China partnership will be discussing with you, if he has not yet done so. We hope that, we have presented a draft Code of Conduct to ASEAN. We were asked to identify the main elements and we have done this. In all candor and in the interest of transparency, we have shared this with our ASEAN colleagues. And we are sharing this with you because we believe that just like you, we believe that peace and stability in the West Philippine Sea or in the South China Sea as you call it is in the interest of everyone. Not only between us, not only among the claimant countries but all other countries who ply those waters.
- 142. Trade is very important to us. And when we established diplomatic relations with you, we knew that we will find in China an active partner not only in the development of the region, not only in our national development efforts. But we believe that working together will have prosperity, we will have economic development of all the countries in Southeast Asia. And with the expanded East Asia Summit, we believe that there many things that we can do together for the benefit of our peoples.
- 143. So, it is important I think for China and ASEAN to work closely together because whether we like it or not, there is a lot of interest in the South China Sea. Whether we like it or not, it has become an international issue. A lot of governments, a lot of stakeholders there, whether the shipping industry, whether business or economic interest, they are all interested to see a peaceful and stable environment there because they use it as a main sea-lanes for their goods -- pass through the vessels they use. We want a peaceful condition to obtain there. We have been working very hard to ensure it. In our review, our constitution and our tradition is that we renounce the use of force and we use international law as the basis of our actions. So, you can rest assure that we only have peaceful intent there.
- 144. So we have, as I have told you, Your Excellency, when you came to Manila to prepare for the very successful visit of our President, when you talked about peace and stability in the West Philippine Sea, I mentioned several things that we would like to see there. I told you that perhaps steps can be done to prevent intrusions into our territorial waters. The presence of vessels there and also poaching on the part of fishermen in our territorial waters particularly in marine sanctuaries. And then also to stop the harassment of our fishermen. Before these things are not done and through the friendship and cooperation that we have perhaps we will have a peaceful environment here. So perhaps in establishing the Code, we enlist the active support of China so that we can craft together a Code of Conduct that will indeed ensure the peaceful and stable environment in the West Philippine Sea. So that is our position. And we have enunciated time and time again in various fora, in talking with you with the Foreign Minister, it remains the same and we want to see to it that this thing are done so that, you know, we don't want incidents to happen there which we will all regret. We have a very active civil society environment who protect the

marine biodiversity there. So, all these take into consideration; underpin the actions and the initiatives that we have undertaken. But everything is in accordance with international law with the peaceful settlement of disputes so, eventually in will be how we will settle this among us with competing claims. So that is where the situation lies.

Assistant Minister Liu:

- 145. Madame Undersecretary, I listened very carefully on your position on the South China Sea. But I want to say here that you and I know full well that our dispute in the South China Sea is highly sensitive as it concerns the territorial sovereignty, maritime environment interests and our people's sentiments. A proper solution to this matter is critical to sustained and sound development of our relations. During President Aquino's State Visit to China last year, leaders of our two countries had candid and in-depth exchanges of the dispute in the South China Sea. They agreed that the dispute in the South China Sea does not represent the whole picture of China-Philippines relations. And we should not let this matter undermine the overall picture of friendly cooperation between our two countries. What we should do is to actively implement this important agreement between our leaders and enhance mutual trust, new dialogue and consultations and manage dispute and enhance cooperation. I think our two countries share the same objectives to turn the South China Sea into a sea of peace, friendship and cooperation.
- 146. I used to raise the question to the Philippine colleague that why should you raise the issue of West Philippine Sea proposal. Why should he raise this? Mr. Henry Bensurto raised the idea of West Philippine Sea. It will not be recognized by the international community. It will only trigger more dispute or mistrust.
- 147. I said that the dispute between our two countries in the South China Sea has been there for several decades. Since the 1970s, our two countries have had a dispute over these Nansha Islands and their adjacent waters. China maintains that China has indisputable sovereignty over the Nansha Islands. This is based on history, historical facts and it also has legal basis. Since this dispute occurred in the 1970s, we have been in close touch to resolve this dispute and in this process to promote common development and we have all along been managing this crisis and have taken constructive measures.
- 148. Well on the current stage, it is quite difficult to resolve this dispute through any legal procedure. Therefore, we believe that the proposals that the Philippines made previously are not realistic or feasible whether it is about to refer the matter to any international mechanism or to hold any multilateral negotiations among claimant states. Since the dispute is there already, if it cannot be resolved once it is referred to the international mechanism, then it will only add to the mistrust between our two countries. China has been working all along to start the talks. Because it is our long-standing position that the dispute in the South China Sea should be properly resolved among parties directly involved through peaceful negotiations. So, therefore, I believe that the classification

- of/identification of the disputed areas or non-disputed areas are not what the dispute is about or anything to be negotiated about.
- 149. What we need to do now is to start negotiations between our two countries in a bilateral way and take stock of the current dispute and problem. We may discuss the establishment of a China-Philippines maritime consultation mechanism or resume the confidence building mechanism between our two countries. Recently, the Philippine side has noted the Chinese Embassy in the Philippines that you would like to have informal consultation with China on South China Sea. China appreciates this and hopes that consultation will be held in February this year at the working level on that basis, we shall establish a regular consultation mechanism. It is good to start talking in any form.
- 150. Second, I would like to talk about the drafting of the COC as you have talked about. Premier Wen Jiabao stated China's position at the 10+1 Leaders Meeting last year that China is willing to talk about a COC. But I believe that we should clarify several pre-conditions before the discussion on a COC.
 - a. First of all, COC should be discussed on the basis of equality among China and ASEAN countries. We should avoid a scenario where ASEAN countries reach an agreement first and impose its agreement on China. Because South China Sea issues are issues among China and ASEAN countries, not between China and ASEAN.
 - b. Second, the discussion on the COC is a matter between China and ASEAN countries and shall not involve any countries outside the region. Recently, it seemed that a country outside the region is very interested in the South China Sea. We don't know that their intentions are. COC, like DOC shall be worked out among China and ASEAN countries together.
 - c. Third, a COC is for purpose of enhancing and deepening trust and cooperation instead for resolving the dispute. Of course, a COC will probably create a good atmosphere and condition to resolve the dispute and seek joint development in the region.
 - d. Fourth, the process of formulation of a COC should be a gradual process. We shall take the process of drafting the COC as a process of enhancing trust. That is to say, we shall not bring highly disputed issues into the formulation of the COC in such a condition countries will be in a state of confrontation or opposition. Our ultimate purpose in formulation of a COC is to serve the purpose of building the South China Sea into a sea of peace, friendship and cooperation.
- 151. Third, our two countries need to step up communication in the South China Sea and to avoid causing other sensitivities or strains in our relations because of the South China Sea. We have noted that in the past two years, it seems that some media reports quote some official remarks of the Philippines are not in conformity with the facts. Last year, there was a media report about a Chinese naval ship pursuing Philippine vessels in the South China Sea. But according to our investigation, there was not such a thing. We've spent a lot of time investigating this matter but as our result turned out, there has not been any presence of Chinese naval ships in the area. But that report published just

before the ARF Foreign Ministers meeting in Bali Island in July last year, and therefore, this report triggered some sensitivity. Therefore, our two sides shall carefully handle such kind of media reports. Sometimes, some media organization intentionally set-up such issue to sow discord between our two countries. But as governments, we need to properly handle such reports. In a word, the South China Sea issue is indeed very sensitive issue between our two countries. China, first maintains that our two countries shall enhance cooperation in the South China Sea. Such cooperation can start between our two foreign ministries and then expand to other departments and then to the business community which will take the initial step of collaboration and explore other possibilities.

- 152. And second, our two countries shall keep working in our contacts and consultations or dialogues as I have mentioned before the informal consultations. We hope that our consultations will help us get a better understanding what the real problems are. Though I myself have a law background, I believe that it is not advisable to take the advice of lawyers when you are handling state to state arrangements. It has been forty years since the dispute in the South China Sea between our two countries started. It is impossible that any lawyers' advice will solve all these disputes overnight. Given the complexity of our dispute in the South China Sea, indeed, we need to sit down together and have an in-depth and comprehensive discussion.
- 153. Last year, I met Amb. Encomienda, legal expert on the South China Sea and we talked about how to resolve this issue and how to approach this issue with the belief that the most important thing is to start the negotiations, the talks. It's been fifteen years since we are friends. We knew each other on the talks about the fisheries in the Pacific. Our two countries are close neighbors linked by the same waters. Therefore, we should prevent certain politicians from using this/playing up this issue and undermining our relations. On the next stage, we believe that we shall first of all, start talks and second, enhance cooperation and third, manage our crisis.
- 154. On the specific ways and means to resolve these disputes, I believe that once the talks start, the experts will discuss these matters. Since we are having this foreign ministry consultation I tell you my ideas and positions in a very candid manner. Thank you.

Undersecretary Basilio:

155. Your Excellency, we have listened very carefully during your views with reference to the West Philippine Sea. As enunciated by our Foreign Minister when he met with Foreign Minister Yang Jiechi, they agreed then to keep the matter to rest, to put the matter to rest because obviously, the Chinese position is diametrically opposed to the Philippine position. You are for bilateral discussion. We have embarked on a path that uses the law, the UN Convention on the Law of the Sea as the basis for working out the problems that we face in the West Philippine Sea. We believe in a multilateral approach because there are other competing claims there and they are members of the Association of Southeast Asian Nations, namely: Vietnam, Brunei, Malaysia and

the Philippines. To approach the matter bilaterally, even theoretically speaking, you know we try to solve it our way, just the two of us, there are competing claims there and therefore, in our belief, it is better that we all sit down together and be able to thresh out the matter in a manner that will contribute to the peace and stability, be treated in a peaceful manner. For us, we believe that our recourse is through ASEAN calling for a meeting with all of us seated together because after all, we are parties to the Declaration on Conduct of Parties in the South China Sea. And the Code of Conduct that we envision for ourselves, China is of course a party to that, we also believe that we should sit down together and discuss what goes in there in the main elements of such conduct. But obviously, our positions are not convergent. Let's leave it at that but as our Foreign Minister has always stressed that we set that aside, we set the West Philippine Sea issue aside. We have always worked closely together in enhancing our bilateral relations. That will not be sacrificed. We will maintain excellent relations with you on various areas of cooperation. But as far as West Philippine Sea is concerned, much as we would like to discuss this with you, it seems that we are taking divergent paths. We respect the Chinese position. Our position is multilateral based on international law using specifically the UN Convention on the Law of the Seas. And we exercise sovereign rights over the waters that we have / which are defined and protected by the UN Convention on the Law of the Seas. Being an archipelago, an archipelagic state, have certain rights over the territorial waters and so we exercise sovereignty.

- 156. We believe that there might be a way whereby we can work together. We don't have to, we can maintain the relationship. We have worked/ we are now on the 37th year of our relationship. Personally, I have been involved from the very beginning, so, we just don't want to throw that away. That is why we are seriously working very hard to make sure that we have excellent relations all the time and we greatly appreciate that you too share the same sentiments. So, let us not let the West Philippine Sea or the South China Sea issues mar such a relation. Time will come when perhaps. All of us who have competing claims there will be able to resolve it in a manner that is acceptable to everyone. We are for a multilateral approach and we, at this stage, we would like to embark on a multilateral approach to it because we want the other claimants who are also ASEAN member states. And there is again your province, Talwan. You see, who also has a competing claim there. So they are central parties. That is why we want a multilateral approach to it. So that when we sit down, whatever venue, if you want to meet with us, and we meet with you, we can arrive at a solution that will make everybody happy that perhaps at some time.
- 157. You can come in as a substantial investor in some of the activities/projects that are being done there. So, that is one way of looking at the / you can some in as a substantial investor, we can develop those resources there but the position remains the same. We want a multilateral path; you want to do it bilaterally. We hope that someday, our paths will converge. So we can put to rest this matter and work / and the attention that we put into it now will be spent in trying to further elevate the relationship to an even higher plane. But you can count on our friendship to all bilateral matters; we will work to ensure that we will take this relationship to even greater heights. We look forward to working closely.

with you. We have had this exchange of views so that we understand each other well.

Assistant Minister Liu:

158. Now that we have stated our respective positions on the South China Sea issue, we can start with an exchange of views to look into settling the disputes is one of the issues on the South China Sea. But in addition to settling the disputes, we also need to talk about how to continue to build confidence, how to enhance mutual trust, how to carry out cooperation. Under DOC, we are going to have cooperation; it's how we should bilaterally that we should look into. There are a number of areas we can talk. I think that a meeting on both sides, that is why we should talk, encourage our colleagues and offices in the department, to start an informal working level and exchange of views consultations. To start the process, to see what we can do, to see where we are leading. To settle the dispute issue will take some time. That is why, on my part, I am quite supportive for starting any kind of bilateral consultations. Whatever form of consultations, exchange of views, informal, not formal negotiations. So there is a whole new area for our two countries to talk about, to fine cooperation. That way, what we have in mind, to avoid that we have no channel to talk. It is different from outside the region. China and Vietnam have talks. With Vietnam, we have these formal talks. We have quarrels, we have differences and sometimes we have common understandings, common positions. But we have formal talks. But with the Philippines, we have no channels to talk. That I think we should think about. Maybe in the forthcoming weeks, we can start some kind of process. If two sides believe that it is feasible, that it is useful, so that is something.

EXCHANGE OF VIEWS ON INTERNATIONAL AND REGIONAL ISSUES

Time had run out and there was no exchange of views on international and regional issues.

CALL ON EXECUTIVE VICE FOREIGN MINISTER ZHANG ZHIJUN 5:30 – 6:00 P.M., 14 January 2012, Beijing

Executive Vice Foreign Minister Zhang:

1. I learned that you come to Beijing for the DOC Senior Officials Meeting and also the Foreign Ministry Consultation. This bilateral consultation is highly important as it can help out our two ministries to discuss how to develop our bilateral relations in a steady manner and how to properly handle relevant issues. It is an important opportunity how to grow our relations at the beginning of the New Year. I would like to hear your views about that.

Undersecretary Basilio:

- We are very glad, Your Excellency, that we are having this inter-ministerial consultative meeting. We view this meeting as very important forum to be able to take stock of our relationship. We are now at the 37th year of the establishment of our diplomatic relations and we have had the privilege of discussing with your Ministry of Foreign Affairs about our plans to commemorate, to celebrate the 37th anniversary and when our two leaders methere earlier, last year, they have agreed to celebrate what we call this year and next year as the Years of Friendly Exchanges. Therefore, on our side, we prepared a plan which we shared with our colleagues in your ministry. And we are also informed about the plans of your government to commemorate this Years of Friendly Exchanges. We elated to learn that a lot of time and effort went into the crafting of these projects. And we will work closely with your Ambassador in the Philippines to ensure that the Filipino portion of the commemoration will be very successful. We believe that this will raise the level of awareness of our peoples and foreigners amongst us about the excellent relations that we have and our wish to elevate our relationship to an even higher plane. In Beijing and all the cities of China especially in cities where we have Consulates General we will also have activities that be done throughout 2012-2013. We hope that all of these activities will augur well for the development of greater understanding and awareness of the great things that we have done together for the past 37 years and also to encourage, particularly our young people and the business community and the academe, the think tanks, all of them working together to ensure that our relationship will continue from strength to strength. Under your very able leadership, Your Excellency, we hope that you can grace some of our occasions particularly in Beijing like during the launching of this Years of Friendly Exchanges.
- 3. And we hope that you will give support to Amb. Ma in ensuring that all the activities that they will do there will receive the best, the finest of Chinese culture, of all the good things. We always have the pleasure of watching Chinese performing arts in the Philippines. The President has issued an Executive Order declaring the celebration of the Chinese New Year. So this is again a very important facet showing the keen interest of the Philippine President to bring our two countries even closer to each other. So we hope that with the forthcoming New Year, the 23rd, we wish you good health, happiness and success and also best wishes extended to the Chinese people and we

bring you the best wishes of the President and also the Foreign Secretary Alberto Del Rosario.

Executive Vice Foreign Minister Zhang:

- 4. Thank you for your kind words on the development of Philippines-China relations in past 37 years. And thank you for your sincere wishes for the Chinese New Year. The presence of your delegation impresses me a lot because I learned from your presence that ladies account for more than half of the sky of your department. In China, we have a saying that women can support the half of the sky. This indeed reaffirmed our decision to send a competent and fine lady diplomat as an ambassador to the Philippines. Thank you for expressing your readiness to provide assistant to Amb. Ma when she arrives in Manila. I am confident that with the joint efforts of Amb. Ma, Chinese Embassy in the Philippines and your department and yourself, our bilateral relations will be brought to a new height.
- 5. As you said, it's been 37 year since we established diplomatic ties and I have been thinking what our relationship is like in the past 37 years and how the situation in East Asia evolved in the past 37 years has. All of us might agree that be it political relations, security relations, economy, trade or people to people and cultural fields, people would not have imagined that we can achieve such a lot in 37 years. Thanks to the effort of people in East Asia, this region has achieved a lot in economic and social development and also made important contribution to the development, peace and stability in this region and the world at large. What are the reasons behind all these achievements? I believe that the most important is that all of our countries in this region share a common and extensive interest in the peace, stability and common development of the region and it is this extensive and shared interest that ensured the fast development of our relationship.
- 6. I believe that relevant parties need to cherish all these achievements made in East Asia and build on these achievements to strive for even better development through mutual cooperation. When it comes to China-Philippines relations, indeed, we have come a long way and made a comprehensive growth in our relationship in the last 37 years. Such developments serve the interest of both our countries and benefit our two peoples. I believe for the current stage, we need to implement in real earnest, important agreements reached by our two leaders on how to grow our relations and handle relevant issues. I believe that we need to focus on the following four areas:
 - a. First, we need to continue the momentum of exchanges at various levels to deepen mutual understanding and political trust. Such political, mutual trust means that each country needs to positively view the other's development and take the other one's development as an opportunity for its own development.
 - Second, we need to deepen practical cooperation across the board so as to achieve win-win results. I learned that last year our trade exceeded 30

- billion US dollars making another historic record. As developing countries, our two countries have huge potential for cooperation.
- c. Third, we need to further enhance people-to-people and cultural exchanges. As you mentioned, we need to earnestly implement well the projects under the Years of Friendly Exchanges. This way, we can enhance understanding and friendship between our two peoples and consolidate popular support for the growth of our relations.
- d. Fourth, we need to properly handle maritime disputes. It is fair to say that maritime dispute is the biggest obstacle standing in the way of the growth of our relations. Indeed, these disputes do not represent the whole picture of our relationship. But if these disputes are not handled well, then it might hurt the people's sentiment and undermine our bilateral relations. It will have a serious negative impact on the overall picture of our bilateral relations. I believe that we should have a clear understanding of the damage these disputes might cause if they are not managed well. We are also aware that no country will make compromise on territorial sovereignty.
- 7. With that in mind, I would like to put forward two specific ways to handle these matters:
 - a. First is what Chinese leadership has repeatedly stressed that is we need to shelve disputes and seek joint development and cooperation. The premise of such cooperation is that it shall not damage the claims of sovereignty of each country. In cooperation between the businesses, what they focus most is about interest, about the shares of cooperation and about shares of benefits of oil and gas development. But if when it comes to some waters, the first and foremost issue that arises is about who owns this piece of water and there cannot be any result. Our two sides might as well shelve the differences where we cannot reach consensus for the time being. On the government level, we can say all these cooperation is conducted according to each other's law but when it comes to specifics, it is actions of businesses.
 - b. Second, is that pending the substantive steps in joint development, our two sides need to properly manage maritime dispute and refrain from taking any action that might complicate the issues. It is about to manage the maritime disputes. And I believe that to enhance maritime consultation between our two countries is a very good way. I believe that our two sides need to talk. I believe that we need to exchange views in a candid manner and put forward ways to manage or resolve the issue in a constructive way.
- 8. I put forward these suggestions for your consideration. I hope that in the new year of 2012, our bilateral relations will witness fresh progress. We shall prevent maritime dispute from marring our bilateral relations. Some of my ideas to prevent the wreaking of our sound bilateral relations (Executive Vice Minister talking in English)

Undersecretary Basilio:

Thank you, Your Excellency. We in the Philippines share your aspiration for a peaceful and stable region. This aspiration augurs well for excellent relations among governments. We believe that the issue of the West Philippine Sea and the competing claims therein should be set aside and we focus on the further development of our relations. Obviously as we have met with your colleagues from the Ministry, led by Assistant Foreign Minister Liu, the path that we follow in the Philippines seems to be different from the path that you want. But we believe that this first consultations that we have had this afternoon I think can be a forum whereby exchange views on maritime issues. We had a very fruitful discussion and candid exchanges. We learned much about your views. I take it as good for our two governments to periodically to probably twice a year, based on the pace of work, foreign ministry work is always frenetic but we will take time to come. It is our time to play host to them and to you. We would like to invite you to come and visit the Philippines and perhaps you can meet other leaders, our politicians. so we can further explore the views that you have expressed.

10. We are for peaceful settlement of the disputes. We don't want it to mar our relations. We have always wanted to continue nurturing for this relationship which we have personally invested our time and energies to develop. So it has flourished over the years. And as I told your colleagues, you can come in as a substantial investor in any of the oil developments in the Philippines. Whether it is government or your corporate citizens, your companies, they are free to apply for service contracts to develop, to explore, to participate in the development of our natural resources particularly. You know we are an archipelago so we are surrounded by waters. We are 7,107 islands. And surveys have indicated that there are vast quantities of oil and gas here which we can develop. You can come in as substantial investor under Philippine law. Anybody who wants to come, to apply for service contracts have the same opportunities. So, we encourage you to come and to talk to our Department of Energy Officials. They are ones who have the mandate to issue service contracts. And since we have this tradition of doing business with you, we would like to continue the same. And we have discussed areas of cooperation in the energy field. So this thing is something that is worthwhile exploring. So, we talked about it. And if the terms and conditions are fine, we can be in business together. But you come in as a substantial investor. Failing that, you can apply for service contracts.

Executive Vice Foreign Minister Zhang:

11. It takes further discussion between our two sides to find a way that is acceptable to both sides. I hope that you will send as soon as possible relevant officials to discuss these matters with our officials. But the starting point or the purpose is that we need to find a way that is acceptable to both sides. I believe that it also takes political will and sincerity of our senior leadership or leaders directly in charge of this to facilitate this. So, I would like to ask you to convey my message to Manila.

Undersecretary Basilio:

12. I will convey this message to my superiors, Your Excellency.

ADMINISTRATIVE NOTES

- The Philippines was provided 1+2 hosting at the Marriott Hotel. Breakfast was included. The mini-bar was locked. No signing privileges for meals at the hotel. No protocol at the hotel for the other members of the delegation during the arrival. Assistance was only provided for by the Embassy.
- 2. A vehicle was provided to the head of delegation. However, it was only used for the arrival of the HOD on day 1, whole day for day 2 and the movement was limited to the meetings and departure only for day 3.
- No VIP arrangements were made for the rest of the delegation on the arrival and departure. VIP arrangements were only extended to the HOD.
- 4. One dinner and one lunch were hosted on the day of the meeting.



REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 12-0894

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China, and has the honor to express its grave concern over the repeated intrusions by Chinese vessels into Philippine territorial waters in clear violation of Philippine sovereignty and maritime jurisdiction. The latest intrusions occurred in the Scarborough Shoal, which is located at Lat 15 deg 8 min North and Lat 117 deg 45 min East.

The Philippines' concern has been repeatedly conveyed to the Chinese authorities through the Chinese Embassy in Manila, to former Chinese Ambassador Liu Jianchao, Assistant Foreign Minister Liu Zhenmin and Vice Minister Fu Ying.

The Philippine Navy has reported that since February this year there has been sustained presence of Chinese fishing vessels at the Scarborough Shoal, based on information from local fishermen and confirmed by naval air surveillance.

- On 8 April 2012, aerial sortie by Philippine Navy Islander (PNI) 312 confirmed six (6) Chinese vessels Inside the shoal. All vessels are manned by Chinese nationals from Hainan, China.
- In the morning of 9 April 2012, Patrol Frigate (PF)-15 arrived at the Shoal for sovereignty patrol, in which eight (8) Chinese fishing vessels were observed inside the shoal.
- A team consisting of three (3) NISG NL and eight (8) NAVSOU-2
 personnel aboard two (2) rubber boats were launched to collect imagery
 intelligence. The boarding team requested clearance to conduct compliant
 boarding procedure on said vessels to validate the presence of corals or
 sea turtles aboard ship. The team started to conduct visit/board/search
 and seizure (VBSS) on the first of eight (8) monitored Chinese fishing
 vessels inside Scarborough Shoal.
- During the conduct of boarding procedure, strict adherence to human rights in the treatment of the crew was observed and this is reinforced by the strict Rules of Engagement (ROE) issued to PF-15 and the boarding team prior deployment.

The boarding resulted.../

Embassy of the People's Republic of China M A N I L A

 The boarding resulted in the documentation of two (2) Chinese fishing vessels filled with assorted corals and giant clams, six (6) Chinese fishing vessels with some catch of assorted endangered species and the recovery of assorted corals to serve as samples.

The presence of these Chinese fishing vessels is a serious violation of the Philippines' sovereignty and maritime jurisdiction.

Further, the poaching of endangered marine resources is in violation of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila, 11 April 2012





No. 12-1030

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of People's Republic of China and has the honor to refer to the incident involving the M/Y Saranggani, which is conducting a marine archeological study in the Bajo de Masinloc (Scarborough Shoal or Panatag Shoal). The Philippine Government, through the National Museum, has authorized the study conducted aboard the M/Y Saranggani in the exercise of its sovereign rights and jurisdiction over the Bajo de Masinloc.

The Department informs the Embassy that around 11:45 a.m. of Saturday, 14 April 2012, the M/Y Saranggani complained that a Chinese vessel harassed the Philippine-flagged motor yatch from conducting its operations and told to leave the area. At around 1:45 p.m. also of the same day, the M/Y Saranggani further complained that a Chinese aircraft, colored white and with blue stripe on its side, flew over the motor yatch and the Philippine Coast Guard vessel in the Bajo de Masinloc. The same Chinese aircraft again flew over the M/Y Saranggani and the Philippine Coast Guard vessel at 1:35 p.m. on Sunday, 15 April 2012.

The Department strongly protests these harassments by the Chinese vessel and aircraft of the M/Y Saranggani. Such actions are in violation of the sovereign right and jurisdiction of the Philippines to conduct marine research or studies in its Exclusive Economic Zone. The M/Y Saranggani is in the Bajo de Masinloc conducting lawful studies under national and international law. The Bajo de Masinloc, part of the municipality of Masinloc, Province of Zambales, is 124 nautical miles West of Zambales and is within the 200 nautical miles EEZ and Continental Shelf of the Philippines.

The Philippines demands that the Chinese vessel and aircraft cease the harassments of and fly-bys over M/Y Saranggani so that the Philippine-flagged vessel and its crew of researchers can complete the studies. Any attempted action by Chinese vessels or aircraft against the M/Y Saranggani will be considered by the Philippines as a gross violation of its national laws and of international law.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila, 15 April 2012



Annex 207 ote Verbale from the Department of Foreign Affairs of the Philippines to the Embassy of the People's Republic)-
lic of China in Manila, No. 12-1137 (26 Apr. 2012)	

REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No.

12-1137

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and has the honor to refer to the on-going situation at the Philippines' Bajo de Masinloc (Scarborough Shoal) and Philippines' 200 NM Exclusive Economic Zone (EEZ) in and around the said feature.

The Philippines' peaceful and continuous sovereignty and jurisdiction over Bajo de Masinloc have been disturbed recently by China's assertion in the area. As a separate issue, the Philippines' sovereign rights over its EEZ, including its international obligation under existing conventions and international agreements relative to the protection and conservation of endangered species, have also been challenged by China in a manner inconsistent with that country's rights and obligations under the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

The Department of Foreign Affairs, therefore, calls on China to respect the Philippines' sovereignty and sovereign rights under international law including UNCLOS, over the Scarborough Shoal and its EEZ, respectively.

However, if China believes otherwise, it would be good - as a parallel track to the on-going efforts to settle the matter peacefully - for the two countries to bring the matter before an appropriate third-party adjudication body under international law, specifically the International Tribunal on the Law of the Sea (ITLOS) with respect to the rights and obligations of the two countries in the Philippines' EEZ under international law, specifically UNCLOS. In inviting China to join the Philippines in bringing the issue before any of the dispute settlement mechanism under international law, the Department believes that this approach would resolve on a long-term basis any differences of position on the matter, and thus ensure a peaceful, stable, and lasting bilateral relationship between the two countries.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

26 April 2012, Manila

Embassy of the People's Republic of China MANILA



Annex 208
Note Verbale from the Embassy of the People's Republic of China in Manila to the Department of Foreign Affairs of the Philippines, No. (12) PG-206 (29 Apr. 2012)



中华人民共和国大使馆

No. (12)PG-206

The Embassy of the People's Republic of China in the Republic of the Philippines presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and to state the following with reference to the note verbal (No. 12-1137) from the latter:

Huangyan Islands is China's inherent territory. The proposal from the DFA of the Philippines to bring the so-called "Huangyan island issue" to a third-party arbitration body has none ground. The Chinese side urges the Philippine side to pay due respect to and refrain from any infringement on China's territorial sovereignty.

The Embassy of the People's Republic of China in the Republic of the Philippines avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration.

Department of Foreign Affairs Republic of the Philippines Pasay City, Manila



Annex 209	
ote Verbale from the Department of Foreign Affairs of the Philippines to the Embassy of the People's Republic of China in Manila, No. 12-1222 (30 Apr. 2012)) –
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REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 12 1222

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and has the honor to express its grave concerns over the repeated intrusions by Chinese vessels into Philippine territorial waters in and around Bajo de Masinloc in clear violation of Philippine sovereignty and maritime jurisdiction.

The Department also expresses its grave concern over the provocative and extremely dangerous maneuvers committed by Chinese vessels against Philippine vessels, in particular, the incidents involving the Chinese Fisheries Law Enforcement Command (FLEC)-310 on two Philippine Search and Rescue Vessels SARV-002 and SARV-003 in the Bajo de Masinloc, as witnessed and reported by the officers aboard these vessels:

26 April 2012

 At 0755H, FLEC 310 at a speed of 20 knots headed directly for SARV-003. FLEC 310 executed various maneuvers and passed at dead astern (at the back) of SARV 003 at a distance of 1.1 nautical miles.

28 April 2012

- At 0900H, FLEC-310 approached at a speed of 20.3 knots a lying to (at stop position) SARV-003 from her port (left) bow heading towards her then at 600 yards veered away crossing to the starboard (right) side of SARV-003.
- At 0915H, FLEC-310 at a speed of 20.6 knots passed by SARV-002 from her starboard (right) to the port (left) side at a distance of 200 yards.
- In both instances, the speeding FLEC-310 generated a 2 meter wave in her wake.

The Philippine SARV-002 and SARV-003 did not instigate any action that would necessitate provocative reactions of the Chinese FLEC-310. In spite of the provocative and extremely dangerous actions perpetuated by the Chinese FLEC-310, the Philippine Search and Rescue Vessels did not react. The dangerous maneuvers of the Chinese vessels endangered the Philippine vessels and their crew. For the safety of vessels, the Philippines requests China to instruct its ships to observe the Convention on the International Regulations for Preventing Collision at Sea, 1972 (COLREG 72).

The provocative and dangerous actions of the Chinese FLEC-310 run contrary to the statements issued by the People's Republic of China that it does not want to aggravate the situation.

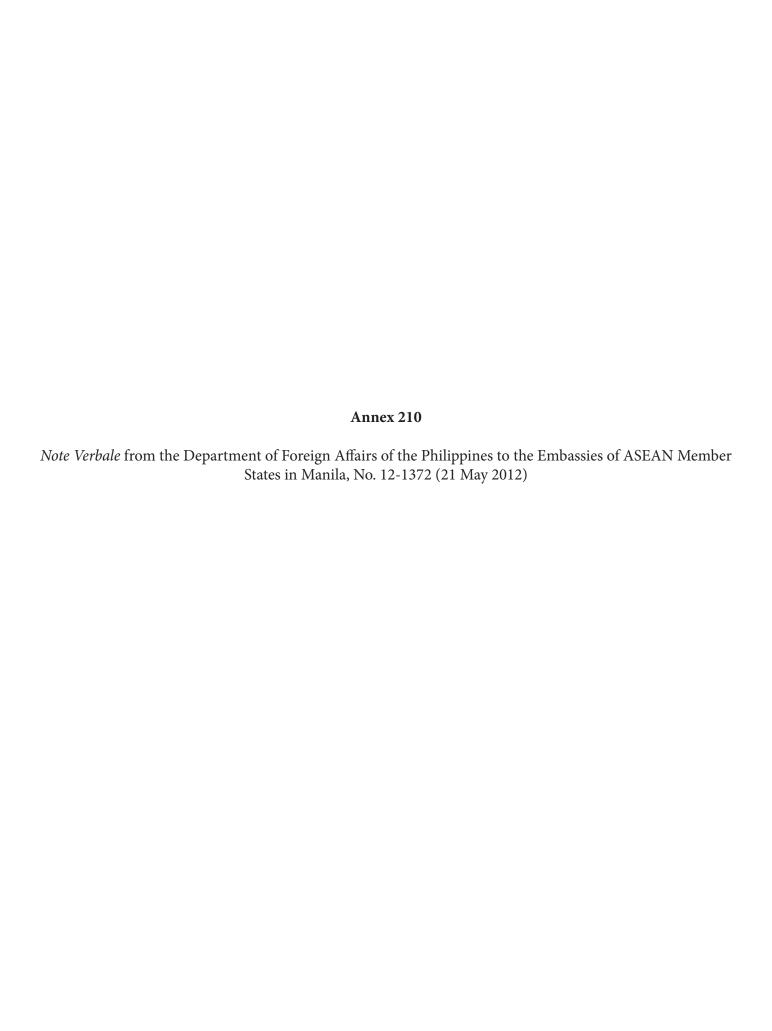
The Department urges the People's Republic of China to respect Philippine sovereignty and maritime jurisdiction over the Bajo de Masinloc and the waters in and around the area and to cease and desist from taking provocative and dangerous actions by its Chinese vessels that could escalate the tension in the Bajo de Masinloc area.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila, 30 April 2012

Embassy of the People's Republic of China M A N I L A





REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 12-1372

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to all Embassies of ASEAN Member States and with reference to the situation in Bajo de Masinloc, has the honor to inform the latter that the Philippines has filed the following diplomatic protest to the People's Republic of China:

"The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and with reference to the situation in Bajo de Masinloc, has the honor to express its grave concern over China's continuing actions that escalate tension in the area.

At around 1900 H of even date, the Department received a report from the Philippine Coast Guard there has been a significant increase of Chinese vessels in Bajo de Masinloc. In particular, there are now 5 Chinese Government vessels (CMS-71, CMS-84, FLEC-301, FLEC-303 and FLEC-310), and 16 Chinese fishing boats, 10 of which are inside the shoal while 6 are outside. In addition, there are 56 utility boats, 27 of which were inside and 29 were outside the shoal.

The Philippines protests the above actions of China as clear violations of Philippine sovereignty and jurisdiction over the Shoal and sovereign rights over the Philippine Exclusive Economic Zone (EEZ).

It is regrettable that these actions occurred at a time when China has been articulating for a de-escalation of tensions and while the two sides have been discussing how to defuse the situation in the area.

The above actions of China are clearly inconsistent with its statements and pronouncements.

The above actions of China are also in violation of the ASEAN-China Declaration of Conduct on the South China Sea specifically paragraph 5 which calls the Parties

"...to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner."

It is noteworthy that while the situation in Bajo de Masinloc started with the issue of Chinese fishermen poaching in the area; yet although these fishermen have already evaded arrests and prosecution for illegal

fishing, nevertheless, Chinese Government vessels continue to ply the area in a much larger numbers now.

The recent actions of China are also in violation of the United Nations Charter, specifically Article 2.4, which provides the following:

"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Likewise, the increase in the number of China's vessels in the area imperils the marine biodiversity in the Shoal and threatens the marine ecosystem in the whole West Philippine Sea. The Philippines has documented the many instances where Chinese fishermen have unlawfully dredged the area and illegally harvested giant clams and corals.

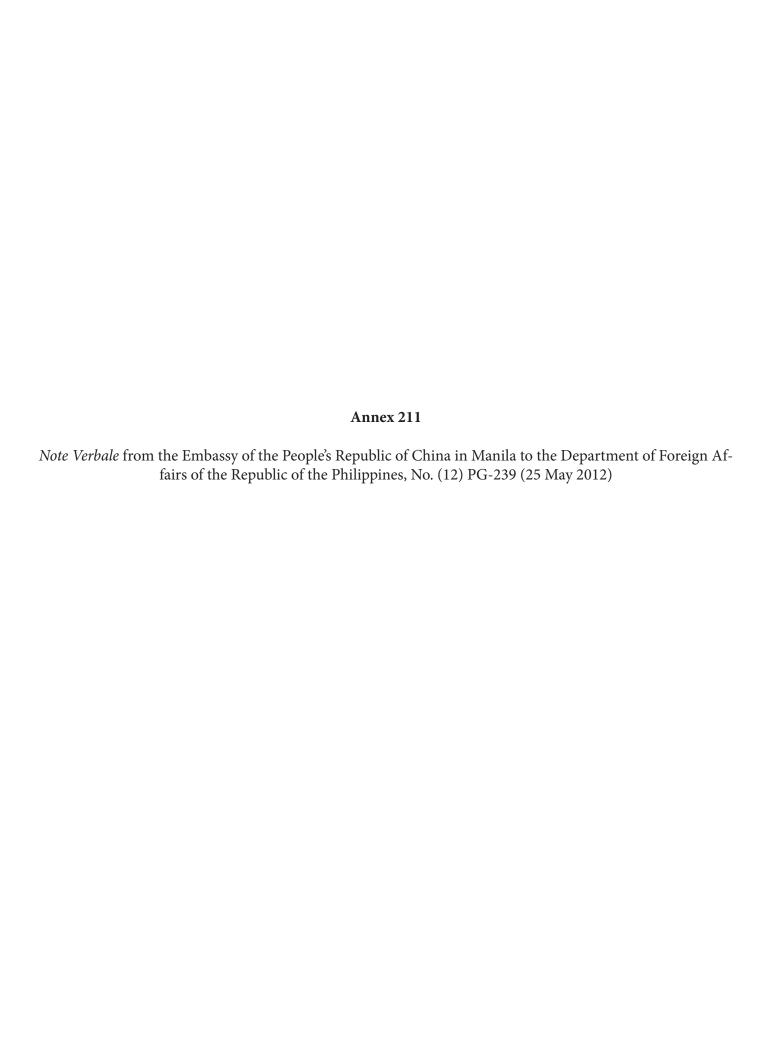
The Philippines, therefore, demands that China's vessels immediately pull out from Bajo de Masinloc and the Philippines' EEZ and for China to refrain from taking further actions that exacerbate the situation in the West Philippine Sea."

The Philippines wishes to emphasize that it continues to abide by the ASEAN-China Declaration on the Conduct of Parties in the South China Sea and remains committed to the peaceful and diplomatic resolution of the current situation in Bajo de Masinloc.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassies of ASEAN Member States the assurances of its highest consideration.

Manila, 21 May 2012

Embassies of ASEAN Member States M A N I L A







中华人民共和国大使馆

No. (12) PG-239

The Embassy of the People's Republic of China in the Philippines presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to state, with respect to Notes No. 12-1222 dated 30 April 2012, No. 12-1304 dated 14 May 2012 and No. 12-1371 dated 21 May 2012 from the Department of Foreign Affairs of the Republic of the Philippines, its following positions:

The Chinese side does not accept the contents of the aforementioned notes from the Philippine side. It has never been disputed that Huangyan Island is China's inherent territory. The various jurisdiction measures adopted by the Chinese government over Huangyan Island and its waters, and activities by Chinese ships, including government public service ships and fishing boats, in Huangyan Island and its waters are completely within China's sovereignty. Therefore the Philippine side has no right to make accusations and representations. The territorial claim that the Philippine side has raised over Huangyan Island is null and void, and the Chinese side firmly opposes it.

The Huangyan Island incident that occurred on 10 April 2012 was completely caused by the Philippine warship's harassment with force of the Chinese fishermen working in China's Huangyan Island waters. The Philippine side also claimed that it had attempted to arrest and prosecute these Chinese fishermen. The above-mentioned behaviors have violated severely China's territorial sovereignty and

infringed the human rights of the Chinese fishermen. The Chinese side hereby once again raises strong protest to the Philippine side.

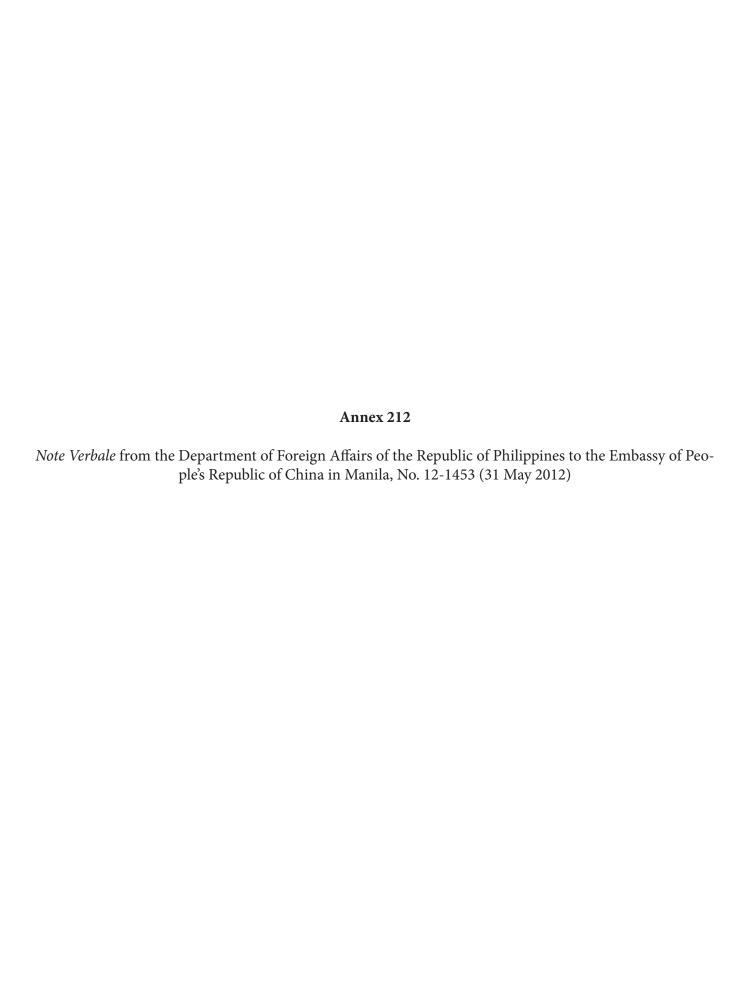
After this incident broke out, the Chinese side immediately went into urging the Philippine side to concretely respect China's territorial sovereignty over Huangyan Island and withdraw immediately all Philippine ships from the Huangyan Island waters. Now there are still two Philippine government ships illegally staying in the Huangyan Island waters, about which the Chinese side expresses grave concern. The Chinese side once again urges the Philippine side to concretely respect China's territorial sovereignty over Huangyan Island, immediately pull out all Philippine ships from the Huangyan Island waters and desist from disturbing the operation of Chinese fishing boats and law enforcement activities by China's public service ships.

The Chinese side reiterates its commitment to addressing the current situation through bilateral diplomatic consultation, and has also noticed the expression by the Philippine side of remaining committed to addressing the issue through diplomatic means. The Chinese side urges the Philippine side to refrain from any behavior that aggravates and complicates the situation, deliver clear and consistent message regarding diplomatic solution and join the efforts of the Chinese side to improve and develop the relations between China and the Philippines.

The Embassy of the People's Republic of China in the Philippines avails itself of this opportunity to renew to the Department of Foreign Affairs of the Republic of the Philippines the assurances of its highest consideration.

Department of Foreign Affairs Republic of the Philippines Pasay City, Manila





REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 12-1453

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and, with reference to the recent announcement by the State Oceanic Administration (SOA) regarding the implementation of the Regulations on Marine Observation and Forecast, has the honor to express the Republic of the Philippines' grave concern over the area covered by the said regulation which encroaches and impinges on Philippine sovereignty over the KIG and Bajo de Masinloc, as well as the Philippines' sovereign rights over its Exclusive Economic Zone (EEZ) and Continental Shelf.

While the Republic of the Philippines respects China's right to enact legislations and regulations within its territory, nonetheless, extending those regulations to areas outside its jurisdiction and well within the territories and jurisdiction of other countries, including the Philippines, is unacceptable and non-recognizable under international law.

The Republic of the Philippines reiterates its views on the purported 9-dash line claim of China as expressed in the Philippines Note Verbale no. 000228 of 5 April 2011 addressed to the Secretary General of the United Nations (copy of which is hereto attached for ease of reference).

Under international law, specifically UNCLOS, the Philippines is accorded an EEZ and a continental shelf of up to 200 NM from its baselines for which it exercises exclusive sovereign rights and jurisdiction, including the right to explore and exploit living and non-living resources, manage and conserve these resources, conduct, authorize and regulate scientific studies, researches and observations, in accordance with Articles 56, 60, 61, 62, 77, 245 and 246 of UNCLOS.

Likewise, the Republic of the Philippines reiterates that under international customary law the Philippines has indisputable sovereignty over the Kalayaan Island Group (KIG) and Bajo de Masinloc.

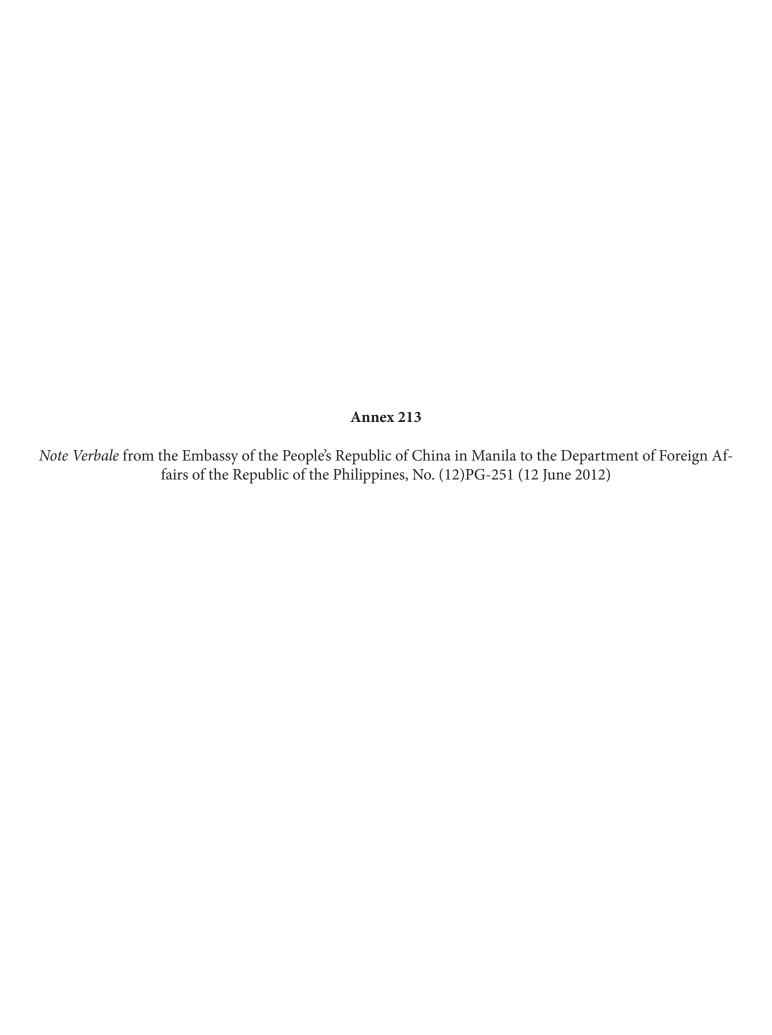
The Republic of the Philippines expects that Chinese regulations, such as the Regulation on Marine Observation and Forecast by the SOA, will respect the legitimate rights of the Philippines under international law over its territories and maritime zones.

The Department of Foreign Affairs avails of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

MANILA, 31 May 2012

Embassy of the People's Republic of China M A N I L A





DEPT, OF FORMIGH APPLICATION

PER ME AS NO R V PE

JUN 13 2012

BY: toutal

(Translation)

No. (12)PG-251

The Embassy of the People's Republic of China in the Republic of the Philippines presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and, with reference to the latter's Note Verbale No. 12-1453 dated 31 May 2012, has the honor to state the position as follows:

China has indisputable sovereignty over the islands in the South China Sea, Huangyan Island included, and the adjacent waters. It is completely within China's sovereignty for the Chinese side to take any legislative, executive and public-service actions, including maritime observation and forecast, on the islands in the South China Sea and the adjacent waters. The Philippine side has no right to make any accusation or interference on the issue. The Chinese side strongly objects to the Philippines' sovereignty claim over Nansha Islands and Huangyan Island and its illegal occupation on some islands and reefs of Nansha islands. We urge the Philippine side to pay due respect to the territorial sovereignty of China and stop all the infringing acts.

With reference to the Philippines' Note Verbale No. 000228 of 5 April 2011to the Secretary General of the United Nations stated in the Notes No. 12-1453, the Chinese side reiterates its stance in its Note Verbale No. CML/8/2011 dated 1 4 April 2011 to the Secretary General of the United Nations.

The Embassy of the People's Republic of China in the Republic of the Philippines avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration.

Makati, 12June 2012

Department of Foreign Affairs Republic of the Philippines Pasay City, Manila



中华人民共和国大使馆

(2012) 第 251 号

菲律宾共和国外交部:

中华人民共和国驻菲律宾大使馆向菲律宾共和国外交部致意,并谨就菲律宾共和国外交部 2012 年 5 月 31 日的第 12-1453 号照会阐述如下立场:

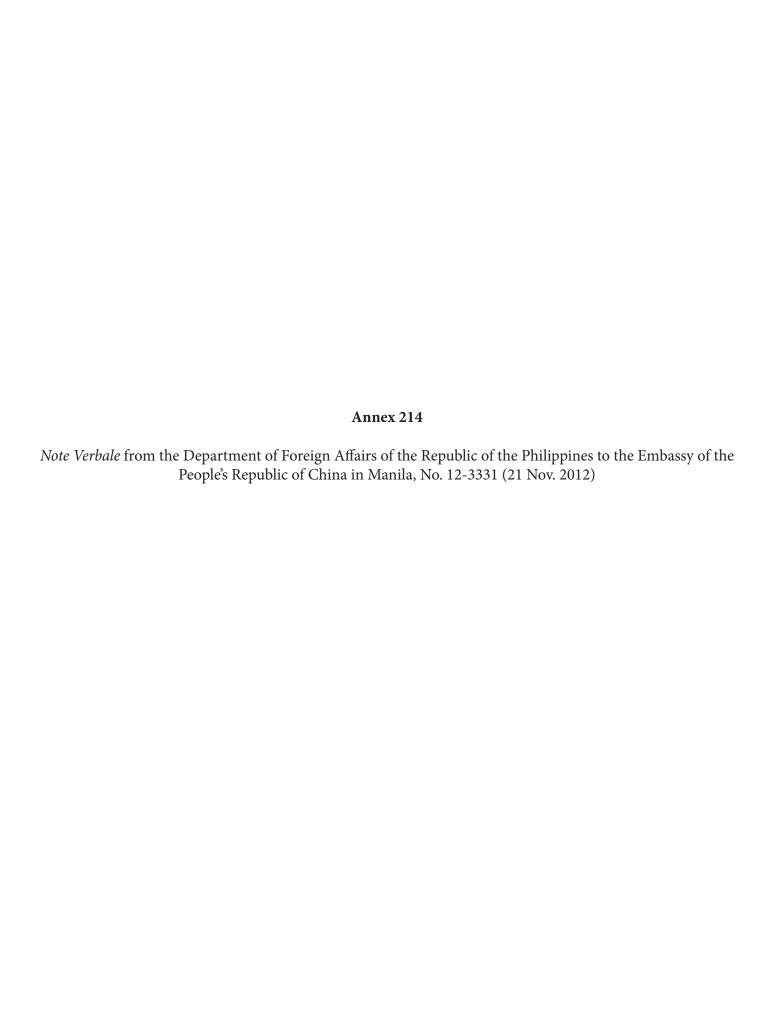
中国对包括黄岩岛在内的南海诸岛及其附近海域拥有无可争辩的主权。中方在南海诸岛及其附近海域采取的包括海洋观测和预报在内的立法、行政和公共服务措施,完全是中国主权范围内的事情,菲方无权进行任何指责和干涉。中方坚决反对菲方对南沙群岛和黄岩岛提出的领土主权要求,坚决反对菲方对中国南沙群岛部分岛礁的非法侵占,要求菲方切实尊重中国的领土主权,停止一切侵权行径。

对于菲方照会中提及的菲律宾于 2011 年 4 月 5 日向 联合国秘书长提交的第 000228 号照会,中方重申在 2011

年 4 月 14 日向联合国秘书长提交的第 CML/8/2011 号照会中阐明的立场。

顺致最崇高的敬意。





NOV 2 1 2012

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FOREIGN AFFAIRS
MANILA

No. 12-3331

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and has the honor to refer to the decision of China to Imprint the image of the nine-dash lines in the pages of China's e-passport.

The Philippines strongly protests the inclusion of the nine-dash lines in the epassport as such image covers an area that is clearly part of the Philippine territory and maritime domain. The Philippines does not accept the validity of the nine-dash lines that amount to an excessive declaration of maritime space in violation of international law.

The Philippines demands that China respect the territory and maritime domain of the Philippines.

The action of China is contrary to the spirit of the Declaration on the Conduct of Parties in the South China Sea particularly on the provision calling on Parties to refrain from actions that complicate and escalate the dispute.

The Philippines reiterates that the West Philippine Sea with the waters, islands, rocks, other maritime features and the continental shelf within the 200 nautical miles from the baselines form an integral part of Philippine territory and maritime jurisdiction.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila,

November 2012

Embassy of the People's Republic of China Manila, Philippines





REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No.

12 3391

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China and has the honor to refer to the news reports on the approval of the Coastal and Border Public Security Regulation of Hainan Province.

The Philippines seeks clarification on the reported law and that foreign vessels illegally entering the waters under the jurisdiction of Halnan Province can be boarded inspected, detained, confiscated, immobilized and expelled, among other punitive actions.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to rehew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila, 30 November 2012



Embassy of the People's Republic of China MANILA



JAN 0 2 2013

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REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 13-0011

The Department of Foreign Affairs of the Republic of the Philippines presents to compliments to the Embassy of the People's Republic of China and has the honor to refer to Department's Note No. 12 3391 dated 30 November 2012 requesting clarification on the Coastal and Border Public Security Regulation of Hainan Province.

The Philippines seeks clarification anew on the scope of Hainan's rules that there is no change from regulations passed in 1999 limiting enforcement to within 12 nautical miles of Hainan's coast, based on the recent pronouncements of Chinese Foreign Ministry Spokesperson Hua Chunying.

The Philippines further seeks confirmation that the 12 nautical miles enforcement law is absolutely limited to the island of Hainan only.

The Philippines awaits the Embassy's early response to this inquiry.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Pasay City, 2 January 2013

Embassy of the People's Republic of China MANILA





REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIL MANILA

W1-Ayungin (D

Note. No 13-1585

The Department of Foreign Affairs presents its compliments to the People's Republic of China and has the honor to state the Philippi Ayungin Shoal, and to protest China's provocative and illegal present shoal.

Under well established principles of international law, the Ayungin Shoal is an integral part of the seabed in the West Philippine Sea (WPS). The Ayungin Shoal is located 105.77 nautical miles from the basepoints in Palawan Province and constitutes part of the 200 nautical mile Philippine continental shelf as provided under Article 76 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

In accordance with Article 77 of UNCLOS, only the Philippines has sovereign rights over the continental shelf in the area where Ayungin Shoal is located. No other State is lawfully entitled to assert sovereignty or sovereign rights over said area. Moreover, the Philippines has long maintained a peaceful, continuous and effective presence at the Ayungin Shoal.

The Philippines notes that under UNCLOS, State Parties are obliged to "refrain from any threat or use of force against the territorial integrity or political independence of any State," or conduct any activities that are in "any manner inconsistent with the principles of international law embodied in the UN Charter." In this context, the Philippines protests the provocative and illegal presence of the following Chinese vessels in the vicinity of Ayungin Shoal:

- Two (2) China Marine Surveillance (CMS) ships located at 0720H 04 May 2013 at vicinity three nautical miles East off Ayungin Shoal in the West Philippine Sea; and
- One (1) Chinese warship believed to be a Type 053H1G (Jianghu-V Class)
 Missile Frigate with bow number 563 between Ayungin Shoal and Rajah
 Solaiman Reef also in the WPS.

The Philippines calls on China to respect the sovereign rights and jurisdiction of the Philippines over its continental shelf including the maritime area around the Ayungin Shoal. China's interference with the sovereign rights and jurisdiction of the Philippines over the WPS is a violation of international law particularly UNCLOS, the UN Charter, and the ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DOC-SCS).

The Philippines notes that it has filed a third-party adjudication under Annex VII of UNCLOS for the peaceful and durable solution of disputes in the South China Sea. In this connection, the Philippines respectfully reiterates its call for China to participate in this peaceful endeavor.

The Department of Eoreign Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila, 09 May 2013

EMBASSY OF THE PEOPLE'S REPUBLIC OF CHINA Manila





REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 13-1878

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China, and has the honor to refer to the new map of the People's Republic of China published by the Sinomap press in January 2013.

The Department notes that in the said map, China has identified the 10- dash lines as its "national boundaries" (国界).

The Department protests the reference to those dash lines as China's national boundaries. In particular, the Department strongly objects to the indication that the nine-dash lines are China's national boundaries in the West Philippine Sea/South China Sea. In this regard, the Department reiterates its position on the so-called nine-dash line claim of the People's Republic of China as follows:

- The nine-dash line has no basis under international law, in particular the 1982 United Nations Convention on the Law of the Sea (UNCLOS).
- Like other littoral States in the South China Sea, China is a State party to UNCLOS and as such its maritime areas are only those which are established by UNCLOS. Maritime claims of China based on the nine-dash line are contrary to UNCLOS and invalid.
- China's nine-dash line encroaches on the sovereign rights and jurisdiction of the Philippines within the latter's maritime entitlements under UNCLOS:

 China's nine-dash line also encroaches on the sovereignty of the Philippines in Bajo de Masinioc (Scarborough Shoal).

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

The Embassy of the People's Republic of China Manila, Philippines





REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No.

13 1882

The Department of Foreign Affairs presents its compliments to the Embassy of the People's Republic of China and has the honor to state the Philippine position on the delivery of essential supplies to the Philippine naval personnel aboard the *BRP Sierra Madre*, which has been located at Ayungin Shoal continuously since 1999.

As stated in Note 13-1585, which was transmitted to the Embassy of the People's Republic of China on 10 May 2013, under well-established principles of international law Ayungin Shoal is an integral part of the seabed of the West Philippine Sea (WPS). It lies 105.77 nautical miles from the coastal base points in the Philippine province of Palawan, and constitutes part of the 200 nautical mile Philippine continental shelf as provided under Article 76 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

In accordance with Article 77 of UNCLOS, only the Philippines has sovereign rights over the continental shelf in the area where Ayungin Shoal is located. No other State is lawfully entitled to assert sovereignty or sovereign rights over said area. Moreover, the Philippines has long maintained a peaceful, continuous and effective presence at Ayungin Shoal. Since 1999, this has included the presence of the *BRP Sierra Madre* and the naval personnel stationed on that ship. Those personnel have been resupplied at regular intervals with goods necessary for their survival.

In Note 13-1585, the Philippines protested "the provocative and illegal presence" of certain Chinese naval and marine surveillance vessels in the vicinity of Ayungin Shoal, and called upon China "to respect the sovereign rights and jurisdiction of the Philippines over its continental shelf including the maritime area around the Ayungin Shoal," pointing out that "China's interference with the sovereign rights and jurisdiction of the Philippines in the WPS is a violation of international law particularly UNCLOS, the UN Charter and the ASEAN-China Declaration on the Conduct of the Parties in the South China Sea (DOC-SCS)."

In response, China unfortunately appears to have increased its naval presence in the vicinity of Ayungin Shoal, and its threats to the sovereignty and sovereign rights of the Philippines. Of particular concern are the statements made on 31 May 2013 by Mr. Yang Li, Director of the Department of Boundary and Ocean Affairs of the Ministry of Foreign Affairs, to the Philippine Embassy in Beijing: that China would consider it a "blatantly provocative action" for the Philippine naval vessels to transport supplies to its personnel on Ayungin Shoal; that China urges the Philippines to "stop sending military vessels for any mission"; and that "if you send military vessels, this will be considered as a very, very provocative action."

These statements closely followed the public statements by Major General Zhang Zhaozhong on Chinese State TV, who cited China's "achievements at the Nansha Islands, the greatest of which I think have been on Huangyan Island (Bajo de Masinloc), Meiji (Mischief) Reef and Ren'ai (Ayungin) Shoal." General Zhang stated: "For those small islands, only a few troopers are able to station on each of them, but there is no food or drinking water there. If we carry out the 'cabbage' strategy, you will not be able to send food and drinking water onto the islands. Without the supply for one or two weeks, the troopers stationed there will leave the islands on their own. Once they have left, they will never be able to come back."

The Philippines protests these statements, which it cannot help but regard as threats to use force to prevent the Philippines from delivering essential supplies to its personnel at Ayungin Shoal, in violation of Article 2 of the UN Charter, and Article 301 of UNCLOS, which provides that "States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the UN Charter."

The Philippines has no obligation to notify China of its naval or other maritime activities in the vicinity of Ayungin Shoal, or in any other area over which the Philippine is sovereign or has sovereign rights. However, in the interests of avoiding conflict, and so that its peaceful intentions cannot be misunderstood, the Philippines hereby voluntarily notifies China: that it will deliver essential supplies to its personnel at Ayungin Shoal this week; that, in this instance, these supplies will be delivered by a Philippine flag ship; that the only mission of this vessel is to deliver the essential supplies to the personnel presently situated at Ayungin Shoal; and that this vessel has no hostile intent or purpose, and will seek to avoid contact with any Chinese vessels that may be in the vicinity.

The Philippines urges China to refrain from any hostile action to interfere with this sovereign act of the Philippine Government.

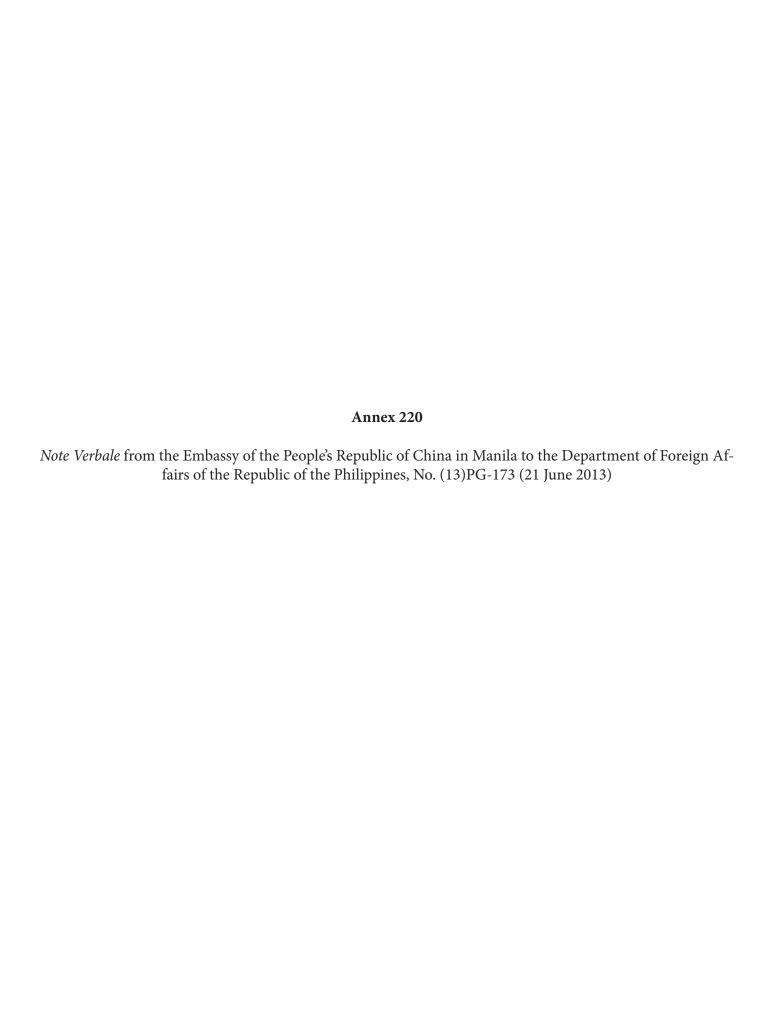
Finally, the Philippines reminds China that both States are obligated by the UN Charter and UNCLOS to settle all disputes peacefully, and that, to this end, the Philippines has initiated arbitration proceedings under Annex VII of UNCLOS, to obtain a peaceful, lawful and durable settlement of the competing claims in the West Philippine Sea/South China Sea. The Philippines, which has pledged to accept and comply with the results of these proceedings, whatever

they might be, calls upon China once again to actively participate in these peaceful dispute settlement proceedings.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

Manila, 10 June 2013





PECORDS DIVISION

JUN 2 4 2013 (Unofficial translation)

No. (13)PG-173

BY: # #22 pm

The Embassy of the People's Republic of China in the Republic of the Philippines presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and, with reference to the latter's Note Verbale No. 13-1878 dated 7 June 2013, has the honor to state the following:

China's relevant cartographic institutes compile and publish the Map of China in various formats. The Chinese side does not accept the content of Note Verbale No. 13-1878 from the Philippine side.

The Chinese side hereby reiterates that China enjoys indisputable sovereignty over the Nansha Islands and their adjacent waters. According to a series of international treaties which define the composition and limits of the Philippine territory, the Nansha Islands are not within the Philippine territorial limits. Since 1970s, the Philippines has illegally occupied some islands and reefs of the Nansha Islands in violation of the Charter of United Nations and principles of international laws. The Chinese side has been firmly opposed to the illegal occupation by the Philippine side, and has been consistently demanding the Philippines withdraw all the personnel and facilities from China's islands and reefs.

The Embassy of the People's Republic of China in the Republic of the Philippines avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its high consideration.

Department of Foreign Affairs Republic of the Philippines Pasay City, Manila





中华人民共和国大使馆

(2013) 第 173号

菲律宾共和国外交部:

中华人民共和国驻菲律宾大使馆向菲律宾共和国外 交部致意,并谨就菲律宾外交部 2013 年 6 月 7 日 13-1878 号照会,阐明中方如下立场:

中国有关地图出版机构编制出版了各种版式中国地图。中方不接受菲方 13-1878 号照会所述内容。

中方重申,中国对南沙群岛及其附近海域拥有无可争辩的主权。根据确定菲律宾领土组成和范围的一系列国际条约,南沙群岛不在菲律宾领土范围内。20世纪70年代起,菲律宾违反《联合国宪章》和国际法原则,非法侵占了中国南沙群岛的部分岛礁,中方一向坚决反对菲方的非法侵占,持续要求菲方从中国岛礁上撤走一切人员和设施。

顺致崇高的敬意。



Annex 221
<i>Note Verbale</i> from the Department of Foreign Affairs of the Philippines to the Embassy of the People's Republic of China in Manila, No. 140711 (11 Mar. 2014)

REPUBLIC OF THE PHILIPPINES DEPARTMENT OF FOREIGN AFFAIRS MANILA

No. 14-11711

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the People's Republic of China, and has the honor to convey its protest against China's recent actions in the vicinity of Second Thomas Shoal (Ayungin Shoal).

The Department refers to the actions taken on 09 March 2014 by two China Coast Guard ("CCG") vessels to prevent rotation of personnel and the resupply of operations at Ayungin Shoal including provision of food, water, and other essentials they require. Initial reports indicate that the two CCG vessels maneuvered to block two civilian vessels chartered by the Philippine Navy from approaching the shoal and then forced them to leave the area, thereby preventing the fulfillment of their mission.

The Department understands that China has purported to justify its actions by claiming that the Philippine vessels were carrying "construction materials" to Ayungin Shoal. The Philippines rejects this false accusation. Ayungin is part of the continental shelf of the Philippines. It is, therefore, entitled to exercise sovereign rights and jurisdiction in the area without the permission of other States. Nevertheless, in the interests of easing tensions, the Philippines wishes to make it perfectly clear that its chartered vessels were not carrying construction materials. To the contrary, they were merely delivering essential supplies to the Philippine personnel stationed there and to conduct rotation of personnel.

China is aware that the Philippines has maintained a peaceful and continuous presence at Ayungin Shoal in the form of the BRP Sierra Madre and the personnel stationed there since 1999. For the last fifteen years, the Philippines has conducted regular resupply missions and personnel rotation without interference from China.

China's recent actions therefore represent a dramatic and dangerous departure from the status quo. As such, they constitute a flagrant, willful and material

breach of Paragraph 5 of the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea (the "DOC"), pursuant to which the signatory States, including China, specifically undertook

"to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner."

In addition, China's actions constitute a clear and urgent threat to the rights and interests of the Philippines under the 1982 United Nations Convention on the Law of the Sea (the "UNCLOS"), which are currently the subject of arbitration under Annex VII of UNCLOS. In accordance with Articles 76 and 77 of UNCLOS, only the Philippines has sovereign rights over the continental shelf in the area where Ayungin Shoal is located. No other State is lawfully entitled to assert sovereign rights or jurisdiction over said area. In this respect, the Philippines observes that there are no insular features claimed by China in the South China Sea capable of generating any potential entitlement in the area where Ayungin Shoal is located.

China's actions also constitute a grave and imminent threat to the Philippines' right to have its maritime dispute with China settled peacefully and in good faith, as well as its right not to have the dispute aggravated or extended pending the outcome of the arbitration.

The Department takes note of the fact that China's actions come just three weeks before the Philippines is due to submit its Memorial in the aforementioned arbitration. Under the circumstances, the Department is, regrettably, compelled to conclude that China's conduct at Ayungin Shoal is intended as retaliation for the Philippines' initiative in seeking the resolution of its maritime dispute with China in accordance with international law, something the Philippines and China were unable to achieve despite years of negotiation.

Accordingly, the Department urges China in the strongest possible terms (1) to desist from any further interference with the efforts of the Philippines to conduct personnel rotation and resupply operations at Ayungin Shoal on the BRP Sierra Madre; (2) to exercise self-restraint in accordance with Paragraph 5 of the DOC; and (3) to refrain from any activities that threaten the rights and interests of the Philippines under international law, including UNCLOS.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

The Embassy of the People's Republic of China Manila, Philippines

11 March 2014

