

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 III
ANNEXES

30 MARCH 2014

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Annex 1

Notification and Statement of Claim of the Republic of the Philippines (22 Jan. 2013)

**NOTIFICATION
AND STATEMENT OF CLAIM**

I. INTRODUCTION

1. The Republic of the Philippines brings this arbitration against the People's Republic of China to challenge China's claims to areas of the South China Sea and the underlying seabed as far as 870 nautical miles from the nearest Chinese coast, to which China has no entitlement under the 1982 United Nations Convention on the Law of the Sea ("UNCLOS", or "the Convention"), and which, under the Convention, constitute the Philippines' exclusive economic zone and continental shelf.
2. Despite China's adherence to UNCLOS in June 1996, and the requirement of Article 300 that States Parties fulfill in good faith their obligations under the Convention, China has asserted a claim to "sovereignty" and "sovereign rights" over a vast maritime area lying within a so-called "nine dash line" that encompasses virtually the entire South China Sea. By claiming all of the waters and seabed within the "nine dash line", China has extended its self-proclaimed maritime jurisdiction to within 50 nautical miles ("M") off the coasts of the Philippine islands of Luzon and Palawan, and has interfered with the exercise by the Philippines of its rights under the Convention, including within its own exclusive economic zone and continental shelf, in violation of UNCLOS.
3. Further, within the maritime area encompassed by the "nine dash line", China has laid claim to, occupied and built structures on certain submerged banks, reefs and low tide elevations that do not qualify as islands under the Convention, but are parts of the

Philippines' continental shelf, or the international seabed; and China has interfered with the exercise by the Philippines of its rights in regard to these features, and in the waters surrounding them encompassed by China's designated security zones.

4. In addition, China has occupied certain small, uninhabitable coral projections that are barely above water at high tide, and which are "rocks" under Article 121(3) of UNCLOS. China has claimed maritime zones surrounding these features greater than 12 M, from which it has sought to exclude the Philippines, notwithstanding the encroachment of these zones on the Philippines' exclusive economic zone, or on international waters.

5. In June 2012, China formally created a new administrative unit, under the authority of the Province of Hainan, that included all of the maritime features and waters within the "nine dash line". In November 2012, the provincial government of Hainan Province promulgated a law calling for the inspection, expulsion or detention of vessels "illegally" entering the waters claimed by China within this area. The new law went into effect on 1 January 2013.

6. In response to these and other unlawful acts in contravention of UNCLOS, the Philippines seeks an Award that: (1) declares that the Parties' respective rights and obligations in regard to the waters, seabed and maritime features of the South China Sea are governed by UNCLOS, and that China's claims based on its "nine dash line" are inconsistent with the Convention and therefore invalid; (2) determines whether, under Article 121 of UNCLOS, certain of the maritime features claimed by both China and the Philippines are islands, low tide elevations or submerged banks, and whether they are

capable of generating entitlement to maritime zones greater than 12 M; and (3) enables the Philippines to exercise and enjoy the rights within and beyond its exclusive economic zone and continental shelf that are established in the Convention.

7. The Philippines does not seek in this arbitration a determination of which Party enjoys sovereignty over the islands claimed by both of them. Nor does it request a delimitation of any maritime boundaries. The Philippines is conscious of China's Declaration of 25 August 2006 under Article 298 of UNCLOS, and has avoided raising subjects or making claims that China has, by virtue of that Declaration, excluded from arbitral jurisdiction.

8. All of the Philippines' claims in this arbitration have been the subject of good faith negotiations between the Parties. There have been numerous exchanges of views. The requirements of Article 279 have been satisfied. There is, therefore, no bar to the Arbitral Tribunal's exercise of jurisdiction over the claims asserted by the Philippines.

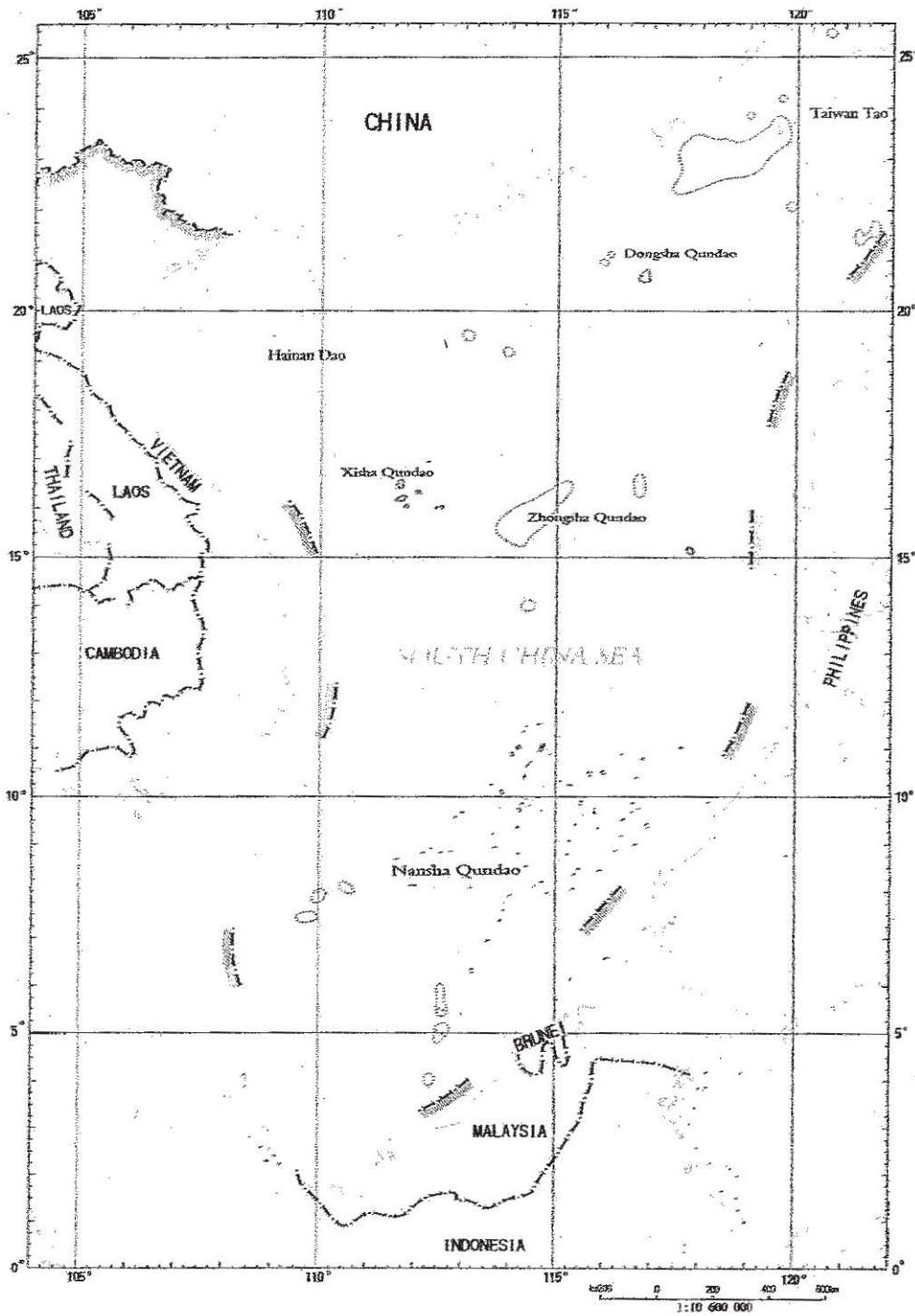
II. FACTUAL BACKGROUND

A. Maritime Areas

9. The South China Sea, part of which is known in the Philippines as the West Philippine Sea, is a semi-enclosed sea in Southeast Asia that covers approximately 2.74 million square kilometers. The Sea is surrounded by six States and Taiwan. To the north are the southern coast of mainland China, and China's Hainan Island. To the northeast lies Taiwan. To the east and southeast is the Philippines. The southern limits of the sea are bounded by Brunei, Malaysia and Indonesia. And to the west is Vietnam.

10. There are many small insular features in the South China Sea. They are largely concentrated in three geographically distinct groups: the Paracel Islands in the northwest; Scarborough Shoal in the east; and the Spratly Islands in the southeast. The Paracel Islands are not relevant to this arbitration. Scarborough Shoal, located approximately 120 M west of the Philippines' coast and more than 350M from China, is a submerged coral reef with six small protrusions of rock above sea level at high tide. The Spratly Islands are a group of approximately 150 small features, many of which are submerged reefs, banks and low tide elevations. They lie between 50 and 350 M from the Philippine island of Palawan, and more than 550M from the Chinese island of Hainan. None of the Spratly features occupied by China is capable of sustaining human habitation or an economic life of its own.

11. Notwithstanding its adherence to UNCLOS, China claims almost the entirety of the South China Sea, and all of the maritime features, as its own. Specifically, China claims "sovereignty" or "sovereign rights" over some 1.94 million square kilometers, or 70% of the Sea's waters and underlying seabed within its so-called "nine dash line." China first officially depicted the "nine dash line" in a letter of 7 May 2009 to the United Nations Secretary General. It is reproduced below. According to China, it is sovereign over all of the waters, all of the seabed, and all of the maritime features within this "nine dash line".



12. In the east, the “nine dash line” depicted in China’s letter is less than 50M off the Philippine island of Luzon. In the southeast, it is within 30M from Palawan. In both respects, it cuts through – and cuts off – the Philippines’ 200 M exclusive economic zone and continental shelf, in violation of UNCLOS. Within the area encompassed by the

“nine dash line”, China has engaged in conduct that has unlawfully interfered with the Philippines’ right of navigation, notwithstanding that some of the area is in the Philippines’ own exclusive economic zone, and the rest is high seas; and China has interfered with the exercise by the Philippines of its rights to the living and non-living resources in its exclusive economic zone and continental shelf extending west from the island of Luzon, and northwest from the island of Palawan. China has also violated the Philippines’ rights by exploiting the living resources in the Philippines’ exclusive economic zone.

13. China’s interference with and violations of the Philippines’ rights under UNCLOS have been steadily escalating. In June 2012, China placed the entire maritime area within the “nine dash line” under the authority of the Province of Hainan, which, in November 2012, in the exercise of its administrative authority, promulgated a law that requires foreign vessels to obtain China’s permission before entering the waters within the “nine dash line”, and provides for inspection, expulsion and detention of vessels that do not obtain such permission. The law went into effect on 1 January 2013.

B. Submerged Features

14. Even before its first official espousal of the “nine dash line”, China began to seize physical control of a number of submerged features and protruding rocks in the Spratly Islands, in the southeastern part of the Sea, and to construct artificial “islands” on top of them. Among the submerged features that China occupied and altered in this manner are: Mischief Reef, McKennan Reef, Gaven Reef and Subi Reef. None of these features is an island under Article 121 of UNCLOS. They are all at best low tide elevations, far

removed from China's territorial sea, exclusive economic zone and continental shelf. Because they are not above water at high tide, they are part of another State's continental shelf, or the international seabed. Yet, China has not only acted unlawfully by seizing control of these submerged features; it has declared maritime zones around them, from which it has illegally sought to exclude the Philippines and other States.

15. Mischief Reef (Chinese name = Meiji Jiao; known in the Philippines as Panganiban Reef) is a submerged bank that is part of the Philippines' continental shelf, approximately 130 M from Palawan (and more than 600 M southeast of China's Hainan Island, the nearest Chinese land territory). Mischief Reef lies at approximately 9° 54'N – 115° 32'E. Since 1995, China has constructed buildings and other facilities on stilts and concrete platforms at four different sites atop Mischief Reef, despite repeated protests from the Philippines.

16. McKennan Reef (Chinese name = Ximen Jiao; known in the Philippines as Chigua Reef) is a low tide elevation located at approximately 9°53'5"N–114° 28'E. It is approximately 180 M west of the Philippine island of Palawan, and is also part of the Philippines' continental shelf. China has constructed buildings and other facilities on stilts and concrete platforms at this feature, as well, despite the Philippines' protests.

17. China has not only unlawfully seized parts of the Philippines' continental shelf, but has also wrongfully sought to prevent Philippine vessels from approaching Mischief Reef and McKennan Reef, even though the surrounding waters are within the Philippines' exclusive economic zone.

18. Gaven Reef (Chinese name = Nanxun Jiao) is a low tide elevation located at approximately 10° 13' N–114° 13'E. It lies approximately 205M northwest of Palawan.

19. Subi Reef (Chinese name = Zhubi Jiao; known in the Philippines as Zamora Reef) is a low tide elevation located at approximately 10°55'N–114° 05'E. It lies approximately 230 M west of Palawan.

C. Insular Features

20. In 2012, China seized six small rocks that protrude above sea level within the Philippines' exclusive economic zone, unlawfully claimed an exaggerated maritime zone around these features, and wrongfully prevented the Philippines from navigating, or enjoying access to the living resources within this zone, even though it forms part of the Philippines' EEZ. These half dozen protrusions, which are known collectively as Scarborough Shoal (Bajo de Masinloc in the Philippines; Huang Yan Dao in China), are located approximately 120 M west of the Philippine island of Luzon. They are rocks both literally and under Article 121 of UNCLOS. None is more than 3meters ("m") above sea level at high tide; and none measures more than a few meters in width. None of the rocks, which lie in close proximity to one another, generates entitlement to more than a 12 M territorial sea. Yet, China, which like the Philippines asserts sovereignty over Scarborough Shoal, claims a much larger maritime zone for itself, to the limit of the "nine dash line" approximately 70M to the east.

21. Until April 2012, Philippine fishing vessels routinely fished in this area, which is within the Philippines' 200 M exclusive economic zone. Since then, China has prevented the Philippines from fishing at Scarborough Shoal or in its vicinity, and undertaken other

activities inconsistent with the Convention. Only Chinese vessels are now allowed to fish in these waters, and have harvested, inter alia, endangered species such as sea turtles, sharks and giant clams which are protected by both international and Philippine law.

22. To the southwest of Scarborough Shoal, in the Spratly Islands, China has seized similar features. China presently occupies the following features which, though above water at high tide, are uninhabitable and incapable of supporting economic life in their natural state. They are therefore “rocks” within the meaning of Article 121(3) of UNCLOS:

- Johnson Reef (Chinese name = Chigua Jiao; known in the Philippines as Mabini Reef), located at approximately 9° 42' N – 114°22' E and approximately 180 M northwest of Palawan.
- Cuarteron Reef (Chinese name Huayang Jiao; known in the Philippines as Calderon Reef), located at approximately 8° 51'N –112° 50'E and approximately 245 M west of Palawan; and
- Fiery Cross Reef (Chinese name = Yongshu Jiao; known in the Philippines as Kagitingan Reef), located at approximately 9° 33'N– 112° 54'E and approximately 255 M west of Palawan;

23. All of these features are submerged reefs with no more than a few rocks protruding above sea level at high tide. Johnson Reef has a few rocky protrusions rising above water at high tide. Cuarteron Reef is a collection of coral rocks reaching no higher

than 1.5 m. Fiery Cross Reef consists of a submerged bank with protruding rocks no more than 1 m above sea level at high tide.

24. Notwithstanding that all of these insular features are “rocks” under Article 121(3) of UNCLOS, China unlawfully claims entitlements to maritime zones greater than 12 M in the waters and seabed surrounding them, and wrongfully excludes the Philippines and other States from these areas. Moreover, in the case of Scarborough Shoal and Johnson Reef, the maritime zones claimed by China unlawfully encroach upon the Philippines’ 200 M exclusive economic zone and continental shelf extending from Luzon and Palawan, and prevent the Philippines from enjoying its rights under the Convention within 200 M.

D. Exchanges of Views

25. On numerous occasions, dating back at least to 1995, the Philippines and China have exchanged views regarding the settlement of their disputes concerning entitlements to maritime areas in the South China Sea, the exercise within those maritime areas of rights pertaining to navigation and the exploitation of living and non-living resources, and the status of maritime features in the Spratly Islands and at Scarborough Shoal.

26. The Parties have been exchanging views on these disputes in attempts to achieve negotiated solutions since the first “Philippines-China Bilateral Consultations on the South China Sea Issue” were held in August 1995. However, despite many bilateral meetings and exchanges of diplomatic correspondence over more than 17 years since those first consultations were held, no settlements have been reached on any of these disputed matters.

27. In regard to entitlements to maritime areas in the South China Sea, the Philippines has consistently expressed the view to China in bilateral meetings and diplomatic correspondence that it is entitled to an exclusive economic zone and continental shelf of 200 M from its archipelagic baselines, and to the exclusive enjoyment of the living and non-living resources in these zones, as well as to the right to navigate without interference by China within and beyond its 200 M limit. In response, China has repeatedly expressed the conflicting view that it is entitled to all the maritime space encompassed by its “nine dash line”, to all the living and non-living resources within this limit, and to control navigation within this area. By its diplomatic note dated 21 November 2012, the Philippines declared, as it did on numerous prior occasions, that it cannot accept the validity of the “nine dash line” or China’s claims based thereon. Over the past 17 years of such exchanges of views, all possibilities of a negotiated settlement have been explored and exhausted.

28. With respect to the status of maritime features in the Spratly Islands and adjacent waters, and rights to navigate and exploit the living resources in these waters, the Parties have exchanged views since at least August 1995, and as recently as July 2012. The Philippines has repeatedly protested Chinese activities on and adjacent to Subi Reef and Mischief Reef, which form part of the Philippines’ continental shelf, as well as China’s claims and activities in regard to the other maritime features in the Spratly group occupied or claimed by China. China has consistently rejected the Philippines’ protests and maintained its occupation of and activities on these features. Each Party has protested interference by the other with its claimed navigational rights, and with its claimed rights to the living resources, in the waters adjacent to these features. None of the protests, or

ensuing meetings or diplomatic correspondence in which views were exchanged, resulted in the settlement of these disputes.

29. With respect to the status of the maritime features at Scarborough Shoal and adjacent waters, and rights to navigate and exploit the living resources in these waters, the Parties have been exchanging views regarding the settlement of their dispute since at least May 1997. Most recently, during a series of meetings in Manila in April 2012, the Parties once again exchanged views on these matters without arriving at a negotiated solution. As a result of the failure of negotiations, the Philippines later that month sent China a diplomatic note in which it invited China to agree to bring the dispute before an appropriate adjudicatory body. China declined the invitation.

30. The diplomatic record leaves no doubt that the requirement in Article 283 that the “parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means” has been satisfied.

III. THE PHILIPPINES’ CLAIMS

31. Based on the foregoing and the evidence to be submitted in the course of this arbitration, the Philippines asserts the following claims:

- China’s rights in regard to maritime areas in the South China Sea, like the rights of the Philippines, are those that are established by UNCLOS, and consist of its rights to a Territorial Sea and Contiguous Zone under Part II of the Convention, to an Exclusive Economic Zone under Part V, and to a Continental Shelf under Part VI;

- Accordingly, China's maritime claims in the South China Sea based on its so-called "nine dash line" are contrary to UNCLOS and invalid;
- Submerged features in the South China Sea that are not above sea level at high tide, and are not located in a coastal State's territorial sea, are part of the seabed and cannot be acquired by a State, or subjected to its sovereignty, unless they form part of that State's Continental Shelf under Part VI of the Convention;
- Mischief Reef, McKennan Reef, Gaven Reef and Subi Reef are submerged features that are not above sea level at high tide, are not islands under the Convention, are not located on China's Continental Shelf; and China has unlawfully occupied and engaged in unlawful construction activities on these features;
- Mischief Reef and McKennan Reef are part of the Philippines' Continental Shelf under Part VI of the Convention.
- Scarborough Shoal, Johnson Reef, Cuarteron Reef and Fiery Cross Reef are submerged features that are below sea level at high tide, except that each has small protrusions that remain above water at high tide, which qualify as "rocks" under Article 121(3) of the Convention, and generate an entitlement only to a Territorial Sea no broader than 12 M; and China has unlawfully claimed maritime entitlements beyond 12 M from these features;

- China has unlawfully prevented Philippine vessels from exploiting the living resources in the waters adjacent to Scarborough Shoal and Johnson Reef;
- The Philippines is entitled under UNCLOS to a 12 M Territorial Sea, a 200 M Exclusive Economic Zone, and a Continental Shelf under Parts II, V and VI of UNCLOS, measured from its archipelagic baselines;
- China has unlawfully claimed rights to, and has unlawfully exploited, the living and non-living resources in the Philippines' Exclusive Economic Zone and Continental Shelf, and has unlawfully prevented the Philippines from exploiting the living and non-living resources within its Exclusive Economic Zone and Continental Shelf; and
- China has unlawfully interfered with the exercise by the Philippines of its rights to navigation under the Convention.

IV. JURISDICTION OF THE TRIBUNAL

32. The Philippines and China are both parties to UNCLOS, having ratified the Convention on 8 May 1984 and 7 June 1996, respectively. It follows that both Parties have given their advance consent to the regime of settlement of disputes concerning the interpretation and application of the Convention established in Part XV.

33. Article 279 of the Convention requires States Parties to seek a solution by peaceful means in accordance with the UN Charter. Article 283(1) further requires that when a dispute arises between States Parties, they should proceed expeditiously to an

exchange of views regarding a settlement by negotiation or other peaceful means. The Philippines has complied with the requirements of Article 279 and Article 283(1) fully and in good faith, and has exhausted possibilities of settlement by negotiation.

34. As the Philippines and China have failed to settle the dispute between them by peaceful means of their own choice, Article 281(1) allows recourse to the procedures provided for in Part XV, including compulsory procedures entailing binding decisions under Section 2 of Part XV. Article 286 allows these compulsory procedures to be initiated by any State Party in the court or tribunal having jurisdiction under Section 2.

35. The choice of compulsory procedures is governed by Article 287, the first paragraph of which allows a State Party, by means of a written declaration, to choose one or more of the means for settlement of disputes listed therein, including recourse to an arbitral tribunal under Annex VII of the Convention. States Parties to a dispute which have not made declarations pursuant to Article 287(1) are deemed by operation of Article 287(3) to have accepted arbitration in accordance with Annex VII.

36. Since neither the Philippines nor China has made a declaration pursuant to Article 287(1), and since no agreement to the contrary currently exists, it follows that, in accordance with Article 287(5), this dispute may be submitted to arbitration under Annex VII of the Convention.

37. The jurisdiction of an Annex VII tribunal extends to any dispute concerning the interpretation or application of the Convention, subject to the provisions of Section 3 of Part XV.

38. Section 3 of Part XV contains optional exceptions from jurisdiction in Article 298. Such exceptions have been invoked by China in a formal declaration dated 25 August 2006.

39. None of these exceptions is applicable to the Philippines' claims in this arbitration. The present dispute concerns (a) whether, in light of China's repeated assertions of alleged "sovereign rights and jurisdiction" within the so-called "nine dash line", the Parties' respective rights and obligations in regard to the waters, seabed and maritime features of the South China Sea are governed by the provisions of UNCLOS, including but not limited to Articles 3-14 of Part II, Articles 55 and 57 of Part V, Article 76 of Part VI, Article 121 of Part VIII and Article 300 of Part XVI; (b) whether China's Claims based on the "nine dash line" are inconsistent with those provisions; (c) whether, under Article 121 of UNCLOS, certain of the maritime features in the South China Sea are islands, low tide elevations or submerged banks, and whether they are capable of generating entitlements to maritime zones greater than 12 M; and (d) whether China has violated the right of navigation of the Philippines in the waters of the South China Sea, and the rights of the Philippines in regard to the living and non-living resources within its exclusive economic zone and continental shelf.

40. It follows that the Philippines' claims do not fall within China's Declaration of 25 August 2006, because they do not: concern the interpretation or application of Articles 15, 74 and 83 relating to sea boundary delimitations; involve historic bays or titles within the meaning of the relevant provisions of the Convention; concern military activities or law enforcement activities; or concern matters over which the Security Council is exercising functions assigned to it by the UN Charter.

V. RELIEF SOUGHT

41. In light of the above, and the evidence to be submitted in the course of this arbitration, the Philippines respectfully requests that the Arbitral Tribunal issue an Award that:

- Declares that China's rights in regard to maritime areas in the South China Sea, like the rights of the Philippines, are those that are established by UNCLOS, and consist of its rights to a Territorial Sea and Contiguous Zone under Part II of the Convention, to an Exclusive Economic Zone under Part V, and to a Continental Shelf under Part VI;
- Declares that China's maritime claims in the South China Sea based on its so-called "nine dash line" are contrary to UNCLOS and invalid;
- Requires China to bring its domestic legislation into conformity with its obligations under UNCLOS;
- Declares that Mischief Reef and McKennan Reef are submerged features that form part of the Continental Shelf of the Philippines under Part VI of the Convention, and that China's occupation of and construction activities on them violate the sovereign rights of the Philippines;
- Requires that China end its occupation of and activities on Mischief Reef and McKennan Reef;

- Declares that Gaven Reef and Subi Reef are submerged features in the South China Sea that are not above sea level at high tide, are not islands under the Convention, and are not located on China's Continental Shelf, and that China's occupation of and construction activities on these features are unlawful;
- Requires China to terminate its occupation of and activities on Gaven Reef and Subi Reef;
- Declares that Scarborough Shoal, Johnson Reef, Cuarteron Reef and Fiery Cross Reef are submerged features that are below sea level at high tide, except that each has small protrusions that remain above water at high tide, which are "rocks" under Article 121(3) of the Convention and which therefore generate entitlements only to a Territorial Sea no broader than 12 M; and that China has unlawfully claimed maritime entitlements beyond 12 M from these features;
- Requires that China refrain from preventing Philippine vessels from exploiting in a sustainable manner the living resources in the waters adjacent to Scarborough Shoal and Johnson Reef, and from undertaking other activities inconsistent with the Convention at or in the vicinity of these features;
- Declares that the Philippines is entitled under UNCLOS to a 12 M Territorial Sea, a 200 M Exclusive Economic Zone, and a Continental

Shelf under Parts II, V and VI of UNCLOS, measured from its archipelagic baselines;

- Declares that China has unlawfully claimed, and has unlawfully exploited, the living and non-living resources in the Philippines' Exclusive Economic Zone and Continental Shelf, and has unlawfully prevented the Philippines from exploiting living and non-living resources within its Exclusive Economic Zone and Continental Shelf;
- Declares that China has unlawfully interfered with the exercise by the Philippines of its rights to navigation and other rights under the Convention in areas within and beyond 200 M of the Philippines' archipelagic baselines; and
- Requires that China desist from these unlawful activities.

VI. APPOINTMENT OF ARBITRATOR

42. In accordance with the requirements of UNCLOS Annex VII, Article 3(b), the Philippines hereby appoints Judge Rudiger Wolfrum as a member of the Arbitral Tribunal.

VII. RESERVATION OF RIGHTS

43. The Philippines reserves the right to supplement and/or amend its claims and the relief sought as necessary, and to make such other requests of the Arbitral Tribunal as may be required, to preserve its rights under UNCLOS, including a request for provisional measures.

Respectfully submitted,



Francis H. Jardeleza
Solicitor General
Republic of the Philippines
Agent

22 January 2013

Annex 2

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. 13-0211 (22 Jan. 2013)

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FOREIGN AFFAIRS
MANILA

No. 13-0211

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 respect to the dispute with China over the maritime jurisdiction of the Philippines in the West Philippine Sea, the Government of the Philippines has the honor to submit the attached Notification under Article 287 and Annex VII of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and the Statement of Claim on which the Notification is based, in order to initiate arbitral proceedings to clearly establish the sovereign rights and jurisdiction of the Philippines over its maritime entitlements in the West Philippine Sea.

The Government of the Philippines has initiated these arbitral proceedings in furtherance of the friendly relations with China, mindful of its obligation under Article 279 of UNCLOS to seek a peaceful and durable resolution of the dispute in the West Philippine Sea by the means indicated in Article 33 (1) of the Charter of the United Nations.

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, 22 January 2013

The Embassy of the People's Republic of China
Manila



Attachments: Notification and Statement of Claims

Annex 3

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. (13) PG-039 (19 Feb. 2013)

(Unofficial translation)

No. (13) PG-039

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. 13-0211 dated 22 January 2013, has the honor to state the following:

The Position of China on the South China Sea issues has been consistent and clear. China has indisputable sovereignty over the Nanhai Islands and their adjacent waters. At the core of the disputes between China and the Philippines in the South China Sea are the territorial disputes over some islands and reefs of the Nansha Islands. The two countries also have overlapping jurisdictional claims over parts of the maritime area in the South China Sea. The direct cause of these disputes has been the illegal occupation by the Philippines of some islands and reefs of China's Nansha Islands. China has been firmly opposed to such illegal occupation.

The territorial disputes between China and the Philippines are still pending and unresolved, but both sides have agreed to settle the disputes through bilateral negotiations. By initiating arbitration proceedings, the Philippines runs counter to the agreement between the two countries, and also contravenes the principles and spirit of the *Declaration on the Conduct of Parties in the South China Sea (DOC)*, and particularly "to resolve their territorial and jurisdictional disputes by peaceful means,...through friendly consultations and negotiations by sovereign states directly concerned".

The Notification and Statement of Claim (hereinafter referred to as "Notification") attached to Note Verbale No. 13-0211 contains grave errors both in fact and in law, and includes many false accusations against China. At some places, the Notification even seriously violates the "One China" principle, undermining the political foundation of the bilateral relations between China and the Philippines. China firmly opposes to this.

China therefore rejects and returns the Philippines' Note Verbal No. 13-0211 and the attached Notification.

China has been committed to resolving disputes peacefully through bilateral negotiation, and has made every effort to maintain stability and to promote regional cooperation in the South China Sea. In March 2010, China made a formal proposal to the Philippines on establishing a bilateral regular consultation mechanism on maritime issues, and China has also repeatedly proposed to the Philippines to resume the operation of the Confidence Building Measures Mechanism (CBMs) as established between the two countries. The Philippines has failed to respond to the proposals mentioned above. China hopes that the Philippines will revert to the right track of settling the disputes through bilateral negotiations.

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.

Makati, 19 February 2013

Department of Foreign Affairs
Republic of the Philippines
Pasay City, Manila



中 华 人 民 共 和 国 大 使 馆

(2013)第039号

菲律宾共和国外交部:

中华人民共和国驻菲律宾共和国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1月22日13-0211号照会阐明如下立场:

中方在南海问题上的立场和主张是一贯的和明确的。中国对南海诸岛及其附近海域拥有无可争辩的主权。中国与菲律宾在南海争议的核心是南沙群岛部分岛礁的领土主权争议,双方在南海部分海域也存在海洋管辖权主张重叠问题。造成争议的直接原因是菲方非法侵占中国南沙群岛的部分岛礁。中方坚决反对菲方的非法侵占。

中菲领土争端悬而未决,但双方在通过双边谈判解决争议方面存在共识。菲方提起仲裁违背了中菲双方有关共识,违背了《南海各方行为宣言》中关于“由直接有关的主权国家通过友好磋商和谈判,以和平方式解决它们的领土和管辖权争议”的原则和精神。

菲方来照所附通知在事实上和法律上存在严重错误，包含许多对中方的不实指控。通知中还有数处内容严重违背一个中国原则，损害中菲双边关系的政治基础，中方坚决反对。

基于上述，中方对菲方来照及其所附通知不予接受，并将其退回。

中国坚持通过双边谈判和平解决争端，并为维护南海稳定、促进区域合作做出了各种努力。2010年3月，中方向菲方正式提出建立“中菲海上问题定期磋商机制”的建议，中方亦曾多次向菲方提出重启两国间建立信任措施机制（CBMs），菲方至今均未作答复。中方希望菲方回到双边谈判解决争端的正确轨道上来。

顺致最崇高的敬意。



二〇一三年六月十日 于马尼拉

Annex 4

Note Verbale from the Embassy of the People's Republic of China in The Hague to the Permanent Court of Arbitration, No. (013)-117 (29 July 2013)

NO. PH-CN.....

Received:

01 AUG 2013.....



中 华 人 民 共 和 国 大 使 馆

荷外发 No. (013)-117

中华人民共和国驻荷兰王国大使馆向常设仲裁法院致意并谨通知如下：

中国重申不接受菲律宾提起的仲裁，特将 2013 年 7 月 12 日致陈旭大使的函及所附文件退回。

此照会不应被视为中国接受或参与了仲裁程序。

顺致最崇高的敬意。



二〇一三年七月二十九日于海牙

(translation)

The Embassy of the People's Republic of China in the Kingdom of the Netherlands presents its compliments to the Permanent Court of Arbitration and has the honor to inform the latter as follows:

China reiterates its position that it does not accept the arbitration initiated by the Philippines, and therefore returns the letter addressed to H.E. Ambassador Chen Xu dated on 12 July 2013, as well as the attached documents.

This Note Verbal shall not be regarded as China's acceptance of or participation in the arbitration procedure.

The Embassy of the People's Republic of China in the Kingdom of the Netherlands avails itself of this opportunity to renew to the Permanent Court of Arbitration the assurances of its highest consideration.

The Hague, 29 July 2013

Permanent Court of Arbitration
The Hague

Annex 5

Amended Notification and Statement of Claim of the Republic of the Philippines (28 Feb. 2014)

**NOTIFICATION
AND AMENDED STATEMENT OF CLAIM**

I. INTRODUCTION

1. The Republic of the Philippines brings this arbitration against the People’s Republic of China to challenge China’s claims to areas of the South China Sea and the underlying seabed as far as 870 nautical miles from the nearest Chinese coast, to which China has no entitlement under the 1982 United Nations Convention on the Law of the Sea (“UNCLOS”, or “the Convention”), and which, under the Convention, constitute the Philippines’ exclusive economic zone and continental shelf.

2. Despite China’s adherence to UNCLOS in June 1996, and the requirement of Article 300 that States Parties fulfill in good faith their obligations under the Convention, China has asserted a claim to “sovereignty” and “sovereign rights” over a vast maritime area lying within a so-called “nine dash line” that encompasses virtually the entire South China Sea. By claiming all of the waters and seabed within the “nine dash line”, China has extended its self-proclaimed maritime jurisdiction to within 50 nautical miles (“M”) of the coasts of the Philippine islands of Luzon and Palawan, and has interfered with the exercise by the Philippines of its rights under the Convention, including within its own exclusive economic zone and continental shelf, in violation of UNCLOS.

3. Further, within the maritime area encompassed by the “nine dash line”, China has laid claim to, occupied and built structures on certain submerged banks, reefs and low tide elevations that do not qualify as islands under the Convention, but are parts of the Philippines’ continental

shelf, or the international seabed; and China has interfered with the exercise by the Philippines of its rights in regard to these features, and in the waters surrounding them encompassed by China's designated security zones.

4. In addition, China has occupied certain small, uninhabitable coral projections that are barely above water at high tide, and which are "rocks" under Article 121(3) of UNCLOS. China has claimed maritime zones surrounding these features greater than 12 M, from which it has sought to exclude the Philippines, notwithstanding the encroachment of these zones on the Philippines' exclusive economic zone, or on international waters.

5. In June 2012, China formally created a new administrative unit, under the authority of the Province of Hainan, that included all of the maritime features and waters within the "nine dash line". In November 2012, the provincial government of Hainan Province promulgated a law calling for the inspection, expulsion or detention of vessels "illegally" entering the waters claimed by China within this area. The new law went into effect on 1 January 2013.

6. In response to these and other unlawful acts in contravention of UNCLOS, the Philippines seeks an Award that: (1) declares that the Parties' respective rights and obligations in regard to the waters, seabed and maritime features of the South China Sea are governed by UNCLOS, and that China's claims based on its "nine dash line" are inconsistent with the Convention and therefore invalid; (2) determines whether, under Article 121 of UNCLOS, certain of the maritime features claimed by both China and the Philippines are islands, low tide elevations or submerged banks, and whether they are capable of generating entitlement to maritime zones greater than 12 M; and (3) enables the Philippines to exercise and enjoy the

rights within and beyond its exclusive economic zone and continental shelf that are established in the Convention.

7. The Philippines does not seek in this arbitration a determination of which Party enjoys sovereignty over the islands claimed by both of them. Nor does it request a delimitation of any maritime boundaries. The Philippines is conscious of China's Declaration of 25 August 2006 under Article 298 of UNCLOS, and has avoided raising subjects or making claims that China has, by virtue of that Declaration, excluded from arbitral jurisdiction.

8. All of the Philippines' claims in this arbitration have been the subject of good faith negotiations between the Parties. There have been numerous exchanges of views. The requirements of Article 279 have been satisfied. There is, therefore, no bar to the Arbitral Tribunal's exercise of jurisdiction over the claims asserted by the Philippines.

II. FACTUAL BACKGROUND

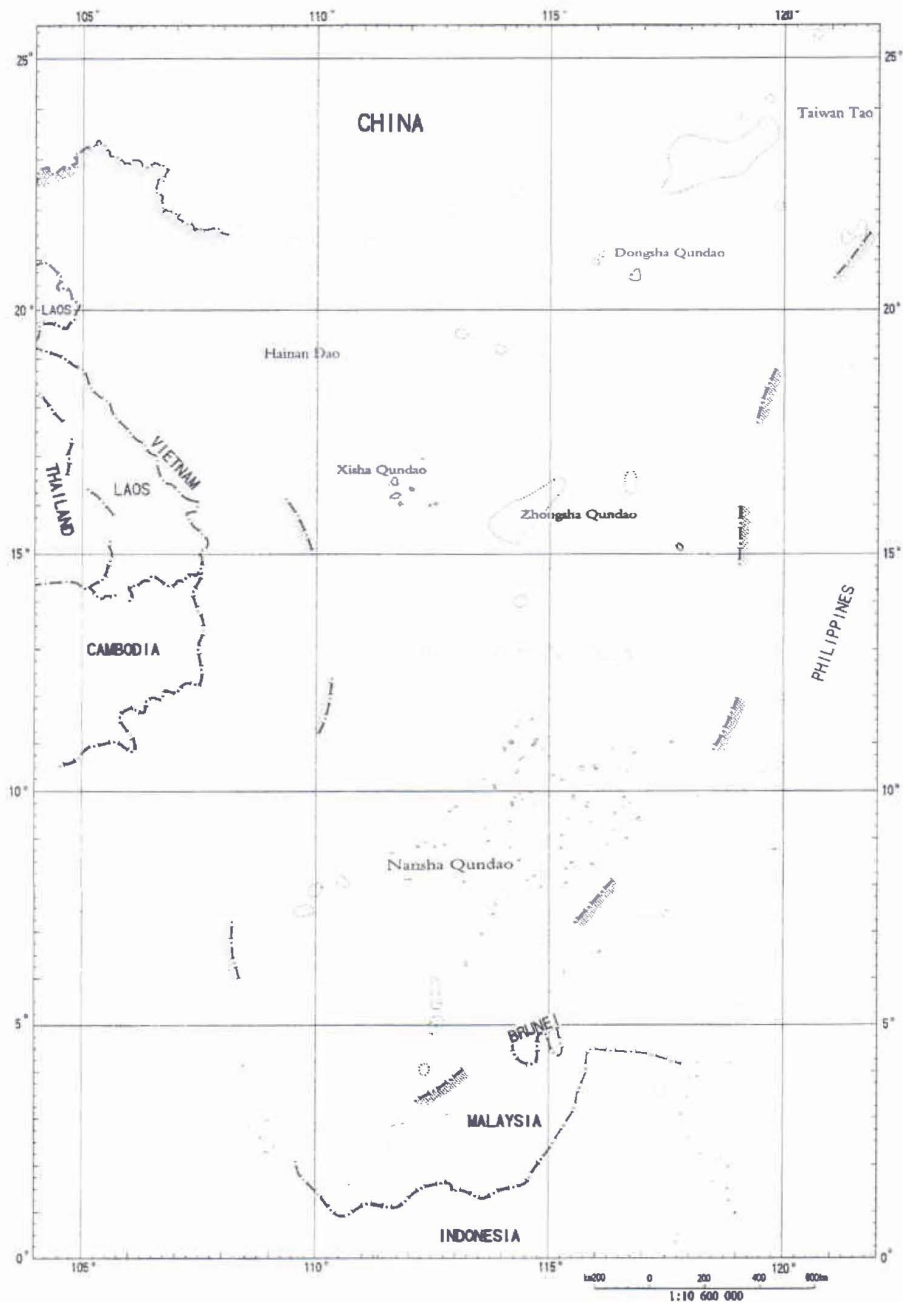
A. Maritime Areas

9. The South China Sea, part of which is known in the Philippines as the West Philippine Sea, is a semi-enclosed sea in Southeast Asia that covers approximately 2.74 million square kilometers. The Sea is surrounded by six States and Taiwan. To the north are the southern coast of mainland China, and China's Hainan Island. To the northeast lies Taiwan. To the east and southeast is the Philippines. The southern limits of the sea are bounded by Brunei, Malaysia and Indonesia. And to the west is Vietnam.

10. There are many small insular features in the South China Sea. They are largely concentrated in three geographically distinct groups: the Paracel Islands in the northwest;

Scarborough Shoal in the east; and the Spratly Islands in the southeast. The Paracel Islands are not relevant to this arbitration. Scarborough Shoal, located approximately 120 M west of the Philippines' coast and more than 350 M from China, is a submerged coral reef with six small protrusions of rock above sea level at high tide. The Spratly Islands are a group of approximately 150 small features, many of which are submerged reefs, banks and low tide elevations. They lie between 50 and 350 M from the Philippine island of Palawan, and more than 550 M from the Chinese island of Hainan. None of the Spratly features occupied or controlled by China is capable of sustaining human habitation or an economic life of its own.

11. Notwithstanding its adherence to UNCLOS, China claims almost the entirety of the South China Sea, and all of the maritime features, as its own. Specifically, China claims “sovereignty” or “sovereign rights” over some 1.94 million square kilometers, or 70% of the Sea’s waters and underlying seabed within its so-called “nine dash line.” China first officially depicted the “nine dash line” in a letter of 7 May 2009 to the United Nations Secretary General. It is reproduced below. According to China, it is sovereign over all of the waters, all of the seabed, and all of the maritime features within this “nine dash line”.



12. In the east, the “nine dash line” depicted in China’s letter is less than 50 M off the Philippine island of Luzon. In the southeast, it is within 30 M from Palawan. In both respects, it cuts through – and cuts off – the Philippines’ 200 M exclusive economic zone and continental shelf, in violation of UNCLOS. Within the area encompassed by the “nine dash line”, China has

engaged in conduct that has unlawfully interfered with the Philippines' right of navigation, notwithstanding that some of the area is in the Philippines' own exclusive economic zone, and the rest is high seas; and China has interfered with the exercise by the Philippines of its rights to the living and non-living resources in its exclusive economic zone and continental shelf extending west from the island of Luzon, and northwest from the island of Palawan. China has also violated the Philippines' rights by exploiting the living resources in the Philippines' exclusive economic zone.

13. China's interference with and violations of the Philippines' rights under UNCLOS have been steadily escalating. In June 2012, China placed the entire maritime area within the "nine dash line" under the authority of the Province of Hainan, which, in November 2012, in the exercise of its administrative authority, promulgated a law that requires foreign vessels to obtain China's permission before entering the waters within the "nine dash line", and provides for inspection, expulsion and detention of vessels that do not obtain such permission. The law went into effect on 1 January 2013.

B. Submerged Features

14. Even before its first official espousal of the "nine dash line", China began to seize physical control of a number of submerged features and protruding rocks in the Spratly Islands, in the southeastern part of the Sea, and to construct artificial "islands" on top of them. Among the submerged features that China occupied and altered in this manner are: Mischief Reef, McKennan Reef, Gaven Reef and Subi Reef. None of these features is an island under Article 121 of UNCLOS. They are all at best low tide elevations, far removed from China's territorial sea, exclusive economic zone and continental shelf. Because they are not above water at high

tide, they are part of another State's continental shelf, or the international seabed. Yet, China has not only acted unlawfully by seizing control of these submerged features; it has declared maritime zones around them, from which it has illegally sought to exclude the Philippines and other States.

15. Mischief Reef (Chinese name = Meiji Jiao; known in the Philippines as Panganiban Reef) is a submerged bank that is part of the Philippines' continental shelf, approximately 130 M from Palawan (and more than 600 M southeast of China's Hainan Island, the nearest Chinese land territory). Mischief Reef lies at approximately 9° 54' N – 115° 32' E. Since 1995, China has constructed buildings and other facilities on stilts and concrete platforms at four different sites atop Mischief Reef, despite repeated protests from the Philippines.

16. McKennan Reef (Chinese name = Ximen Jiao; known in the Philippines as Chigua Reef) is a low tide elevation located at approximately 9° 53'5" N – 114° 28' E. It is approximately 180 M west of the Philippine island of Palawan, and is also part of the Philippines' continental shelf. China has constructed buildings and other facilities on stilts and concrete platforms at this feature, as well, despite the Philippines' protests.

17. China has not only unlawfully seized parts of the Philippines' continental shelf, but has also wrongfully sought to prevent Philippine vessels from approaching Mischief Reef and McKennan Reef, even though the surrounding waters are within the Philippines' exclusive economic zone.

18. Gaven Reef (Chinese name = Nanxun Jiao) is a low tide elevation located at approximately 10° 13' N – 114° 13' E. It lies approximately 205 M northwest of Palawan.

19. Subi Reef (Chinese name = Zhubi Jiao; known in the Philippines as Zamora Reef) is a low tide elevation located at approximately 10° 55' N – 114° 05' E. It lies approximately 230 M west of Palawan.

20. In addition to the features listed above, China adopted a new posture with respect to the submerged feature known as Second Thomas Shoal (Chinese name = Ren'ai Jiao; known in the Philippines as Ayungin Shoal) in the months following the presentation of the Philippines' original Notification and Statement of Claim in January 2013. Second Thomas Shoal is a reef located some 13 M east of Mischief Reef and 104 M west of the Philippine Island of Palawan at 9° 44' N - 115° 51' E, no part of which is above water at high tide. It therefore forms part of the Philippines' continental shelf.

21. The Philippines has maintained a peaceful and continuous presence at Second Thomas Shoal since at least 1998. The Philippines' presence consists of a small detachment of personnel on a Philippine ship, the BRP *Sierra Madre*, grounded at the site.

22. Beginning in April 2013, China's diplomatic representatives have made a series of demarches to representatives of the Philippines in which they stated that China had in the past been "very patient" with the Philippines' presence at Second Thomas Shoal but "would not allow" that presence to continue because it was "in violation of China's sovereignty", notwithstanding the fact that Second Thomas Shoal, as a low-tide elevation, more than 600 M from China's coast is not capable of acquisition under international law, either by occupation or otherwise. China further threatened to prevent the resupply of the Philippine personnel stationed at Second Thomas Shoal for purposes of driving them from the area; conducted repeated maritime activities in dangerously close proximity to Second Thomas Shoal, including inside the

lagoon formed by the shoal; and undertook other activities inconsistent with the Philippines' rights under UNCLOS, in particular by interfering with Philippine navigation and fishing in the waters adjacent to the shoal.

C. Insular Features

23. In 2012, China seized six small rocks that protrude above sea level within the Philippines' exclusive economic zone, unlawfully claimed an exaggerated maritime zone around these features, and wrongfully prevented the Philippines from navigating, or enjoying access to the living resources within this zone, even though it forms part of the Philippines' EEZ. These half dozen protrusions, which are known collectively as Scarborough Shoal (Bajo de Masinloc in the Philippines; Huang Yan Dao in China), are located approximately 120 M west of the Philippine island of Luzon. They are rocks both literally and under Article 121 of UNCLOS. None is more than 3 meters ("m") above sea level at high tide; and none measures more than a few meters in width. None of the rocks, which lie in close proximity to one another, generates entitlement to more than a 12 M territorial sea. Yet, China, which like the Philippines asserts sovereignty over Scarborough Shoal, claims a much larger maritime zone for itself, to the limit of the "nine dash line" approximately 70 M to the east.

24. Until April 2012, Philippine fishing vessels routinely fished in this area, which is within the Philippines' 200 M exclusive economic zone. Since then, China has prevented the Philippines from fishing at Scarborough Shoal or in its vicinity, and undertaken other activities inconsistent with the Convention. Only Chinese vessels are now allowed to fish in these waters, and have harvested, inter alia, endangered species such as sea turtles, sharks and giant clams which are protected by both international and Philippine law.

25. To the southwest of Scarborough Shoal, in the Spratly Islands, China has seized similar features. China presently occupies the following features which, though above water at high tide, are uninhabitable and incapable of supporting economic life in their natural state. They are therefore “rocks” within the meaning of Article 121(3) of UNCLOS:

- Johnson Reef (Chinese name = Chigua Jiao; known in the Philippines as Mabini Reef), located at approximately 9° 42’ N – 114° 22’ E and approximately 180 M northwest of Palawan;
- Cuarteron Reef (Chinese name Huayang Jiao; known in the Philippines as Calderon Reef), located at approximately 8° 51’ N – 112° 50’ E and approximately 245 M west of Palawan; and
- Fiery Cross Reef (Chinese name = Yongshu Jiao; known in the Philippines as Kagitingan Reef), located at approximately 9° 33’ N – 112° 54’ E and approximately 255 M west of Palawan.

26. All of these features are submerged reefs with no more than a few rocks protruding above sea level at high tide. Johnson Reef has a few rocky protrusions rising above water at high tide. Cuarteron Reef is a collection of coral rocks reaching no higher than 1.5 m. Fiery Cross Reef consists of a submerged bank with protruding rocks no more than 1 m above sea level at high tide.

27. Notwithstanding that all of these insular features are “rocks” under Article 121(3) of UNCLOS, China unlawfully claims entitlements to maritime zones greater than 12 M in the waters and seabed surrounding them, and wrongfully excludes the Philippines and other States

from these areas. Moreover, in the case of Scarborough Shoal and Johnson Reef, the maritime zones claimed by China unlawfully encroach upon the Philippines' 200 M exclusive economic zone and continental shelf extending from Luzon and Palawan, and prevent the Philippines from enjoying its rights under the Convention within 200 M.

D. Exchanges of Views

28. On numerous occasions, dating back at least to 1995, the Philippines and China have exchanged views regarding the settlement of their disputes concerning entitlements to maritime areas in the South China Sea, the exercise within those maritime areas of rights pertaining to navigation and the exploitation of living and non-living resources, and the status of maritime features in the Spratly Islands and at Scarborough Shoal.

29. The Parties have been exchanging views on these disputes in attempts to achieve negotiated solutions since the first "Philippines-China Bilateral Consultations on the South China Sea Issue" were held in August 1995. However, despite many bilateral meetings and exchanges of diplomatic correspondence over more than 17 years since those first consultations were held, no settlements have been reached on any of these disputed matters.

30. In regard to entitlements to maritime areas in the South China Sea, the Philippines has consistently expressed the view to China in bilateral meetings and diplomatic correspondence that it is entitled to an exclusive economic zone and continental shelf of 200 M from its archipelagic baselines, and to the exclusive enjoyment of the living and non-living resources in these zones, as well as to the right to navigate without interference by China within and beyond its 200 M limit. In response, China has repeatedly expressed the conflicting view that it is entitled to all the maritime space encompassed by its "nine dash line", to all the living and non-

living resources within this limit, and to control navigation within this area. By its diplomatic note dated 21 November 2012, the Philippines declared, as it did on numerous prior occasions, that it cannot accept the validity of the “nine dash line” or China’s claims based thereon. Over the past 17 years of such exchanges of views, all possibilities of a negotiated settlement have been explored and exhausted.

31. With respect to the status of maritime features in the Spratly Islands and adjacent waters, and rights to navigate and exploit the living resources in these waters, the Parties have exchanged views since at least August 1995, and as recently as July 2012. The Philippines has repeatedly protested Chinese activities on and adjacent to Subi Reef and Mischief Reef, which form part of the Philippines’ continental shelf, as well as China’s claims and activities in regard to the other maritime features in the Spratly group occupied or claimed by China. China has consistently rejected the Philippines’ protests and maintained its occupation of and activities on these features. Each Party has protested interference by the other with its claimed navigational rights, and with its claimed rights to the living resources, in the waters adjacent to these features. None of the protests, or ensuing meetings or diplomatic correspondence in which views were exchanged, resulted in the settlement of these disputes.

32. With respect to the status of the maritime features at Scarborough Shoal and adjacent waters, and rights to navigate and exploit the living resources in these waters, the Parties have been exchanging views regarding the settlement of their dispute since at least May 1997. Most recently, during a series of meetings in Manila in April 2012, the Parties once again exchanged views on these matters without arriving at a negotiated solution. As a result of the failure of negotiations, the Philippines later that month sent China a diplomatic note in which it invited

China to agree to bring the dispute before an appropriate adjudicatory body. China declined the invitation.

33. The diplomatic record leaves no doubt that the requirement in Article 283 that the “parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means” has been satisfied.

III. THE PHILIPPINES’ CLAIMS

34. Based on the foregoing and the evidence to be submitted in the course of this arbitration, the Philippines asserts the following claims:

- China’s rights in regard to maritime areas in the South China Sea, like the rights of the Philippines, are those that are established by UNCLOS, and consist of its rights to a Territorial Sea and Contiguous Zone under Part II of the Convention, to an Exclusive Economic Zone under Part V, and to a Continental Shelf under Part VI;
- Accordingly, China’s maritime claims in the South China Sea based on its so-called “nine dash line” are contrary to UNCLOS and invalid;
- Submerged features in the South China Sea that are not above sea level at high tide, and are not located in a coastal State’s territorial sea, are part of the seabed and cannot be acquired by a State, or subjected to its sovereignty, unless they form part of that State’s Continental Shelf under Part VI of the Convention;

- Mischief Reef, McKennan Reef, Gaven Reef, Subi Reef and Second Thomas Shoal are submerged features that are not above sea level at high tide, are not islands under the Convention, are not located on China's Continental Shelf; and China has unlawfully occupied and engaged in unlawful construction activities on these features;
- Mischief Reef, McKennan Reef and Second Thomas Shoal are part of the Philippines' Continental Shelf under Part VI of the Convention.
- Scarborough Shoal, Johnson Reef, Cuarteron Reef and Fiery Cross Reef are submerged features that are below sea level at high tide, except that each has small protrusions that remain above water at high tide, which qualify as "rocks" under Article 121(3) of the Convention, and generate an entitlement only to a Territorial Sea no broader than 12 M; and China has unlawfully claimed maritime entitlements beyond 12 M from these features;
- China has unlawfully prevented Philippine vessels from exploiting the living resources in the waters adjacent to Scarborough Shoal and Johnson Reef;
- The Philippines is entitled under UNCLOS to a 12 M Territorial Sea, a 200 M Exclusive Economic Zone, and a Continental Shelf under Parts II, V and VI of UNCLOS, measured from its archipelagic baselines;
- China has unlawfully claimed rights to, and has unlawfully exploited, the living and non-living resources in the Philippines' Exclusive Economic Zone and Continental Shelf, and has unlawfully prevented the Philippines from exploiting

the living and non-living resources within its Exclusive Economic Zone and Continental Shelf; and

- China has unlawfully interfered with the exercise by the Philippines of its rights to navigation under the Convention.

IV. JURISDICTION OF THE TRIBUNAL

35. The Philippines and China are both parties to UNCLOS, having ratified the Convention on 8 May 1984 and 7 June 1996, respectively. It follows that both Parties have given their advance consent to the regime of settlement of disputes concerning the interpretation and application of the Convention established in Part XV.

36. Article 279 of the Convention requires States Parties to seek a solution by peaceful means in accordance with the UN Charter. Article 283(1) further requires that when a dispute arises between States Parties, they should proceed expeditiously to an exchange of views regarding a settlement by negotiation or other peaceful means. The Philippines has complied with the requirements of Article 279 and Article 283(1) fully and in good faith, and has exhausted possibilities of settlement by negotiation.

37. As the Philippines and China have failed to settle the dispute between them by peaceful means of their own choice, Article 281(1) allows recourse to the procedures provided for in Part XV, including compulsory procedures entailing binding decisions under Section 2 of Part XV. Article 286 allows these compulsory procedures to be initiated by any State Party in the court or tribunal having jurisdiction under Section 2.

38. The choice of compulsory procedures is governed by Article 287, the first paragraph of which allows a State Party, by means of a written declaration, to choose one or more of the means for settlement of disputes listed therein, including recourse to an arbitral tribunal under Annex VII of the Convention. States Parties to a dispute which have not made declarations pursuant to Article 287(1) are deemed by operation of Article 287(3) to have accepted arbitration in accordance with Annex VII.

39. Since neither the Philippines nor China has made a declaration pursuant to Article 287(1), and since no agreement to the contrary currently exists, it follows that, in accordance with Article 287(5), this dispute may be submitted to arbitration under Annex VII of the Convention.

40. The jurisdiction of an Annex VII tribunal extends to any dispute concerning the interpretation or application of the Convention, subject to the provisions of Section 3 of Part XV.

41. Section 3 of Part XV contains optional exceptions from jurisdiction in Article 298. Such exceptions have been invoked by China in a formal declaration dated 25 August 2006.

42. None of these exceptions is applicable to the Philippines' claims in this arbitration. The present dispute concerns (a) whether, in light of China's repeated assertions of alleged "sovereign rights and jurisdiction" within the so-called "nine dash line", the Parties' respective rights and obligations in regard to the waters, seabed and maritime features of the South China Sea are governed by the provisions of UNCLOS, including but not limited to Articles 3-14 of Part II, Articles 55 and 57 of Part V, Article 76 of Part VI, Article 121 of Part VIII and Article 300 of Part XVI; (b) whether China's Claims based on the "nine dash line" are inconsistent with those provisions; (c) whether, under Article 121 of UNCLOS, certain of the maritime features in the South China Sea are islands, low tide elevations or submerged banks, and whether they are

capable of generating entitlements to maritime zones greater than 12 M; and (d) whether China has violated the right of navigation of the Philippines in the waters of the South China Sea, and the rights of the Philippines in regard to the living and non-living resources within its exclusive economic zone and continental shelf.

43. It follows that the Philippines' claims do not fall within China's Declaration of 25 August 2006, because they do not: concern the interpretation or application of Articles 15, 74 and 83 relating to sea boundary delimitations; involve historic bays or titles within the meaning of the relevant provisions of the Convention; concern military activities or law enforcement activities; or concern matters over which the Security Council is exercising functions assigned to it by the UN Charter.

V. RELIEF SOUGHT

44. In light of the above, and the evidence to be submitted in the course of this arbitration, the Philippines respectfully requests that the Arbitral Tribunal issue an Award that:

- Declares that China's rights in regard to maritime areas in the South China Sea, like the rights of the Philippines, are those that are established by UNCLOS, and consist of its rights to a Territorial Sea and Contiguous Zone under Part II of the Convention, to an Exclusive Economic Zone under Part V, and to a Continental Shelf under Part VI;
- Declares that China's maritime claims in the South China Sea based on its so-called "nine dash line" are contrary to UNCLOS and invalid;

- Requires China to bring its domestic legislation into conformity with its obligations under UNCLOS;
- Declares that Mischief Reef, McKennan Reef and Second Thomas Shoal are submerged features that form part of the Continental Shelf of the Philippines under Part VI of the Convention, and that China's occupation of and construction activities on Mischief and McKennan Reefs, and its exclusion of Philippine vessels from Second Thomas Shoal, violate the sovereign rights of the Philippines;
- Requires that China end its occupation of and activities on Mischief Reef and McKennan Reef and at Second Thomas Shoal;
- Declares that Gaven Reef and Subi Reef are submerged features in the South China Sea that are not above sea level at high tide, are not islands under the Convention, and are not located on China's Continental Shelf, and that China's occupation of and construction activities on these features are unlawful;
- Requires China to terminate its occupation of and activities on Gaven Reef and Subi Reef;
- Declares that Scarborough Shoal, Johnson Reef, Cuarteron Reef and Fiery Cross Reef are submerged features that are below sea level at high tide, except that each has small protrusions that remain above water at high tide, which are "rocks" under Article 121(3) of the Convention and which therefore generate entitlements

only to a Territorial Sea no broader than 12 M; and that China has unlawfully claimed maritime entitlements beyond 12 M from these features;

- Requires that China refrain from preventing Philippine vessels from exploiting in a sustainable manner the living resources in the waters adjacent to Scarborough Shoal and Johnson Reef, and from undertaking other activities inconsistent with the Convention at or in the vicinity of these features;
- Declares that the Philippines is entitled under UNCLOS to a 12 M Territorial Sea, a 200 M Exclusive Economic Zone, and a Continental Shelf under Parts II, V and VI of UNCLOS, measured from its archipelagic baselines;
- Declares that China has unlawfully claimed, and has unlawfully exploited, the living and non-living resources in the Philippines' Exclusive Economic Zone and Continental Shelf, and has unlawfully prevented the Philippines from exploiting living and non-living resources within its Exclusive Economic Zone and Continental Shelf;
- Declares that China has unlawfully interfered with the exercise by the Philippines of its rights to navigation and other rights under the Convention in areas within and beyond 200 M of the Philippines' archipelagic baselines; and
- Requires that China desist from these unlawful activities.


VI. APPOINTMENT OF ARBITRATOR

45. In accordance with the requirements of UNCLOS Annex VII, Article 3(b), in its original Notification and Statement of Claim, dated 22 January 2013, the Philippines appointed Judge Rudiger Wolfrum as a member of the Arbitral Tribunal.

VII. RESERVATION OF RIGHTS

46. The Philippines reserves the right to supplement and/or amend its claims and the relief sought as necessary, and to make such other requests of the Arbitral Tribunal as may be required, to preserve its rights under UNCLOS, including a request for provisional measures.

Respectfully submitted,


Francis H. Jardeleza
Solicitor General
Republic of the Philippines
Agent

28February 2014

Annex 6

Erlanger & Galinger v. The Swedish East Asiatic Co., (Ltd.) Et Al., & the "Oelwerke Teutonia" and New Zealand Insurance Co. (Ltd.), Supreme Court of the Philippines, Judgment, G.R. No. L-10051 (9 Mar. 1916)



Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. L-10051 March 9, 1916

ERLANGER & GALINGER, plaintiffs-appellants,

vs.

THE SWEDISH EAST ASIATIC CO., (LTD.) ET AL., defendants. THE "OELWERKE TEUTONIA" and NEW ZEALAND INSURANCE CO. (LTD.), appellants.

Gilbert, Haussermann, Cohn and Fisher for plaintiff-appellant.

Rohde and Wright and Lawrence, Ross and Block for defendant-appellants.

PER CURIAM:

The facts in this case are as follows:

First. The steamship *Nippon* loaded principally with copra and with some other general merchandise sailed from Manila on May 7, 1913, bound for Singapore. Second. The steamship *Nippon* went aground on Scarborough Reef about 4.30 in the afternoon of May 8, 1913. Third. Scarborough Reef is about 120 to 130 miles from the nearest point on the Island of Luzon. Fourth. On May 9, 1913, the chief officer, Weston, and nine members of the crew left the *Nippon* and succeeded in reaching the coast of Luzon at Santa Cruz, Zambales, on the morning of May 12, 1913. Fifth. On May 12, 1913, the chief officer sent a telegram to Helm, the Director of the Bureau of Navigation, at Manila, which was as follows:

SANTA CRUZ, ZAMBALES,

May 12, 1913.

DIRECTOR OF BUREAU OF NAVIGATION, Manila.

Nippon stranded on Scarborough Reef, wants immediate assistance for saving crew — boats gone. 12.15 p. m.

(Sgd.) WESTON.

Sixth. On the same day (May 12) at 1.30 p. m., the Government of the Philippine Islands ordered the coast guard cutter *Mindoro* with life-saving appliances to the scene of the wreck of the *Nippon*. Seventh. On the same day (May 12) at 3 p. m. the steamship *Manchuria* sailed from Manila for Hongkong and was requested to pass by Scarborough Reef. Eighth. The *Manchuria* arrived at Scarborough Reef some time before the arrival of the *Mindoro* on May 13, 1913, and took on board the captain and the remainder of the crew. Ninth. The *Manchuria* was still near Scarborough Reef when the *Mindoro* arrived. The captain of the *Manchuria* informed the captain of the *Mindoro* that the captain and crew of the *Nippon* were on board the *Manchuria* and were proceeding to Hongkong. Tenth. The captain of the *Mindoro* offered to render assistance to the captain and crew of the *Nippon*, which assistance was declined. The *Mindoro* proceeded to the *Nippon* and removed the balance of the baggage of the officers and crew, which was found upon the deck. Eleventh. The *Mindoro* proceeded to Santa Cruz, Zambales, where the chief officer, Weston, and the nine members of the crew were taken on board and brought to

Manila, arriving there on May 14, 1913. Twelfth. On May 13, 1913, Dixon, captain of the *Manchuria* sent the following message:

S. S. 'MANCHURIA', May 13, 1913.

All rescued from the *Nippon*. Stranded on extreme north end of shoal. Vessel stranded May 9. She is full of water fore and aft and is badly ashore. Ship abandoned. Proceed Hongkong.

(Sgd.) "DIXON.

The captain of the *Nippon* saw the above message before it was sent. Thirteenth. On May 14, 1913, the plaintiff applied to the Director of Navigation for a charter of a coast guard cutter, for the purpose of proceeding to "the stranded and abandoned steamer *Nippon* ." Fourteenth. The coast guard cutter *Mindoro* was chartered to the plaintiffs and started on its return to the S. S. *Nippon* on May 14, 1913. Fifteenth. The plaintiffs took possession of the *Nippon* on or about May 17, 1913, and continued in possession until about the 1st of July, when the last of the cargo was shipped to Manila. Sixteenth. The *Nippon* was floated and towed to Olongapo, where temporary repairs were made, and then brought to Manila. Seventeenth. The *Manchuria* arrived at Hongkong on the evening of May 14, 1913. When the captain and crew left the *Nippon* and went on board of *Manchuria*, they took with them the chronometer, the ship's register, the ship's articles, the ship's log, and as much of the crew's baggage as a small boat could carry. The balance of the baggage of the crew was packed and left on the deck of the *Nippon* and was later removed to the *Mindoro*, without protest on the part of the captain of the *Nippon*, as above indicated. Eighteenth. The cargo was brought to the port of Manila and the following values were fixed:

Copra (approximately 1317 tons) valued at, less cost of sale by Collector of Customs	P142,657.05
General cargo — sold at customhouse	5,939.68
Agar-agar	5,635.00
Camphor	1,850.00
Curios	<u>150.00</u>
Total	156,231.73

Nineteenth. The ship was valued at P250,000. The plaintiffs' claim against the ship was settled for L15,000 or about P145,800.

The plaintiffs brought the present action (August 5, 1913; amended complaint, September 23, 1913) against the insurance companies and underwriters, who represented the cargo salvaged from the *Nippon*, to have the amount of salvage, to which the plaintiffs were entitled, determined.

The case came on for trial before the Honorable A. S. Crossfield. The Oelwerke Teutonia, a corporation, appeared as claimant of the copra. The New Zealand Insurance Company appeared as insurer and assignee of the owners of 33 crates of agar-agar; The Tokio Marine Insurance Company appeared as the insurer and assignee of 1,000 cases of bean oil and two cases of bamboo lacquer work; and The Thames and Mersey Marine Insurance Company appeared as a reinsurer to the extent of P6,500 on the cargo of copra. The court found that the plaintiffs were "entitled to recover one-half of the net proceeds from the property salvaged and sold (which has nothing to do with the steamship itself), and one-half the value of the property delivered to the claimants."

Judgment was entered as follows:

In favor of the plaintiffs, Erlanger & Galinger for one-half of the net proceeds of sales amounting to P47,298.36 and one-half of the interest accruing thereon, and against Carl Maeckler for the sum of P925, and against the New Zealand Insurance Company (Ltd.) for the sum of P2,800, and against whomever the two cases marked R — W, Copenhagen, were delivered to, and for the sum of P2,370.68, out of the

proceeds of the sale of 1,000 cases of vegetable oil, and in favor of the 'Oelwerke Teutonia' for the sum of P71,328.53, now deposited with the Hongkong & Shanghai Banking Corporation, together with one-half of the interest thereon.

No costs were taxed.

The Oelwerke Teutonia, The New Zealand Insurance Company (Ltd.), and Erlanger & Galinger appealed from this decision. The Oelwerke Teutonia made the following assignments of error: "

(I) The court below erred in finding that the plaintiffs are salvors of the copra in question. (II) The court erred in holding that the plaintiffs are entitled to recover one-half of the proceeds of the copra. (III) The court erred in rendering judgment in favor of the plaintiffs for half of the proceeds of the copra. (IV) The court erred in disallowing the defendants' counterclaim. (V) The court erred in overruling defendant's motion for a new trial."

The New Zealand Insurance Company (Ltd.) made the following assignments of error:

Now comes the New Zealand Insurance Company (Ltd.), defendant and appellant in the above-entitled cause, and avers that in the proceedings in the said cause, in the Court of First Instance of Manila, there was manifest error to the prejudice of this appellant, in this, to wit:

(I) That said court found that the plaintiffs are entitled to one-half of the value of thirty crates of agar-agar delivered to his appellant; (II) That the said court ordered judgment in favor of the plaintiffs and against this appellant for the sum of P2,800; (III) That the said court denied the motion of this appellant for a new trial.

The appellants, Erlanger & Galinger, made the following assignments of error:

Error No. 1. The court erred in ruling that the plaintiffs were not entitled to a reimbursement of their expenses, out of the gross value of the salvaged property, before the division of the remainder into moieties between the salvors and the claimants. Error No. 2. The court erred in holding that the cargo and the vessel are equally chargeable with the expense of salvage. Error No. 3. The court erred in refusing to award the plaintiffs, out of the proceeds of the sale of the cargo, the sum of P28,755.86 as compensation and the sum of P98,720 as reimbursement of expenses, or a total of P127,475.08. Error No. 4. The court erred in awarding into the claimant 'Oelwerke Teutonia' the sum of P17,328.53, or any part thereof out of the proceeds of the salvaged cargo. Error No. 5. The court erred in denying the motion of the plaintiffs for a new trial."

The assignments of error and the briefs of all of the appellants raised by three questions: (1) Was the ship abandoned? (2) Was the salvage conducted with skill, diligence, and efficiency? (3) Was the award justified?

The general rules and principles governing salvage services and salvage awards are well settled. This branch of the law of the sea dates back to the early history of navigation. We find the recorded in the Laws of Oleron, which were promulgated sometime before the year 1266, at article IV:

If a vessel, departing with her lading from Bordeaux, or any other place, happens in the course of her voyage, to be rendered unfit to proceed therein, and the mariners save as much of the lading as possibly they can; if the merchants require their goods of the master, he may deliver them if he pleases, they paying the freight in proportion to the part of the voyage that is performed, and the costs of the salvage. But if the master can readily repair his vessel, he may do it; or if he pleases, he may freight another ship to perform his voyage. And if he has promised the people who help him to save the ship the third, or the half part of the goods saved for the danger they ran, the judicatures of the country should consider the pains and trouble they have been at, and reward them accordingly, without any regard to the promises made them by the parties concerned in the time of their distress. (See 30 Fed. Cas., at page 1172).

The courts of the United States and England have, in a long line of adjudicated cases, discussed the various phases of this important subject. In general, salvage may be defined as a service which one person renders to the owner of a ship or goods, by his own labor, preserving the goods or the ship which the owner or those entrusted with the care of them have either abandoned in distress at sea, or are unable to protect and secure. The Supreme Court of the United States and the other Federal Courts of the United States have had occasion numerous times to quote with approval the following definition from Flanders on Maritime Law:

Salvage is founded on the equity of remunerating private and individual services performed in saving, in whole or in part, a ship or its cargo from impending peril, or recovering them after actual loss. It is a compensation for actual services rendered to the property charged with it, and is allowed for meritorious conduct of the salvor, and in consideration of a benefit conferred upon the person whose property he has saved. A claim for salvage rests on the principle that, unless the property be in fact saved by those who claim the compensation, it can not be allowed, however benevolent their intention and however heroic their conduct. (The *Job H. Jackson*, 161 Fed. Rep., 1015, 1017; The *Amelia*, 1 Cranch, 1; The *Alberta*, 9 Cranch, 369; *Clarke vs. Dodge Healy*, 4 Wash. C. C., 651; Fed. Cas. No. 2849.)

In the case of *Williamson vs. The Alphonso* (Fed. Cas., No. 17749; 30 Fed. Cas. 4, 5), the court laid down practically the same rule.

The relief of property from an impending peril of the sea, by the voluntary exertions of those who are under no legal obligation to render assistance, and the consequent ultimate safety of the property, constitute a case of salvage. It may be a case of more or less merit, according to the degree of peril in which the property was, and the danger and difficulty of relieving it; but these circumstances affect the degree of the service and not its nature.

In *Blackwall vs. Saucelito Tug Company* (10 Wall., 1, 12), the court said:

Salvage is the compensation allowed to persons by whose assistance a ship or her cargo has been saved, in whole or in part, from impending peril on the sea, or in recovering such property from actual loss, as in case of shipwreck, derelict, or recapture.

It will be noticed from the above definitions that there are certain definite conditions which must always exist in a case of pure salvage. The Supreme Court of the United States, speaking through Mr. Justice Clifford, in the case of *The Mayflower vs. The Sabine* (101 U. S., 384) makes those conditions three (p. 384).

Three elements are necessary to a valid salvage claim: (1) A marine peril. (2) Service voluntarily rendered when not required as an existing duty or from a special contract. (3) Success, in whole or in part, or that the service rendered contributed to such success.

These are the general principles governing salvage.

The question whether or not a particular ship and her cargo is a fit object of salvage depends upon her condition at the time the salvage services are performed. In the present case the plaintiff-appellant claims that the *Nippon* was a derelict or quasi-derelict and that their claim should be adjudged upon this cases. A derelict is defined as "A ship or her cargo which is abandoned and deserted at sea by those who were in charge of it, without any hope of recovering it (*sine spe recuperandi*), or without any intention of returning to it (*sine animo revertendi*). Whether property is to be adjudged derelict is determined by ascertaining what was the intention and expectation of those in charge of it when they quitted it. If those in charge left with the intention of returning, or of procuring assistance, the property is not derelict, but if they quitted the property with the intention of finally leaving it, it is derelict, and a change of their intention and an attempt to return will not change its nature." (Abbott's Law of Merchant Ships and Seamen, Fourteenth Edition, p. 994.)

This contention of the plaintiffs raises the first question: (1) Was the ship abandoned?

The defendant-appellant Oelwerke Teutonia contends that the captain and the crew did not leave the ship *sine animo revertendi*, but that it was their intention to go to Hongkong and procure assistance with which to save the ship and her cargo. Whether the intention to return exists in a particular case is always difficult to determine. It is indeed a rare case when the master of the ship will leave without the intention of returning, if there is the slightest hope of saving his vessel. In the case of *The Coromandel* (1 Swab., 208) Dr. Lushington said:

It may be perfectly true that the master and these fifteen men, when they had got on board *The Young Frederick*, and were sailing away to Yarmouth, intended, if possible, to employ steamers to go and rescue the vessel, which was at no great distance. But is not that the case every day? A master and crew abandon a vessel for the safety of their lives; he does not contemplate returning to use his own exertions, but the master hardly ever abandons a vessel on the coast without the intention, if he can obtain assistance, to save his vessel. That does not take away the legal character of derelict. (*Norcross vs. The Laura*, 14 Wall.,

336.)

Judge Crossfield found that:

At the time the plaintiff commenced the attempt to save what was possible of the S. S. *Nippon* and cargo, it was justified, from all the conditions existing, in believing that it had been abandoned and in taking possession, even though the master of the vessel intended when he left it, to return and attempt salvage.

Such intention, if it existed, does not appear to have been very firmly fixed, considering the leisurely manner in which the master proceeded after he reached the Port of Hongkong.

The evidence amply supports this finding. The chief officer, Weston, upon reaching the coast of Zambales, on May 12, 1913, sent the following telegram to the Director of the Bureau of Navigation:

SANTA CRUZ, ZAMBALES,
May 12, 1913.

DIRECTOR OF BUREAU OF NAVIGATION, Manila.

Nippon stranded on Scarborough Reef, wants immediate assistance for saving crew boats gone — 12.15 p. m.

(Sgd.) R. WESTON.

On the evening of the same day Weston sent the following telegram:

SANTA CRUZ, ZAMBALES,
May 12, 1913.

DIRECTOR OF BUREAU OF NAVIGATION, Manila.

Left with nine hands at noon, 9th, 26 men still on board, ship well on reef, stern part afloat, about ten feet of water in holds, starboard list, heavy swell breaking over, little hope of saving ship — 6.27 p. m.

(Sgd.) WESTON.

On May 13, 1913, Captain Dixon of the S. S. *Manchuria*, after rescuing the remainder of the crew, left on board the *Nippon*, sent the following telegram to the Director of Navigation.

S. S. 'MANCHURIA,' May 13, 1913.

All rescued from the *Nippon*. Stranded on extreme north end of shoal. Vessel stranded May 9th. She is full of water fore and aft, and is badly ashore. *Ship abandoned*. Proceeding Hongkong — 9.40 a. m.

(Sgd.) DIXON, Master.

On May 14, 1913, after the members of the crew who came ashore with Weston had reached Manila, they made the following signed statement:

MANILA, P. I., May 14, 1913.

We, the undersigned officers and part of the crew of the Swedish steamer *Nippon*, do hereby declare that the S. S. *Nippon* struck on Scarborough Reef, about 4.30 on the afternoon on Thursday May 8 1913. Two of her boats were lost after we struck the reef, leaving only two on board and those damaged. The ship was filled with water and pounding on the reef and we considered her a wreck. In company with the chief officer,

we left the ship about noon on Friday, May 9, 1913, in a small boat and reached Sta. Cruz Zambales, a distance of 130 miles on the morning of Monday, May 12, 1913, and immediately the chief officer wired the Director of Navigation at Manila for assistance to rescue the balance of the crew left aboard the *Nippon*, as we considered their lives in danger and the ship a wreck, with little hope of saving her.

(Signed.)

F. Carman	A.G. Erickson
G.E. Johansson	F. Palm
W. Bratt	J. Karlberg
B. Nyolram	E. Thulin
E. Petterson	

On May 16, 1913, Captain Anderson of the Coast Guard cutter *Mindoro* made the following report to the Director of Navigation.

S.S. Mindoro
Manila, P.I., May 16, 1913

Sir

I have the honor to make he following report of voyage made to Scarborough Reef, May 12 to 14, 1913 for officers and crew of S.S. *Nippon*.

May 13, 1913, being 2 1/2 miles sought of reef, I observed S. S. *Nippon* stranded on the N. E. edge of reef. I immediately steered northward around the western edge of reef and arrived of stranded ship at 9.30 a. m. S. S. *Manchuria* was laying to about 1 1/2 miles northward of reef, making signals for me to come alongside. I immediately proceeded out to the *Manchuria*; upon arrival alongside the *Manchuria* the captain of the same ship informed me that the S. S. *Nippon* was abandoned and that he had the captain and crew on board for Hongkong. I then asked the captain of the *Manchuria* if the captain of the *Nippon* cared to go to Hongkong, as I was there to bring him and the crew to Manila if he desired to go. The captain of the *Manchuria* again informed me that the captain of the *Nippon* intended to go to Hongkong. I answered 'All right, I will then go and have a look at the *Nippon* and see how badly she is wrecked.' The captain of the *Manchuria* made the remark that she was half full of water and that she was very badly wrecked, but that there was still some baggage left on broad. He also informed me that he had a wire from the Director of Navigation ordering me to proceed to Santa Cruz to pick up boat's crew from *Nippon*. I said, 'All right. I will go and get baggage and have a look at the wreck.' I then left the *Manchuria* and steamed over to the wreck. On arrival alongside of the wreck I took on board all baggage packed standing on deck and sounded around the ship, fore and aft, finding 11 feet of water forward at low water and 20 feet aft in board, gradually decreasing from forward to aft and I found in holds about 8 feet of water and the cargo as far as I could see, on top, was nice and dry, and it is my opinion that with the position the ship is laying in and with the Southwest monsoon blowing the ship and most of the cargo can be salvaged, if work is started before the heavy typhoon season sets in. After leaving the wreck, I proceeded to Santa Cruz and picked up the first officer and crew of nine men and brought them to Manila.

On my second trip to the wreck, May 15th, I examined *Nippon* more fully and I believe that if the cargo is taken out the ship can be saved after the holes are pathed up, if this is done before the heavy weather sets in.

Very respectfully,

(Sgd.) GEO. ANDERSON,
Captain, '*Mindoro*.'

THE DIRECTOR OF NAVIGATION, Manila.

Copy sent Struckman & Company, May 16, 1913.

(Sgd.) "A. S. Thompson, chief clerk.

The testimony of Captain Eggert of the *Nippon* regarding the circumstances of the wreck, is as follows: (2d part of record, p. 327). "(P. 334.)

Q. When the *Manchuria* visited the scene of the wreck on May 13, how many of you went on board? —

A. We all went on board.

Q. By 'all' you mean yourself, passenger, and all the members of the crew that remained? —

A. Yes.

Q. What did you take with you? —

A. Just personal luggage, not all, what you could carry in a small boat, it could not be very much considering that the boat was broken and there were 27 men, the ship's chronometer and ship's papers.

Q. What do you mean by 'ship's papers'? —

A. Register, articles.

Q. Did you take the ship's log? —

A. Yes; that is the first thing I take.

Q. That is the first thing you take under what circumstances? —

A. Under any circumstances of accidents to the ship; because it is the official record up to the time an accident happens.

Q. Do you mean to state, captain, that in the event of any accident to a ship, no matter how slight, that the ship's log and register and articles are taken ashore? —

A. The ship's log on any occasion has to be brought before the Swedish Consul.

Q. How about the register and articles? —

A. Of course not.

Q. Under what circumstances do you take ashore the ship's articles and register? —

A. When I leave the ship myself I have, of course, to take those papers with me.

Q. Every time you leave the ship? —

A. No. Every time when I leave it stranded as she was. If I go on shore and try to get means for taking my ship off the ground, I have to prove what ship it is and all that. In the meantime a gale may come up and the ship be torn off the rock and destroyed and the papers lost."

(P. 336.) Q. What were the conditions prevailing aboard the ship from the time that she stranded until the *Manchuria* arrived? —

A. The first night there was very bad sea and high wind. The ship was came so much better than we could send the boat off about 11 o'clock in the forenoon by using precautions, oil, etc. The third and fourth day the weather was fine.

(P. 337.) Q. And do you now admit that you were mighty glad to get off the *Nippon*? —

A. We were all mighty glad.

Q. Why were you mighty glad? —

A. Chiefly because the crew had insisted on leaving the ship in some way, by building rafts, or in that boat of ours. And secondly because of the uncertainty. We did not know if our boat had reached shore. The scene of the accident was quite out of the track of any vessel, so it was quite natural when we saw that ship coming up we were glad to get into communication with the outside world.

Q. You say that the crew had insisted on leaving the ship? —

A. They were not insisting on it because they can not insist against the master of a ship. But they would like to get off.

Q. Why were they discussing the question? —

A. Because they considered it better to leave the ship and reach land rather than stay on the ship, not knowing if the boat had reached land or not.

Q. They considered it better for what purpose? —

A. Being safe.

Q. You mean better from the standpoint of safety of their life and limb? —

A. Yes. To their lives.

(P. 343.) Q. Captain, if your purpose in leaving the *Nippon* was to go to Hongkong for the purpose of arranging for her salvage, why did you not leave some of the crew on board? —

A. How could I leave some of the crew on board when there was no attendant? There could be a gale at any time and the ship would have slipped off and broken to pieces. I first of all was responsible for their lives."

(P. 348.) Q. (By Mr. Rohde.) Captain, did you or did you not leave the *Nippon*, with the intention of returning and the hope of recovering your ship and cargo? —

A. I left the *Nippon* with the full intention of returning to the ship and try to recover her, and I discussed that matter during the three days we were on the reef with every member I could see in the crew, and with the passenger. Everybody knew as soon as I put my foot on the *Manchuria* it was for the purpose of getting assistance. Captain Dixon knew, his officers knew it, and his crew knew it.

(Mr. Cohn.) You have not fully replied to the question asked you by counsel for the defendant, which is whether you had the hope of recovering the ship. —

A. I had hope if the weather continued fine.

(Mr. Cohn.) If you had that hope why didn't you leave some of your crew on board? —

A. Because the hope would not justify me leaving any of the crew on the ship.

(Mr. Cohn.) Your hope was so slight it did not warrant your leaving anybody on board? —

A. A hope is always slight. I mean to say your hope will never justify you to risk another man's life, even if you have a very good foundation for your hope. Life comes before property.

(Mr. Cohn.) Just what do you mean by "hope"? —

A. I mean to say that if the weather continues fine there is no risk, but if there is a typhoon or gale we will be worse off and the ship will be smashed and the crew perish. That is what I mean by a "hope" in this occasion.

(Mr. Cohn.) What you mean, Captain, is that you were going to Hongkong and if you could find some one that was willing to go out and look for your ship, and if your ship was still there, that you would undertake to salve her if you could. —

A. Of course.

Chief Engineer Emil Gohde was asked why the crew wanted to get ashore.

(P. 353.) Q. Why did they want to get to shore? —

A. They wanted to save their lives. We didn't know the weather in the China Sea. We could have expected a typhoon in a couple of days and very likely the ship would have gone into the sea.

Captain Eggert sent the following cablegram to the owners of the *Nippon*, after reaching Hongkong on May 14, 1913:

(P. 360.) *Nippon* wrecked during typhoon eight May Scarborough Shoal latitude 15 longitude 118 probably total wreck bottom seriously damaged ship full of water chief officer and nine men took to boat for rescue landed twelfth Luzon mailsteamer *Manchuria* saved captain and remaining crew morning thirteenth. Arrived Hongkong tonight. Wreck on edge of reef, will probably slip off and sink by first gale captain arranging to visit wreck and attempt salvage.

EGGERT.

Captain Eggert did not make any determined effort to arrange for the salvage of the *Nippon*, as will be seen from the testimony.

(P. 330. Captain Eggert testifying).

Q. What did you do upon your arrival in Hongkong? —

A. The first thing I did — it was about 5 o'clock in the afternoon — I went to the office of our agents — my owners' agents. It was then close up so I had to proceed to the private residence of the manager. From there I dispatched a telegram to the owners.

xxx xxx xxx

Q. What date was this telegram sent? —

A. On the evening of the 14th.

Q. Of what month? —

A. Of May.

Q. Did you enter into any negotiations with persons or firms? —

A. Yes. The first thing in the morning of the 15th I visited together with the Swedish Consul the Tykoo dockyard people, the Hongkong dockyard people, and went to the Mitsui Bussan Kaisha branch office, and those people sent a wire to their home office in Nagasaki.

Q. What, if anything, interrupted your negotiations with the firms and persons in Hongkong relative to the salvage of the *Nippon* and her cargo? —

A. A wire from my owners.

xxx xxx xxx

Q. When was this telegram received by you, Captain? —

A. On the 17th.

Q. What did you do then? —

A. I tried to find out when the next steamer was leaving for Manila and there was none leaving before the 20th, the steamer I took and proceeded here.

From the above it will be seen that Capt. Eggert had over two days in which to arrange for salvage operations and he did nothing, while the plaintiffs, who were strangers and had no interest, sent out a salvage expedition in twenty-four hours after they discovered that the ship was wrecked.

The evidence proves that the *Nippon* was in peril; that the captain left in order to protect his life and the lives of the crew; that the *animus revertendi* was slight. The argument of the defendant-appellant to the effect that the ship was in no danger is a bit out of place in view of the statement of the captain that she would sink with the first gale, coupled with the fact that a typhoon was the cause of her stranding.

The Federal Courts have, a number of times, had presented to them cases in which the facts were very similar to the facts in the present case. The claim for salvage was allowed in each of these cases. In *The Bee* (Fed. Cas. No. 1219; 3 Fed. Cas., 41), the facts were as follows: *The Bee* sailed from Boston to Nova Scotia. Three days after leaving port a gale was encountered which forced her to run into a cove on the north side of Grand Manan Island, where an anchor was let out. The ship was somewhat injured from the force of the storm. The master and the crew stayed on board for 24 hours and then went ashore to procure assistance. The island was very sparsely settled. They met on shore a number of men (the libelants) to whom they explained the predicament and position of the ship. These men immediately went to the ship, boarded her, and took possession. After the master had been ashore about five hours he returned to the ship and found the libelants in possession. The owners contended that the master was excluded from the ship wrongfully and therefore the libelants could not claim salvage. The court stated the law as follows (p. 44):

When a vessel is found at sea, deserted, and has been abandoned by the master and crew without the intention of returning and resuming the possession, she is, in the sense of the law, derelict, and the finder who takes the possession with the intention of saving her, gains a right of possession, which he can maintain against the true owner. The owner does not, indeed, renounce his right of property. This is not presumed to be his intention, nor does the finder acquire any such right. But the owner does abandon temporarily his right of possession, which is transferred to the finder, who becomes bound to preserve the property with good faith, and bring it to a place of safety for the owner's use; and he acquired a right to be paid for his services a reasonable and proper compensation, out of the property itself. He is not bound to part with the possession until this is paid, or it is taken into the custody of the law, preparatory to the amount of salvage being legally ascertained. Should the salvors meet with the owner after an abandonment, and he should tender his assistance in saving and securing the property, surely this ought not, without good reasons, to be refused, as this would be no bar to the right of salvage, and should it be unreasonably rejected it might affect the judgment of a court materially, as to the amount proper to be allowed. Still, as I understand the law, the right of possession is in the salvor. But when the owner, or the master and crew who represent him, leave a vessel temporarily, without any intention of a final abandonment, but with the intent to return and resume the possession, she is not considered as a legal derelict, nor is the right of possession lost by such temporary absence for the purpose of obtaining assistance, although no individual may be remaining on board for the purpose of retaining the possession. Property is not, in the sense of the law, derelict and the possession left vacant for the finder, until the *spes recuperandi* is gone, and the *animus revertendi* is finally given up. (*The Aquila*, 1 C. Rob. Adm., 41.) But when a man finds property thus temporarily left to the mercy of the elements, whether from necessity or any other cause, though not finally abandoned and legally derelict, and he takes possession of it with the *bona fide* intention of saving it for the owner, he will not be treated as a trespasser. On the contrary, if by his exertions he contributes materially to the preservation of the property, he will entitle himself to a remuneration according to the merits of his service as a salvor.

The court allowed salvage in this case. They held that the master had taken insufficient precautions to protect his vessel and although the ship was not a legal derelict, the libelants were salvors and entitled to salvage.

In *The John Gilpin* (Fed. Cas. No. 7345; 13 Fed. Cas., 675) the ship *John Gilpin*, in attempting to leave New York harbor in a winter storm, was driven ashore. The ship's crew sent for help and in the meantime put forth every effort to get her off. Help arrived toward evening, but accomplished nothing. The master and crew went ashore.

The same night the libelants went out to the ship with equipment and started working. It was contended that the master had gone ashore for assistance. He returned the next morning with a tug and some men and demanded possession, which was refused. Salvage was allowed. The court said (p. 676):

The libelants, in the exercise of their calling as wreckers, coming to a vessel in that plight, would be guilty of a dereliction of duty if they failed to employ all their means for the instantaneous preservation of property so circumstanced. This may not be strictly and technically a case of derelict (*Clarke vs. The Dodge Healy*, Case No. 2849), if really the master of the brig had gone to the city to obtain the necessary help to save the cargo and brig, intending at the time, to return with all practicable dispatch. It appears he came to the wreck by 8 or 9 a. m. the following day, in a steam-tug, with men to assist in saving the cargo. The *animus revertendi et recuperandi* may thus far have continued with the master, but this mental hope or purpose must be regarded inoperative and unavailing as an actual occupancy of the vessel, or manifestation to others of a continuing possession. She was absolutely deserted for 12 or 14 hours in a condition when her instant destruction was menaced, and the lives of those who should attempt to remain by her would be considered in highest jeopardy. She was quite derelict; and being thus found (*The Boston*, Case no. 1673; *Rowe vs. The Brig*, Case no. 12093; 1 Sir Lionel Jenkins, 89) by the libelants, the possession they took of her was lawful. (*The Emulous*, Case No. 4480.)

Possession being thus taken when the vessel was, in fact, abandoned and quite derelict, under peril of instant destruction, the libelants had a right to retain it until the salvage was completed, and no other person could interfere against them forcibly, provided they were able to effect the purpose, and were conducting the business with fidelity and vigor.

In *The Shawmut* (155 Fed. Rep., 476) the court allowed salvage upon the following facts: The four-masted schooner *Myrtle Tunnel* sailed from Brunswick bound for New York. The first day out a hurricane struck her and tore the sails away and carried off the deck load. She was badly damaged and leaking. The master of the *Myrtle Tunnel* requested towage by the steamship *Mae* to the port of Charleston. The *Mae*, on account of her own damaged condition, was unable to tow but she took the master and crew of the *Myrtle Tunnel* off and landed them at Charleston. The owners were notified and they started an expedition out in search. Before this expedition reached her, the steamship *Shawmut* sighted the *Myrtle Tunnel*, and, finding that she was abandoned and waterlogged, took her in tow and succeeded in taking her to Charleston. The owners of the *Myrtle Tunnel* contended that she was not derelict, because the master had gone ashore to procure assistance. With reference to this question, the court said (p. 478):

The first question that arises is whether the *Myrtle Tunnel* is a derelict. *Prima facie* a vessel found at sea in a situation of peril, with no one aboard of her, is a derelict; but where the master and crew leave such vessel temporarily, without any intention of final abandonment, for the purpose of obtaining assistance, and with the intent to return and resume possession, she is not technically a derelict. It is not of substantial importance to decide that question. She was what may be called a quasi-derelict; abandoned, helpless, her sails gone, entirely without power in herself to save herself from a situation not of imminent, but of considerable peril; lying about midway between the Gulf Stream and the shore, and about 30 miles from either. An east wind would have driven her upon one, and a west wind into the other, where she should have become a total loss. Lying in the pathway of commerce, with nothing aboard to indicate an intention to return and resume possession, it was a highly meritorious act upon the part of the *Shawmut* to take possession of her, and the award must be governed by the rules which govern in case of derelicts; the amount of it to be modified in some degree in the interest of the owners in consideration of their prompt, intelligent, and praiseworthy efforts to resume possession of her, wherein they incurred considerable expense.

The first of these cases was decided in 1836 and the last in 1907. They indicate that the abandonment of a vessel by all on board, when the vessel is in peril, will justify third parties in taking possession with the bona fide intention of saving the vessel and its cargo for its owners. The mental hope of the master and the crew will in no way affect the possession nor the right to salvage. See also *The Hyderabad* (11 Fed. Rep., 749), *The Cairnsmore* (20 Fed. Rep., 519), *Pearce vs. The Ann L. Lockwood* (37 Fed. Rep., 233).

This brings us to the second question raised by the assignments of error: (2) Was the salvage conducted with skill, diligence, and efficiency? The court found:

While the plaintiff entered upon the salvage proceedings without proper means and not being adapted by

their business to conduct their work, and while it may appear that possibly the salvage might have been conducted in a better manner and have accomplished somewhat better results in the saving of the copra cargo, yet it appears that they quickly remedied their lack of means and corrected the conduct of the work so that it accomplished fairly good results.

It does not appear from the evidence that anyone then or subsequently suggested or found any other course which might have been pursued and which would have brought better results.

There was some dispute whether Manila or Hongkong should be used as a base for operations. Capt. Robinson, who was the only one of the experts who had had any experience in handling wet copra, unqualifiedly approved Manila as a base for operations. (P. 437, 3d part of record):

Q. Assuming that you had been asked to undertake the work of salvaging the steamer *Nippon* and her cargo, please state whether you would have undertaken that work with the men and material available in Manila, or whether you would have gone to Hongkong and used Hongkong men and material and made Hongkong your base on operations. —

A. Certainly not. I would have made Manila my base, which I always have done.

Lebreton, a stevedore, testified that he would have gotten some of his materials from Hongkong but that he would have freighted the salvaged cargo to Manila. All other things being equal, the fact that Hongkong is forty sailing hours from Scarborough Reef while Manila is less than twenty-four sailing hours would make Manila by far the more logical base.

The plaintiffs sent men into the hold of the ship and sacked the copra and brought it to Manila where it was sold. Some of the witnesses contended that other methods should have been used. They testified that "grabs" or "clam shells" would have brought better results, but none of these witnesses had had any experience in unloading wet copra. Capt. Robinson was the only witness called who had had any experience in this class of work. He testified that the only way all the copra could be gotten out was by sacks or by canvas slights; that "grabs" would be of no use because of the inability to work with them between decks. The copra was in three layers. The top layer was dry, the middle layer was submerged every time the tide rose, and the lower layer was submerged all of the time. It was manifestly impossible to keep these layers separate by using "grabs" or "clam shells." The fact that wet copra is exceedingly difficult to handle, on account of the gases which arise from it, is also of prime importance in weighing the testimony of defendant's witnesses, because none of them had ever had experience with wet copra.

The plaintiffs commenced the actual work of salvaging the ship and cargo on May 18, 1913. The last of the cargo was brought to Manila the latter part of June. The last of the dry copra was brought to Manila on June 5. The estimates of the experts with regard to the time necessary to remove the cargo ranged from eight to twenty days. The greater portion of the cargo was brought in by the plaintiffs within fifteen days. The delay after June 5 was due to the difficulty in inducing laborers to work with wet copra. This difficulty would have arisen with any set of salvors and cannot be attributed to a lack of care or diligence on the part of the plaintiffs.

The plaintiffs were diligent in commencing the work and were careful and efficient in its pursuit and conclusion.

The third and last question is with regard to the amount of the award — (3) Was the award justified?

Compensation as salvage is not viewed by the admiralty courts merely as pay on the principle of *quantum meruit* or as a remuneration *pro opere et labore*, but as a reward given for perilous services, voluntarily rendered, and as an inducement to mariners to embark in such dangerous enterprises to save life and property. (*The Mayflower vs. The Sabine*, 101 U. S., 384.)

The plaintiff-appellant contends that the expenses incurred should be deducted from the entire amount of the salvaged property and the remainder be divided as a reward for the services rendered. This contention has no basis in the law of salvage compensation. The expenses incurred by the plaintiffs must be borne by them. It is true that the award should be liberal enough to cover the expenses and give an extra amount as a reward for the services rendered but the expenses are used in no other way as a basis for the final award. A part of the risk that the plaintiffs incurred was that the goods salvaged would not pay them for the amount expended in salvaging them. The plaintiffs knew this risk and they should not have spent more money than their reasonable share of the proceeds would amount to under any circumstances.

In the case of *The Carl Schurz* (Case No. 2414; 5 Fed. Cas., 84) the actual expenditure by the libelant in salvaging the vessel in question was \$568.95. The ship when sold brought \$792. The libelant wanted the court to first deduct the expenses. The court refused to do this but decreed a moiety. The court said (p. 86):

A salvor, in the view of the maritime law, has an interest in the property; it is called a lien, but it never goes, in the absence of a contract expressly made, upon the idea of a debt due by the owner to the salvor for services rendered, as at common law, but upon the principle that the service creates a property in the thing saved. He is, to all intents and purposes, a joint owner, and if the property is lost he must bear his share like other joint owners.

This is the governing principle here. The libelant and the owners must mutually bear their respective share of the loss in value by the sale. If the libelant has been unfortunate and has spent his time and money in saving a property not worth the expenditure he made, or if, having saved enough to compensate him, it is lost by the uncertainties of a judicial sale for partition, so to speak, it is a misfortune not uncommon to all who seek gain by adventurous speculations in values. The libelant says in his testimony that he relied entirely on his rights as a salvor. This being so he knew the risk he ran and it was his own folly to expend more money in the service than his reasonable share would have been worth under all circumstances and contingencies. He can rely neither on the common law idea of an implied contract to pay for work on and about one's property what the work is reasonably worth with alien attached by possession for satisfaction, nor upon any notion of an implied maritime contract for the service, with a maritime lien to secure it, as in the case of repairs, or supplies furnished a needy vessel, or the like. In such a case the owner would lose all if the property did not satisfy the debt, when fairly sold. But this doctrine has no place in the maritime law of salvage. It does not proceed upon any theory of an implied obligation, either of the owner or the *res*, to pay a *quantum meruit*, nor actual expenses incurred, but rather on that of a reasonable compensation or reward, as the case may be, to one who has rescued the *res* from danger of total loss. If he gets the whole, the property had as well been lost entirely, so far as the owner is concerned. (*Smith vs. The Joseph Stewart*, Fed. Cas. No. 13070.) I think the public policy of encouragement for such service does not, of itself, furnish sufficient support for a rule which would exclude the owner from all benefit to be derived from the service.

In *Williams vs. The Adolphe* (Fed. Cas. No. 17712; 29 Fed. Cas., 1350) the court said (p. 1353):

The claim of the libelants is for salvage, the services rendered were salvage services and the owners are to receive their property again, after paying salvage for the services rendered them. What service would it be to them to take their property under circumstances calling for the whole of it by way of indemnity? The mistake of the captain and the supercargo, and part owner of the *Triton* as to the value of the property on board the *Adolphe*, should not operate to the injury of the owners thereof; the salvors must bear the consequences of their own mistake, taking such a proportion only of the property salvaged, as by the law of the admiralty should be awarded them.

In *The Edwards* (12 Fed. Rep., 508, 509), the court said:

It is true that in rendering a salvage service the salvor assumes the risks of failure, and his salvage depends upon his success and the amount of property saved; yet when there is enough to fully compensate him for time and labor, and leave a reasonable proportion for the owner, he should certainly be awarded that, if the amount will allow no more.

In *The L. W. Perry* (71 Fed. Rep., 745, 746), the court said:

Without regard to the element of reward which is intended by the salvage allowance, it is manifest that remuneration *pro opere et labore* would be placed in excess of the fund here, if such basis were allowable. Therefore, it is contended on behalf of the libelant that the entire sum remaining should be awarded for the salvage service; . . .

While salvage is of the nature of a reward of meritorious service, and for determination of its amount the interests of the public and the encouragement of others to undertake like service are taken into consideration, as well as the risk incurred, and the value of the property saved, and where the proceeds for division are small, the proportion of allowance to the salvor may be enlarged to answer these purposes, nevertheless, the doctrine of salvage requires, as a prerequisite to any allowance, that the service `must be

productive of some benefit to the owners of the property salvaged; for, however meritorious the exertions of alleged salvors may be, if they are not attended with benefit to the owners, they can not be compensated as such.' (Abb. Shipp. [London Ed., 1892], 722.) The claim of the libellant can only be supported as one for salvage. It does not constitute a personal demand, upon *quantum meruit*, against the owners, but gives an interest in the property saved, which entitles the salvor to a liberal share of the proceeds. . . .

(P. 747.) One of the grounds for liberality in salvage awards is the risk assumed by the salvor, — that he can have no recompense for service or expense unless he is successful in the rescue of property, and that his reward must be within the measure of his success. He obtains an interest in the property, and in its proceeds when sold, but accompanied by the same risk of any misfortune or depreciation which may occur to reduce its value. In other words, he can only have a portion, in any event; and the fact that his exertions were meritorious and that their actual value, or the expense actually incurred, exceeded the amount produced by the service, cannot operate to absorb the entire proceeds against the established rules of salvage. (*The Carl Schurz*, Fed. Cas. No. 2414).

The plaintiff-appellants contends that the award of the lower court of one-half is the established rule in cases of derelicts and should not be disturbed. It is well established now that the courts have a wide discretion in settling the award. The award is now determined by the particular facts and the degree of merit. In *The Job H. Jackson* (161 Fed. Rep., 1015, 1018), the court said:

There is no fixed rule for salvage allowance. The old rule in cases of a derelict was 50 per cent of the property salvaged; but under modern decisions and practice, it may be less, or it may be more. The allowance rests in the sound discretion of the court or judge, who hears the case, hears the witnesses testify, looks into their eyes, and is acquainted with the environments of the rescue. . . . An allowance for salvage should not be weighed in golden scales, but should be made as a reward for meritorious voluntary services, rendered at a time when danger of loss is imminent, as a reward for such services so rendered, and for the purpose of encouraging others in like services.

In *The Lamington* (86 Fed. Rep., 675, 678), the court said:

While it appears most clearly that, since the old hard and fast rule of '50 per cent of a derelict' was abandoned, the award is determined by a consideration of the peculiar facts of each case, it is none the less true that the admiralty courts have always been careful not only to encourage salvaging enterprises by liberality, when possible, but also to recognize the fact that it is, after all, a speculation in which desert and reward will not always balance.

The award is largely in the discretion of the trial court and it is rare that the appellate court will disturb the findings.

Appellate courts rarely reduce salvage awards, unless there has been some violation of just principles, or some clear or palpable mistake. They are reluctant to disturb such award, solely on the ground that the subordinate court gave too large a sum, unless they are clearly satisfied that the court below made an exorbitant estimate of the services. It is equally true that, when the law gives a party a right to appeal, he has the right to demand the conscientious judgment of the appellate court on every question arising in the case, and the allowance of salvage originally decreased has, in many cases, been increased or diminished in the appellate court, even where it did not violate any of the just principles which should regulate the subject, but was unreasonably excessive or inadequate. (*Post vs. Jones*, 19 How., 161). Although the amount to be awarded as salvage rests, as it is said, in the discretion of the court awarding it, appellate courts will look to see if that discretion has been exercised by the court of first instance in the spirit of those decisions which higher tribunals have recognized and enforced, and will readjust the amount if the decree below does not follow in the path of authority, even though no principle has been violated or mistake made.

The property of the defendant-appellants which was salvaged was forced to pay the same proportion of the award without distinction. The dry copra and the agar-agar was salvaged with much more ease than the wet copra. The courts have, almost universally, made a distinction in this regard. In *The America* (1 Fed. Cas., 596), decided in 1836, the award was as follows: 25 per cent on cargo salvaged dry; 50 per cent on cargo salvaged damaged; 60 per cent on cargo salvaged by diving.

In *The Ajax* (1 Fed. Cas., 252), decided in 1836, the award was as follows: 33 per cent on the dry; 50 per cent on the wet; 50 per cent on ship's materials. In *The Nathaniel Kimball* (Fed. Cas. No. 10033), decided in 1853, the

award was as follows: 30 per cent on dry cargo; 50 per cent on wet, salvaged by diving and working under water.

In *The Brewster* (Fed. Cas. No. 1852), decided in 1848, the award was as follows: 33 per cent, and as to some cargo where diving was necessary, 60 per cent.

In *The Mulhouse* (Fed. Cas. No. 9910), decided in 1859, the award was as follows: 25 per cent salvaging dry deck cotton; 45 per cent salvaging cotton submerged between decks; 55 per cent salvaging cotton by diving.

In *The John Wesley* (Fed. Cas. No. 7433), decided in 1866, the award was as follows: 15 per cent; on damaged cotton a slightly higher per cent.

In *The Northwester* (Fed. Cas. No. 10333), decided in 1873, the award was as follows: 20 per cent on cotton dry; 33 1/3 per cent on cotton wet and burnt; 40 per cent on materials; 50 per cent on property salvaged by diving.

In *Baker vs. Cargo etc. of The Slobodna* (35 Fed. Rep., 537), decided in 1887, the award was as follows: 25 per cent on dry cotton; 33 1/3 per cent on wet cotton; 45 per cent on materials.

In the cases in which the full award of 50 per cent was allowed the court usually made the comment: "services highly meritorious," "meritorious service," "with great labor and difficulty," or similar remarks.

In the salvage operations conducted by the plaintiff, the following property was involved:

First, the steamship <i>Nippon</i> , valued at	P250,000.00
Second, copra, net value, salvaged	142,657.05
Third, agar-agar, net value, salvaged	5,635.00
Fourth, general cargo	5,939.68
Fifth, camphor, net value, salvaged	1,850.00
Sixth, curios, net value, salvaged	150.00

The plaintiff and the owners of the ship have heretofore, by mutual agreement, settled the question of the amount of salvage of the ship. The plaintiff received for that part of their services the sum of L15,000 or about P145,800.

No appeal was taken from the judgment of the lower court concerning the amount of salvage allowed by it for the general cargo, the camphor, nor the curios salvaged.

The only question raised by the appellants is as to the amount of salvage which should be awarded to the plaintiff-appellants for the copra and the agar-agar. After a careful study of the entire record and taking into account the amount which the plaintiffs have heretofore received, we have arrived at the conclusion that in equity and justice the plaintiff-appellants should receive for their services the following amounts:

- (a) 40 per cent of the net value of the wet copra salvaged.
- (b) 25 per cent of the net value of the dry copra salvaged.
- (c) 20 per cent of the net value of the agar-agar salvaged.

The net value of the wet copra salvaged amounted to P40,381.94; 40 per cent of that amount would be P16,152.78. The net value of the dry copra salvaged amounted to P102,272.11; 25 per cent of that amount would be P25,568.77.

In ascertaining the net value of the copra salvaged, the expenses incurred by the Collector of Customs in the sale of the copra, amounting to P4,080.01, has been deducted from the total amount of the copra salvaged in the proportion of 2.5 to 1. Dividing the expense in that proportion we have deducted from the amount of the dry copra salvaged the sum of P2,914.39, and from the amount of the wet copra salvaged, the sum of P1,165.62.

The net value of the agar-agar salvaged amounted to P5,636; 20 per cent of that amount would be P1,127.

In view of all of the foregoing, it is hereby ordered and decreed that the judgment of the lower court be modified, and that a judgment be entered against the defendant-appellants and in favor of the plaintiff-appellant, as follows: First, it is hereby ordered and decreed that a judgment be entered against the defendant, the Oelwerke Teutonia, and in favor of the plaintiff in the sum of P41,721.55. Second, it is further ordered and decreed that a judgment be entered against the defendant, the New Zealand Insurance Company (Ltd.), and in favor of the plaintiff, in the sum of P1,127. Third, it is further ordered and decreed that the amount of the judgment hereinbefore rendered in favor of the plaintiff be paid out of the money which is now under the control of the Court of First Instance of the city of Manila. And without any finding as to costs, it is so ordered.

Arellano, C.J., Torres, Johnson, Carson, and Trent, JJ.

Annex 7

Republic of the Philippines, *Republic Act No. 387, An Act to Promote the Exploration, Development, Exploitation, and Utilization of the Petroleum Resources of the Philippines; to Encourage the Conservation of such Petroleum Resources; to Authorize the Secretary of Agriculture and Natural Resources to Create an Administration Unit and a Technical Board in the Bureau of Mines; to Appropriate Funds Therefor; and for Other Purposes* (18 June 1949)

June 18, 1949

REPUBLIC ACT NO. 387

AN ACT TO PROMOTE THE EXPLORATION, DEVELOPMENT, EXPLOITATION,
AND UTILIZATION OF THE PETROLEUM RESOURCES OF THE PHILIPPINES;
TO ENCOURAGE THE CONSERVATION OF SUCH PETROLEUM RESOURCES;
TO AUTHORIZE THE SECRETARY OF AGRICULTURE AND NATURAL
RESOURCES TO CREATE AN ADMINISTRATION UNIT AND A TECHNICAL
BOARD IN THE BUREAU OF MINES; TO APPROPRIATE FUNDS THEREFOR;
AND FOR OTHER PURPOSES

CHAPTER I — GENERAL PROVISIONS

ARTICLE 1. Short Title of Act. — The short title of this Act shall be "Petroleum Act of 1949."

ARTICLE 2. Definition of terms. — When used in this Act, the following terms shall, unless the context otherwise indicates, have the following respective meanings:

- (a) "Petroleum" shall include any mineral oil, hydrocarbon gas, bitumen, asphalt, mineral wax, and all other similar or naturally associated substances; with the exception of coal, peat, bituminous shale, and/or other stratified mineral fuel deposits.
- (b) "Crude oil" means oil in its natural state before the same has been refined or otherwise treated, but excluding water and foreign substances.
- (c) "Natural gas" means gas obtained from boreholes and wells and consisting primarily of hydrocarbon.
- (d) "Government" means the Government of the Philippines.
- (e) "State" means the Republic of the Philippines.
- (f) "Permittee," "concessionaire" or "contractor" means a person to whom a permit, concession, or contract, as the case may be, has been granted or awarded under the provisions of this Act, his successors and assigns.
- (g) "Person" includes a natural person, corporation, or partnership.
- (h) A "barrel" is equivalent to 158.98 liters or 42 U.S. gallons.
- (i) All measurements of distances, width, length, areas, depth and volume, and weight shall be in the metric system.
- (j) Words in singular shall include the plural, and vice versa.

ARTICLE 3. State ownership. — All natural deposits or occurrences of petroleum or natural gas in public and/or private lands in the Philippines, whether found in, on or under the surface of dry lands, creeks, rivers, lakes, or other submerged lands within the territorial waters or on the continental shelf, or its analogue in an archipelago, seaward from the shores of the Philippines which are not within the territories of other countries, belong to the State, inalienably and imprescriptibly.

ARTICLE 4. Title to land. — The ownership or the right to the use of lands for agricultural, industrial, commercial, residential, mining, or for any purpose other than for petroleum exploration, development or exploitation does not include the ownership of, nor the right to explore for, exploit, or utilize the petroleum or natural gas deposits in, on or under the surface of such land.

ARTICLE 5. Granting of petroleum rights. — The right to explore for, develop, exploit or utilize the petroleum resources described in article three hereof may only be granted to duly qualified persons by means of concessions in accordance with the provisions of this Act. The Government, however, reserves the right to undertake such work either by itself or through its instrumentalities, or through competent persons qualified to undertake such work as independent contractor or contractors under a contract of service executed for the Republic of the Philippines by the President and approved by the Congress of the Philippines in accordance with the provisions of article thirteen of this Act.

Exploration or exploitation rights may be exclusive within certain areas; but no exclusive rights may be granted for refining or transportation.

ARTICLE 6. Granting of concession is discretionary with the Government. — The granting of concession under this Act is discretionary with the Government, except in the cases mentioned in article eleven hereof, where, upon the fulfillment of the formalities and requirements of this Act, the granting thereof is obligatory upon the Government.

ARTICLE 7. Petroleum operation a public utility. — Everything relating to the exploration for and exploitation of petroleum which may exist naturally or below the surface of the earth, and everything relating to the manufacture, refining, storage, or transportation by special methods of petroleum as provided for in this Act, is hereby declared to be of public utility.

ARTICLE 8. Concessionaire assumes risks. — Concessions referred to in this Act shall be granted at the complete risk of the interested party. The Government does not guarantee the existence of petroleum or undertake, in any case, title warranty.

ARTICLE 9. Ownership not conferred. — Exploration and Exploitation Concessions do not confer upon the concessionaire the ownership over the petroleum lands and petroleum deposits, but only the right to explore for, develop, exploit, and utilize them for the period and under the conditions determined by this Act.

CHAPTER II — CONCESSIONS

ARTICLE 10. Kinds of concessions. — Concessions may be any of the following kinds and have the following respective objects:

- a. Non-Exclusive Exploration Permit, which grants to the permittee the non-exclusive right to conduct geological or geophysical exploration on specified areas.
- b. Exploration Concession, which grants to the concessionaire the exclusive right to explore for petroleum within specified areas.
- c. Exploitation Concession, which grants to the concessionaire the exclusive right to develop petroleum production within the specified areas.
- d. Refining Concession, which grants to the concessionaire the right to manufacture or refine petroleum, or to extract its derivatives.
- e. Pipe Line Concession, which grants to the concessionaire the right to provide and operate pipe line systems for transporting petroleum.

ARTICLE 11. Obligatory concessions. — Subject to the fulfillment of the formalities and requirements provided for in this Act, the granting of the following concessions shall be obligatory upon the Government:

- a. Exploitation Concession, to the holder of an Exploration Concession, for such parcels as he may select for exploitation and to the holders of Petroleum Drilling Leases issued under the Petroleum Act Numbered Twenty-nine hundred and thirty-two, or of petroleum mining claims located and held under the Act of Congress of July first, nineteen hundred and two, which are existing and in force at the time of the enactment of this Act, when said holders shall apply to have the same governed by the provisions of this Act, and be given the privileges granted thereby;
- b. Refining Concession and/or Pipe Line Concession, to the holder of an Exploitation Concession, when the manufacturing or transportation is directly related, although not necessarily restricted, to the Exploitation Concession; and
- c. Refining Concession, to the holder of a Pipe Line Concession, or Pipe Line Concession to the holder of a Refining Concession, when the two concessions are directly, although not restrictively, related.

The foregoing, however, shall not apply in the case of any concessionaire who is in arrears in any payments due the Government arising out of or in connection with any petroleum concession, lease, or mining claim, until such arrears have been paid, or, if in dispute, until a cash or surety bond has been posted, sufficient to cover all arrears in dispute.

The rights and obligations conferred by concessions which are obligatory under this article are to be regarded as following from the initial concessions which, under the provisions of this Act, include the right to receive such subsequent concessions.

ARTICLE 12. Designation of petroleum regions. — For purposes of this Act, the Secretary of Agriculture and Natural Resources, after due study of the different prospective petroleum lands of the Philippines, may divide them into a number of prospective petroleum regions, delimiting their extent and boundaries, and issuing the order and notice establishing such regions.

ARTICLE 13. Petroleum reservation. — Upon the recommendation of the Secretary of Agriculture and Natural Resources, the President of the Philippines may set apart petroleum reservations, and shall, by proclamation, declare the establishment of such reservations and the boundaries thereof.

The Government may explore, develop, and exploit such petroleum reservation either by itself or through its instrumentalities, or through competent persons under a contract of service, in accordance with article five of this Act. Proposals by qualified persons to carry out such work for the Government as independent contractor or contractors shall be filed with the Director of Mines who shall forward the same with his findings and recommendations to the Secretary of Agriculture and Natural Resources who, in turn, shall submit the same with his recommendations to the President of the Philippines. The President is hereby authorized to take such necessary action as he may deem proper on such proposals and for this purpose, may execute the necessary contract or contracts for and in behalf of the Government. In the event such contract is executed, the same shall be submitted to the Congress of the Philippines for its approval.

No petroleum reservation may be established over any areas covered by application for Exploration or Exploitation Concession already filed or granted. If at any time after the establishment of a petroleum reservation, the Secretary of Agriculture and Natural Resources, after due investigation, should find it to the best interest of the Government,

that any area within the reservation should be opened to Exploration or Exploitation Concession under the provisions of this Act, such area or areas may be recommended to be released from the reservation and declared open to Exploration or Exploitation Concession under this Act by an executive proclamation of the President concurred in by a joint resolution of the Congress of the Philippines.

ARTICLE 14. Free areas. — All lands within the territorial limits of the Philippines including those submerged beneath seas, bays, lakes, rivers, lagoons, or the territorial waters, or on the continental shelf, or its analogue in an archipelago, but which are not within the National Reserve Areas, or Petroleum Reservations, or covered by valid and existing Exploration or Exploitation Concession, or Petroleum Drilling Leases acquired under the Petroleum Act (Act No. 2932), or of petroleum mining claims located and held under the Act of Congress of July first, nineteen hundred and two, as amended, are called Free Areas and as such are open to application for Exploration Concession by any duly qualified person. Application for said areas shall be filed with the Director of Mines in accordance with the provisions of article twenty-eight of this Act.

ARTICLE 15. National Reserve Areas. — Areas which have been included in any Exploration or Exploitation Concession but which have been subsequently given up by the concessionaire voluntarily or in accordance with the requirement of articles fifty and fifty-three of this Act; or areas covered by Exploration or Exploitation Concession which have expired or have been cancelled; or areas which have been included within any of the two kinds of concession but which are found to be in excess the maximum areas allowed by this Act for such concessions, are called National Reserve Areas, and as such may be applied either for Exploration or Exploitation Concession by duly qualified persons only after the Secretary of Agriculture and Natural Resources shall have first announced by means of notices published in the Official Gazette and in one daily English newspaper of general circulation published in the City of Manila, at least once a month for three consecutive months, that said lands duly described are ready for disposition and that application therefor may be filed within a certain date fixed in the notice. Application for such areas shall be filed with the Director of Mines in accordance with article twenty-eight of this Act, and the concession may be granted by the Secretary of Agriculture and Natural Resources in favor of the applicant whose offer shall be found best to serve the interest of the Government.

ARTICLE 16. Lands covered by concessions are subject to public easements. — All lands covered by concessions granted under this Act shall be subject to public easements established or recognized by existing or future laws.

ARTICLE 17. Operations of concessionaire subject to existing mining rights. — The operations of the concessionaire under the provisions of this Act shall be subject to existing mining rights, grants, permits, leases, and concessions in respect of substances other than petroleum and to existing petroleum rights, grants, leases, or concessions.

ARTICLE 18. Right of Government to establish reservations or grant rights. — Concessions granted under this Act are subject to the right of the Government to establish reservations other than petroleum reservations, to grant mining rights, permits, leases, and concessions in respect of substances other than petroleum, and to grant rights other than mining rights in, on, or under any of the lands covered by the concession granted under this Act, provided that the rights of the petroleum concessionaire to search, prospect, and

drill for, produce, extract, transport, store, process, and treat petroleum on, under, and from, said lands, and the other rights granted to him under this Act are not impaired or unreasonably interfered with.

ARTICLE 19. Additional benefits to the Government in certain cases. — In the disposition of the National Reserve Areas and in case of conflicts of applications for concessions, the Secretary of Agriculture and Natural Resources may require additional benefits to the Government over and above the minimum requirements provided for in this Act. These additional benefits may include, but shall not be restricted to, bonuses or cash payments made singly or on installments over a period of time; or increased royalty on the quantity of oil produced; or undertakings in addition to those required by law for the promotion of education, public health, social welfare and amelioration, and other public services; or increased work obligations on the concession.

ARTICLE 20. Right to enter private land. — Exploration and exploitation concessionaires are granted the right to enter upon private lands covered by their concessions for the purpose of conducting geological or geophysical studies, with the right to use all instruments and apparatus necessary to carry out such studies, subject to the obligations to indemnify the owner or legal occupant of the land for all material damage suffered by the property, its annexes or appurtenances as a result of such studies, provided that in no case shall the occupancy of private buildings, yards or gardens be authorized against the will of their owner.

In the event that the right granted in this article shall be denied by the owner of the private land or by its legal occupant, the concessionaire may apply for and, upon posting such bond as may be fixed and approved by the Court of First Instance of the province where the land is situated, the court shall issue an order allowing such right pending the final determination of the proper amount that shall be paid by the concessionaire to the landowner or legal occupant.

ARTICLE 21. Easements over private land. — When easements of temporary occupancy over private lands are needed by a concessionaire for the purpose of carrying out any work essential to his operations under the provisions of this Act, he may enter into the necessary agreement with the owner or legal occupant of such private lands. If no agreement could be reached, or if the owner or legal occupant refuses to grant such easement, or in general, when any obstacle of whatever nature exists to the immediate and certain acquisition of the necessary surface area, or of any right indispensable to the concessionaire for the purpose of the concession, the Court of First Instance of the province where the land is situated shall, upon application of the concessionaire and posting of the necessary bond, grant to the said concessionaire authority to use and occupy the land needed by him in his operations, pending final determination of the case which shall include among others the reasonable value or rental of the land to be occupied and the compensation for any resulting damage that the landowner or legal occupant may suffer as a result of such occupation.

When the occupation of a private land is needed by the concessionaire in connection with his concession, for the purpose of constructing, maintaining, operating, and drilling oil wells, tanks, reservoirs, waterways, pipe lines, roads, railroads, tramlines, telephone and telegraph lines, airfields, radio stations, powerhouses, transmission lines, pumping stations, wharves, piers, and terminals, which are hereby declared to be for public use or benefit, the right of eminent domain may be exercised by the Government through the concessionaire, in accordance with the applicable laws on the matter.

In all cases of voluntary agreement between the concessionaire and a private landowner, as referred to in this article, a copy thereof shall be furnished to the Secretary of Agriculture and Natural Resources.

For the purpose of this article the necessity of the work will be presumed in the cases of well drilling and auxiliary works, construction of pipe lines, tanks, pumping plants, power systems, warehouses, shops, and means of transport and communication.

ARTICLE 22. Easement over public land. — When easement or right of temporary occupancy over public land is needed by a concessionaire for the purpose of carrying out any work essential to his operations under this Act, such right may be granted by the Secretary of Agriculture and Natural Resources with due regard to prior rights of third parties and subject to applicable laws and regulations. The presumption of necessity stated in article twenty-one applies likewise in this case.

ARTICLE 23. Use of water, timber and clay. — Concessionaires under this Act may utilize for any of the work to which his concession relates, timber, water, and clay from any public lands within such concession, all subject to existing prior rights thereto, to the regulations issued under this Act and to other laws and regulations on the matter.

ARTICLE 24. General obligations. — Work corresponding to concession granted under this Act shall be commenced with reasonable promptness and prosecuted with reasonable diligence in accordance with good oil field practice; provided, that in the case of Exploration or Exploitation Concession, the performances of the corresponding work, in compliance with the provisions of this article, successively in various areas included in the concession, in accordance with an efficient and economic program determined by the concessionaire and submitted to the Secretary of Agriculture and Natural Resources will be construed as reasonable diligence in regard to the total area included in such concession; conforming with accepted good practices in connection with modern and scientific methods of exploration, drilling, equipping and operating wells to enable maximum economic production of petroleum; avoiding hazards to life, health and property; avoiding the pollution of the air, and of public or private land or waters. Non-compliance with the provisions of this article may be the cause of the imposition of penalties under the provisions of this or other laws; or of court action to compel compliance therewith; and continued non-compliance shall constitute cause for cancellation of the concession.

ARTICLE 25. Submission of information and reports by the concessionaires. — Concessionaires shall submit to the Secretary of Agriculture and Natural Resources all information that the latter may require from time to time, particularly but not limited to, reports on the results of geological and geophysical examinations including a complete history of each well formation record; electric logs, and result of all tests; production reports showing all pertinent production data, etc., in the form and manner and at intervals prescribed by the regulations.

ARTICLE 26. Employment of Filipinos. — Concessionaires under this Act are obligated to give preference to Philippine citizens in all types of employment within the country, insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations; and are obligated likewise to maintain effective programs of training and advancement commensurate with the demonstrated abilities of such citizens to perform satisfactorily the various types of

operations involved in working the concession. The concessionaires, however, shall not be hindered from using employees of their own selection and without restriction for executive or technical work and for all other work which, in their judgment, and with the approval of the Director of Mines, requires highly specialized training or long experience. Each concessionaire shall submit to the Government annual report giving statistical and descriptive information relevant to the provisions of this article, as provided in the Regulations, and shall be obligated to demonstrate to the satisfaction of the Secretary of Agriculture and Natural Resources, upon request, that these provisions are being complied with. In the event that, in the opinion of the Secretary of Agriculture and Natural Resources, such provisions are not complied with, he is empowered to require the concessionaire to take such steps as may be necessary to effect such compliance; without prejudice, however, to the right of the concessionaire under the exception provided in the last sentence of the first paragraph of this article.

ARTICLE 27. Force majeure. — Failure on the part of the concessionaire to fulfill any of the terms and conditions provided by this Act or its regulations or by other relevant laws shall not be deemed a breach of such obligation on the part of the concessionaire in so far as such failure results from force majeure, including the act of God, war, insurrection, riot, civil commotion, strike, tide, storm, flood, lightning, explosion, fire earthquake, and any other happening which the concessionaire could not reasonably prevent or control or avoid.

ARTICLE 28. Application for concession. — Application for concession under this Act shall be filed with the Director of Mines who shall examine and pass upon the same as well as upon the qualifications of the applicant. If he finds the application in order and the applicant duly qualified, he shall forward the said application, together with his findings and recommendations thereon, to the Secretary of Agriculture and Natural Resources who may, unless otherwise provided for in this Act, publish a notice thereof at least once a week for three consecutive weeks in the Official Gazette and in any newspaper of general circulation, published in English in the City of Manila. At any time during the period of publication of the said notice, an adverse claim stating the nature and grounds thereof, may be filed with the Director of Mines. If no adverse claim is filed within the said period of publication, it shall be conclusively presumed that no such adverse claim exists and thereafter no objection from third parties to the granting of the concession shall be heard; and the contract of concession shall be executed by the Secretary of Agriculture and Natural Resources for the Republic of the Philippines, and the concessionaire, in accordance with existing laws and regulations for the conveyance of leasehold rights, which contract of concession shall state definitely the principal rights and obligations of the parties concerned.

ARTICLE 29. Disposition of adverse claims. — Adverse claims based upon applications filed at any time after the first date of publication of the notice mentioned in article twenty-eight shall not be considered. Adverse claims based upon conflict of applications shall be disposed of in accordance with the provisions of article thirty hereof. Adverse claims based upon other grounds shall be decided by the Secretary of Agriculture and Natural Resources.

ARTICLE 30. Disposition of applications in conflict. — In case an adverse claim is filed in accordance with article twenty-eight of this Act, covering areas in conflict and the adverse claimant is found to be duly qualified to apply for concession under this Act,

the Director of Mines shall inform the applicant and the adverse claimant of the existence of such conflict and of any additional benefits to the Government which the Secretary of Agriculture and Natural Resources may require in accordance with the provisions of article nineteen of this Act, whereupon each of them shall, within sixty days from the date of the receipt of such information, submit to the Director of Mines an amended application stating therein such additional benefits to the Government as he may desire to offer for the area in conflict. The Secretary of Agriculture and Natural Resources may accept such application which, in his opinion, will best serve the national interest. The right of any aggrieved party to appeal to the courts as in ordinary cases is hereby recognized.

ARTICLE 31. Qualifications of applicants. — Applicants for concessions under this Act shall have the following qualifications:

In case of an individual, he shall be a citizen of the Philippines, be of legal age, and have the capacity to contract obligations.

In case of an association of individuals, it shall be either a partnership or a corporation duly organized and constituted under the laws of the Philippines, at least sixty per centum of the capital of which is and shall at all times be owned and held by citizens of the Philippines.

During the effectivity and subject to the provisions of the ordinance appended to the Constitution of the Philippines, citizens of the United States and all forms of business enterprises owned and controlled, directly or indirectly, by citizens of the United States shall enjoy the same rights and obligations under the provisions of this Act in the same manner as to, and under the same conditions imposed upon, citizens of the Philippines or corporations or associations owned or controlled by citizens of the Philippines.

Any applicant shall present satisfactory evidence showing that sufficient finance, organization, resources, technical competence, and skills necessary to conduct the operations to be undertaken under the concession being applied for, in a manner which is in accordance with the best method known to the industry, are available to such applicant.

ARTICLE 32. Officials and employees of the Government disqualified. — Officials and employees of the executive branch of the Government connected with the administration and disposition of mineral resources including petroleum, shall not be allowed, directly or indirectly during their incumbency and for five years thereafter, to apply or acquire concessions, or to be interested, in anywise, in any application filed, or concession acquired, under this Act.

CHAPTER III — NON-EXCLUSIVE EXPLORATION PERMIT

ARTICLE 33. Who may apply. — Any person legally qualified to acquire concession under the provisions of this Act may, upon application, acquire a permit for a non-exclusive right to undertake surface geological or geophysical investigations within Free Areas as defined in article fourteen of this Act, subject to the provisions of article thirty-five and thirty-six of this Act and the Regulations.

ARTICLE 34. Application for Non-Exclusive Exploration Permit. — Application for Non-Exclusive Exploration Permit shall be filed with the Director of Mines who shall examine and pass upon the application and qualifications of the applicant. He shall forward the same with his findings and recommendation to the Secretary of Agriculture and Natural Resources for his final action. The applicant shall pay an application fee of

one hundred pesos in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application, as determined by the Regulations.

ARTICLE 35. Entry upon private property. — Right to enter upon or to occupy private property in connection with the Non-Exclusive Exploration Permit must be secured from the owner or legal occupant thereof.

ARTICLE 36. Right conveyed under Non-Exclusive Exploration Permit. — Non-Exclusive Exploration Permit issued under this Act conveys no right for the permittee to make any exploratory drilling, nor carry any priority or preferential right to the area it covers so as to entitle the permittee to exclusive Exploration or Exploitation Concession, but is intended only to permit geological and/or geophysical exploration, preparatory to making application for exclusive Exploration Concession.

The permittee shall inform the Secretary of Agriculture and Natural Resources prior to undertaking any exploratory work as to the general nature of the work proposed to be done, the size of the parties to be put in the field, and the areas to be covered by such work. He shall submit at the end of every six months a report on the result of the geological and/or geophysical surveys conducted by him.

ARTICLE 37. Term of Non-Exclusive Exploration Permit. — The Non-Exclusive Exploration Permit shall be for a term of not exceeding two years, renewable for another two years, at the discretion of the Secretary of Agriculture and Natural Resources.

CHAPTER IV — EXPLORATION CONCESSION

ARTICLE 38. Definition of Exploration. — The term "Exploration" means all work that have for their object the discovery of petroleum, including, but not restricted to, surveying and mapping, aerial photography, surface geology, geophysical investigations, testing of subsurface conditions by means of borings or structural drillings, and all such auxiliary work as are useful in connection with such operations.

Test wells drilled for exploratory purposes may be of such size and type suitable for oil production, but the actual production of oil is not included in the term "Exploration," except that oil found during exploration may be freely used by the concessionaire in his operations for exploration purposes only within the same concession.

ARTICLE 39. Application for Exploration Concession. — Application for Exploration Concession shall be filed with the Director of Mines in accordance with the provisions of article twenty-eight of this Act. The Regulations shall prescribe the form and contents of application for Exploration Concession.

ARTICLE 40. Map and technical descriptions. — A map of the block desired to be explored shall accompany the application for Exploration Concession. This map shall be prepared in accordance with the Regulations, and shall show the location of the block with regard to the municipalities and province or provinces in which it is located, the four corners of the block in case it is rectangular, or the natural boundaries thereof in case the block adjoins rivers, creeks, lakes, or shore lines, or the extension or projections thereof into these bodies of water in case the block is, in whole or in part, on submerged lands.

The location of the block shall be plotted on Coast and Geodetic Survey or Army base map, and shall show, among others, the topographic features of the area. The map shall be submitted together with the technical description of the corner markings and the metes and bounds or distances and bearings of the sides of the block. The technical description and map shall also indicate the bearings and distances of the tie line from some known reference location monument to one corner, preferably Number 1, of the block, in such a way that the block desired can be plotted from such tie line and descriptions on the Progress or Index Map of the Bureau of Mines, where all areas applied for shall be plotted to show the relative positions of such areas.

The boundaries of the block desired shall be well-established on the ground by placing permanent and conspicuous monuments, posts or mounds of earth on the corners, so that at any time, the block can be identified, and later be tied to accurate surveys. The bearings and distances of the block applied for exploration shall be sufficiently accurate so that the approximate area of the block can be computed from the given bearings and distances on the sides.

ARTICLE 41. Application fee for Exploration Concession. — When an application for an Exploration Concession is filed, the applicant shall pay an application fee of one thousand pesos in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application as determined by the Regulations.

ARTICLE 42. Areas available for Exploration Concessions. — Exploration Concessions may be granted on any lands within the Free, and National Reserve, Areas which are not covered by valid and existing Exploration or Exploitation Concessions, or by Petroleum Drilling Leases acquired under the Petroleum Act (Act No. 2932), or by petroleum mining claims located and held under the Act of Congress of July first, nineteen hundred and two, as amended.

ARTICLE 43. Size and shape of exploration blocks. — Exploration Concessions may be granted in lots or blocks as compact as possible, and rectangular in shape except when contiguous with the sea, bays, lakes, rivers, lagoons, roads, or with other concessions already granted which are of irregular boundaries. Each block or lot shall not be more than one hundred thousand hectares nor less than twenty thousand hectares in area, and in no case shall the long dimension of the rectangle be more than five times the short dimension.

ARTICLE 44. Maximum exploration area a person may acquire. — No person shall be entitled to more than five hundred thousand hectares of exploration areas in any one petroleum region established in accordance with the provisions of article twelve of this Act, nor more than one million hectares in the whole territory of the Philippines.

ARTICLE 45. Rights conveyed under Exploration Concession. — The Exploration Concession conveys upon the concessionaire, his heirs and assigns, from the date of the granting of the concession, and during the exploration period and any extension thereof, the exclusive right to explore the block granted, to do geological and geophysical work, to open test pits, to conduct drilling operations, and to do such other work related to exploration.

ARTICLE 46. Term of Exploration Concession. — The initial term of an Exploration Concession shall be not more than four years counted from the date of its issuance: Provided, however, That if the concessionaire has complied with the provisions of this Act and the Regulations and with the terms and conditions contained in the contract of concession, the Secretary of Agriculture and Natural Resources may grant an extension of the same for a term of three years, for its entire area or for any part thereof, upon application of the concessionaire made prior to the expiration of the original term. If during the said first extension, the concessionaire has also complied with the provisions of this Act and the Regulations and the terms and conditions contained in the contract of concession. The Secretary of Agriculture and Natural Resources may, upon application of the concessionaire made prior to the expiration of the first extension, grant, a further extension of the said concession for its entire area or for any part thereof, for another term of three years, making the total term for Exploration Concession not more than ten years. The extension shall be granted under the same terms and conditions as those contained in the original concession, subject, however, to the provisions of articles forty-seven and forty-nine of this Act.

No further renewal shall be allowed to any exploration concessionaire at the end of ten years from the date of the original concession.

ARTICLE 47. Exploration work obligations. — At the beginning of each calendar year during the life of the concession, the concessionaire shall submit to the Director of Mines, a program of exploration work to be undertaken by the concessionaire with his concession during that year.

He is obligated to spend in the direct prosecution of exploration work within his concession, such as topographic, or geological reconnaissance; mapping or cross sectioning, geophysical surveys by magnetometer, gravimeter or seismograph; core or exploratory drilling; or any combination of the said work, the following amounts:

Initial term:

First year — Not less than fifty centavos per hectare per year, or fraction thereof.

Second year — Not less than one peso per hectare per year, or fraction thereof.

Third year — Not less than one peso and fifty centavos per hectare per year, or fraction thereof.

Fourth year — Not less than two pesos per hectare per year, or fraction thereof.

First extension:

Fifth to seventh year — Not less than two pesos and fifty centavos per hectare per year, or fraction thereof.

Second extension:

Eight to tenth year — Not less than three pesos per hectare per year, or fraction thereof.

The cost of delivered materials or equipment used in the exploration work shall be considered as proper expenditures for such work. The concessionaire shall give satisfactory evidence to the Government of such expenditures in accordance with the Regulations.

Any amount actually spent for exploration work in excess of the minimum amount required for any year or years may be carried forward and credited to exploration work obligations required for the succeeding years during the existence of the concession. For failure to comply with the minimum work obligations in any one year as herein above stipulated, the concessionaire shall pay to the Government the difference between the minimum amount required and that actually spent for any year. Continued failure to perform the necessary exploration work within the area covered by the concession shall.

In addition to the above penalty, result in the cancellation of the concession as provided for in this Act.

In order to guarantee faithful compliance with the required exploration work, a bond of sufficient amount to be fixed by the Regulation, shall be posted by the concessionaire.

ARTICLE 48. Work obligations on two or more exploration blocks within any one petroleum region. — In case two exploration blocks are held by the same concessionaire which are adjoining to each other in any one petroleum region, the total amount of work obligations for exploration required for the initial term of four years, for the two adjoining blocks, may be spent within any one of the two adjoining blocks or any portion thereof as if they are covered by a single concession.

The total amount of work obligations required to be spent annually during the first and second extensions under article forty-seven of this Act on any two or more exploration blocks, whether adjoining or not, then existing and held by a concessionaire for the first and second extensions within any established petroleum region, may be spent within any one or more of the said blocks or any portion thereof.

ARTICLE 49. Annual exploration tax. — Each holder of an Exploration Concession shall pay during the whole period of such concession and its extension or extensions if any, an annual exploration tax as follows:

Initial term:

First year — Not less than five centavos per hectare per year, or fraction thereof.

Second and third year — Not less than seven and one-half centavos per hectare per year, or fraction thereof.

Fourth year — Not less than ten centavos per hectare per year, or fraction thereof.

First extension:

Fifth to seventh year — Ten centavos per hectare per year, or fraction thereof.

Second extension:

Eighth to tenth year — Twelve and one-half centavos per hectare per year, or fraction thereof.

ARTICLE 50. Renunciation of areas covered by Exploration Concession. — The holder of an Exploration Concession may, at any time, renounce the whole or any part of the total area covered by his concession: Provided, That, in case of partial renunciation, the portion retained shall be not less than twenty thousand hectares, unless the same is contiguous to another exploration block or blocks held by the same concessionaire, in which case, the total area of all the contiguous blocks thus retained for exploration shall be not less than twenty thousand hectares.

CHAPTER V — EXPLOITATION CONCESSION

ARTICLE 51. Definition of Exploitation. — "Exploitation" means all work within the area embraced by an Exploitation Concession that have for their object the production of petroleum within such area, including, but not restricted to, drilling and operating wells, providing and operating pumping and storage facilities; pipe lines and other such work and facilities as are useful for the purpose of making petroleum available for sale, manufacture or refining within or for shipment from such area; but does not include any operation which is a part of manufacturing or refining, or any work outside such area which are a part of a pipe line or other special transportation system.

ARTICLE 52. Application for Exploitation Concession. — Application for Exploitation Concession shall be filed with the Director of Mines in accordance with the provisions of article twenty-eight of this Act. The Regulations shall prescribe the form and contents of application for Exploitation Concession.

ARTICLE 53. Application for Exploitation Concession covering areas within Exploration Concession. — An exploration concessionaire, at any time during the life of his concession, including any extension thereof, may select for exploitation purposes one or more parcels from the area covered by his Exploration Concession. Upon application and fulfillment of all the requirements of this Act, and provided that the total area of such parcel or parcels so selected from any one exploration block shall not exceed one-half of the area of such block, an Exploitation Concession covering such parcel or parcels, shall be granted to such applicant. Such parcels may be selected by the applicant anywhere within the exploration block, whether contiguously or separately.

Provided that all the requirements of this Act and the Regulations have been complied with, an application for Exploitation Concession filed as provided for in this article shall, pending the issuance of an Exploitation Concession covering the areas for which application has been made, operate to confer upon the Concessionaire all the rights and obligations which are conferred by this Act through an Exploitation Concession: Provided, further, That an Exploitation Concession may also be granted to any person who without being a holder of Exploration Concession discovers and registers with the Bureau of Mines in accordance with article sixty-five hereof any natural deposit or seep or natural gas emanation.

ARTICLE 54. Map of the exploitation areas. — In the exercise of the right of exploration, the concessionaire shall prepare at any time during the exploration period, or during extensions, if there be any, the general map of the respective exploration block, showing the exploitation parcel or parcels he may have selected, in preparation to obtaining the Exploitation Concession. This map shall be prepared from an accurate transit and chain survey or from an aerial photographic survey, or the combination of both, and shall be prepared in accordance with existing regulations governing such kinds of survey issued by the Director of Mines, and shall show the location of the boundary monuments of the exploration block and of the different exploitation parcel or parcels within the block and the area and true bearings and distances of the sides thereof. Copies of this map shall accompany the application for Exploitation Concession.

ARTICLE 55. Application fee for Exploitation Concession. — When an application for an Exploitation Concession is filed, the applicant shall pay an application fee of two thousand pesos, in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application as determined by the Regulations.

ARTICLE 56. Areas available for exploitation. — Areas covered by Exploration Concession held by the applicant, subject to the provisions of article fifty-three of this Act, and areas within the National Reserve, are available for exploitation.

ARTICLE 57. Size and shape of Exploitation Concession. — The Exploitation Concession shall be granted in parcels or parcels, rectangular in shape as much as

possible, except when contiguous with the seas, bays, lakes, rivers, lagoons, roads, or with other existing concessions of irregular boundaries; or when otherwise approved by the Secretary of Agricultural and Natural Resources.

The total area of the exploitation parcel or parcels which may be acquired under a single concession shall not be more than fifty thousand hectares nor less than ten thousand hectares, and in no case shall the greater dimension of the rectangle be more than five times the other, nor shall the total area of the parcel or parcels to be covered by the Exploitation Concession exceed one-half of the total area of the exploration block.

ARTICLE 58. Maximum exploitation area that may be acquired. — No person shall be allowed to hold more than two hundred and fifty thousand hectares of exploitation area in any one petroleum region, nor more than five hundred thousand hectares in the whole territory of the Philippines.

ARTICLE 59. Rights conveyed under exploitation concession. — An exploitation concessionaire, his heirs and assigns, has the exclusive right, during the term of the concession, to drill within the boundaries projected vertically downward of the parcel or parcels covered by his concession, to extract within the boundaries thereof the substances referred to in this Act, to utilize them once they are extracted, and to do all acts authorized within the scope of exploitation, as defined in article fifty-one of this Act, subject to the provisions of this Act and the Regulations that may be issued by the Secretary of Agriculture and Natural Resources regarding conservation, prevention of waste, and other pertinent matter.

In case roads and/or bridges are constructed by the concessionaire in connection with the operation of his exploitation concession, the same shall be available for public use except when otherwise agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire.

ARTICLE 60. Exploitation work obligations. — At the beginning of each calendar year during the life of the concession, the concessionaire shall submit to the Director of Mines, a program of exploitation work proposed to be undertaken by the concessionaire within his concession during that year.

The concessionaire shall commence drilling operations within one year from the date the Exploitation Concession is granted within the area covered by the concession and shall continue diligently such drilling operations in accordance with good oil field practice. He shall be obligated to develop and bring into production the exploitation area granted to him and any discovery areas that he may find, and to continue such development and production until at least the domestic consumption requirements of petroleum in the Philippines, determined in consultation with the Secretary of Agriculture and Natural Resources, are met by the total net production from all sources of indigenous production in the Philippines, if the petroleum deposit discovered by the concessionaire shall permit such development in accordance with good petroleum engineering practice.

ARTICLE 61. Exploitation work obligations in two or more Exploitation Concessions in the same petroleum region. — A person holding two or more Exploitation Concessions in the same petroleum region, may be permitted to concentrate the exploitation work obligations required for all the Exploitation Concessions held by him in the same petroleum region, within any one of his Exploitation Concession, as long as the drilling operations are diligently conducted with a creditable expenditure and in accordance with a drilling program: Provided, however, That no Exploitation Concession

shall remain for a period of more than five consecutive years without drilling operations. Such work may be credited only upon prior written approval of the Secretary of Agriculture and Natural Resources.

ARTICLE 62. Production operations. — Once production is established in an Exploitation Concession, production operations on the concession may not be suspended for more than six months without prior written approval of the Secretary of Agriculture and Natural Resources.

Suspension of operations shall in no case be authorized for more than two years at any one time, except in case of force majeure.

ARTICLE 63. Existing Petroleum Drilling Leases and petroleum mining claims may come under the provisions of this Act. — Holders of Petroleum Drilling Leases under the provisions of the Petroleum Act (Act No. 2932) and of petroleum mining claims located and held under the provisions of the Act of Congress of July first, nineteen hundred and two, as amended, may surrender their rights thereto by filing applications with the Secretary of Agriculture and Natural Resources for Exploitation Concessions under the provisions of this Act, and the latter may, upon receipt of such applications, grant Exploitation Concessions covering the same, subject to all the conditions, obligations, and privileges provided for under this Act.

ARTICLE 64. Annual exploitation tax. — Each holder of an Exploitation Concession shall pay throughout the life of such concession, in the manner prescribed by the Regulations, an exploitation tax as follows:

During the first five-year period, not less than fifty centavos per hectare per year, or fraction thereof.

During the second five-year period, not less than one peso per hectare per year, or fraction thereof.

During the third five-year period, not less than one peso and fifty centavos per hectare per year, or fraction thereof.

During the fourth five-year period, not less than three pesos per hectare per year, or fraction thereof.

During the fifth five-year period, not less than five pesos per hectare per year, or fraction thereof.

Thereafter, during the period or periods of its renewal, if any, not less than five pesos per hectare per year or fraction thereof, unless modified by the Secretary of Agriculture and Natural Resources.

ARTICLE 65. Royalty. — Exploitation concessionaires shall pay to the Government a royalty which shall not be less than twelve and one-half per cent of the petroleum produced and saved, less that consumed in the operations of the concessionaire in the working of such Exploitation Concession: Provided, That natural gas returned to the formation shall not be subjected to royalty.

The royalty paid to the Government on petroleum or natural gas produced from the date commercial production is started, from well or wells within the radius of one kilometer from any discovered, located, registered and verified petroleum natural deposit or seep or natural gas emanation, shall be deducted by ten per cent thereof, which deduction shall be due and payable to the discoverer of the said natural deposit or seep or gas emanation: Provided, That the petroleum natural deposit or seep or gas emanation is not covered by another discovery previously registered in the Bureau of Mines: And

provided, further, That the discovery and location are made and registered prior to the date of the granting of an Exploration or Exploitation Concession, covering the area where such petroleum natural deposit or seep or gas emanation was discovered. The discoverer shall mark the point of discovery with prominent and permanent object and with a placard stating the name of the discovery, the name of the discoverer, and the date of discovery and location, within a period of thirty days from the date of the discovery or, if discovered before the approval of this Act, within thirty days after such approval.

Declaration of discovery and location describing specifically the facts and circumstances of the discovery, and containing such other matters as may be required by the Director of Mines, shall be prepared under oath by the locator or discoverer who shall register the same in the office of the Bureau of Mines, Manila, within ninety days from the date of location. The Director of Mines shall register such declaration upon payment of the registration fee of ten pesos and submittal of a sample of the oil or natural gas discovered. All discoveries not duly declared and registered within the period herein set forth, shall be considered as having been abandoned by the discoverer.

The rights acquired by the discoverer shall be based on actual discovery, followed by registration within the period provided for in this article. The rights of the discoverer to his discovery shall expire ten years after the date of registration: Provided, however, That if within the said period an Exploration or Exploitation Concession is granted covering the oil seeps or natural deposits or natural gas emanations discovered, the rights of the discoverer shall be deemed to continue from the date the Exploration or Exploitation Concession is granted until ten years from the date commercial production is first started from any well or wells within the discovery area.

ARTICLE 66. Exploitation tax credited against royalty. — All exploitation taxes to which any concessionaire shall be liable under article sixty-four of this Act, during any year on any or all Exploitation Concessions held by him in the same petroleum region, shall be credited against the total royalty payments on all the petroleum produced by the concessionaire from any or all the Exploitation Concessions held by him within the same petroleum region and paid by such concessionaire in the same year: Provided, That, such deduction shall apply only to amounts due for exploitation tax in excess of fifty centavos per hectare per year.

For the purpose of computing the deduction due under this article, the value of any royalty paid in kind shall be converted to cash as provided for in article sixty-eight.

ARTICLE 67. Manner for payment of royalty. — Royalty may be paid either wholly or partly in kind, or wholly or partly in cash, at the election of the Secretary of Agriculture and Natural Resources, but such election shall not be changed during any quarter for which it has once been made, nor shall it be changed for any succeeding quarter without written notice to the concessionaire at least thirty days prior to the commencement of such quarter.

When the Secretary of Agriculture and Natural Resources elects to receive the royalty wholly or partly in kind, the concessionaire shall make delivery thereof at the place of production or at any established receiving and storage station on the transportation system which is employed by the concessionaire for the transportation of his own petroleum or similar kind, as elected by the Secretary of Agriculture and Natural Resources.

When the Secretary of Agriculture and Natural Resources elects to receive the royalty in cash, the same shall be paid quarterly in advance, and the amount of royalty to be paid in any quarter shall be determined by the petroleum production during the next preceding quarter.

The procedure for determining the amount of royalty due and the payment of such royalty, except as specified in this Act, shall be fixed by the Regulations.

ARTICLE 68. Liquidation of royalty in cash. — When the Secretary of Agriculture and Natural Resources elects to have the royalty paid in cash, as provided for in article sixty- seven of this Act, the market value of the petroleum at the place of its production shall be used for the calculation of the amount due; and it shall be determined by taking as a basis the average price of petroleum of the same quality, during the preceding quarter, in the governing market or markets as specified in the Regulations; and deducting from such average price the cost of transportation from the place of production to such markets; and deducting also the cost of any processing or treatment which is necessary to make the petroleum suitable for such transportation.

For this purpose the cost of transportation shall include all actual costs inherent therein, such as freight according to the usual tariffs, port fees, storage costs, pumping costs, and the costs of operating and maintaining the facilities provided expressly for such transportation. Similarly the cost of processing or treatment shall include all actual costs inherent therein, such as for chemicals, stabilization, compression, and the cost of operating and maintaining the facilities provided expressly for such processing or treatment.

The Secretary of Agriculture and Natural Resources is empowered to enter into agreement with the concessionaire for the purpose of determining the market value of petroleum and the deductions to be allowed in computing the market value at the place of production, for the purpose set forth in this article.

ARTICLE 69. Acceptance of royalty payments. — Within sixty days following the end of each month during which the royalty has been paid in kind, or following the end of each quarter in which royalty has been paid in cash, the Secretary of Agriculture and Natural Resources shall notify the concessionaire in writing that such payment is accepted in full discharge of the corresponding obligations as fixed by this Act; or that such is not the case for certain stated reasons, in which latter case the procedure fixed in the Regulations shall be followed for the purpose of making any necessary corrections. Failure of the Secretary of Agriculture and Natural Resources to thus notify the concessionaire of objection to the royalty payments made, within the foregoing time limits, shall be construed as acceptance by the Secretary of Agriculture and Natural Resources of such payments.

Acceptance of royalty payments as provided for in this article shall be deemed irrevocable.

ARTICLE 70. Field storage tanks and storage. — Exploitation concessionaire is obligated to construct and maintain at, or in the vicinity of, the place or places of production, storage tanks of sufficient capacity to operate the producing field or fields in accordance with good oil field practice.

The holder of such concession is under obligation to store, for a period not in excess of thirty days, such royalty in kind, free of expense to the Government. Should the Government have no adequate facilities for the handling and/or storage of such petroleum after said period, the concessionaire shall supply facilities for the handling and/or storage

of the same for a reasonable charge, which period and charge shall be as mutually agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire in advance: Provided, That, in no event shall the concessionaire be required to store beyond such thirty days more than one hundred thousand barrels of such petroleum at any one time, nor of any petroleum other than that produced within the area held by the concessionaire.

ARTICLE 71. Exploitation concessionaire may be obliged to refine crude oil in the Philippines. — The Secretary of Agriculture and Natural Resources may, after due investigation, require an exploitation concessionaire to refine part or all of the crude oil produced in his concession, in any refinery established in the Philippines in accordance with the provisions of this Act: Provided, That, there is such refinery with sufficient capacity and adequate facilities to handle such crude oil in accordance with good refining practice: And provided, further, That the quantity of such crude oil of the concessionaire that may be required to be refined in the Philippines in relation to the total net production from his concession shall not exceed the proportional amount that the total domestic requirements bear to the total net production from all indigenous sources in the Philippines.

ARTICLE 72. Term of Exploitation Concession. — The term of an Exploitation Concession shall not exceed twenty-five years counted from the date of its issuance, renewable for another twenty-five years at the option of and upon application of the concessionaire made prior to the expiration of the original term.

ARTICLE 73. Renunciation of areas covered by Exploitation Concession. — The holder of an Exploitation Concession may, at any time, renounce the whole or any part of the total area covered by his Exploitation Concession: Provided, That, in case of partial renunciation, the area of the parcel or parcels whether contiguous or not retained for exploitation shall be not less than ten thousand hectares.

CHAPTER VI — REFINING CONCESSION

ARTICLE 74. Definition of Refining. — The term "Refining" means the processing or treating of petroleum by chemical or physical means for the purpose of making or separating marketable products; not including, however, such operations, separate from the foregoing, as gas compression, removal of noxious gases, crude oil stabilization or treatment for emulsion, or any other operation which has as its principal aim the avoidance of hazard or loss, or which is incidental to production or to transportation.

ARTICLE 75. Application for Refining Concession. — Application for Refining Concession shall be filed with the Director of Mines in accordance with article twenty-eight of this Act.

When the granting of a Refining Concession is obligatory upon the Government by reason of the provisions of article eleven of this Act, and provided that the requirements of this Act and of the Regulations have been complied with, an application for Refining Concession filed as provided in article twenty-eight shall operate to confer upon the concessionaire all the rights and obligations which are conferred by this Act through such concession, pending the execution of the contract of concession. The Secretary of Agriculture and Natural Resources may, in his discretion, grant a Refining

Concession to any person duly qualified under the provisions of this Act even though he is not a holder of an Exploitation Concession. Likewise a refining concession may be granted to any person who, without being a holder of an Exploitation Concession discovers and registers with the Bureau of Mines under the provision of article sixty-five hereof, any natural deposit of oil or seep or emanation of gas.

ARTICLE 76. Refining application fee. — When an application for a Refining Concession is filed, the applicant shall pay an application fee of two thousand pesos, in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum paid shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration of the application as determined by the Regulations.

ARTICLE 77. Rights conveyed under Refining Concession. — Refining Concession confers upon the concessionaire the non-exclusive right to provide facilities for the manufacture of, and to manufacture, petroleum products, subject to the provisions of this Act; and to carry out such auxiliary works and operations as are essential to the successful conduct of the undertaking, such as, but not limited to, the generation of steam and electricity; the treatment and use of water; the production or regeneration of chemicals used in manufacturing; the fabrication and filling of containers; the erection of shops, warehouses, and other buildings; the construction and operation of communication systems and roads within and for access to the works; and the provision and operation of facilities for receiving, storing, and shipping materials or products and for their transportation within or between parts of the works to which the concession relates. It shall be understood that all auxiliary works and operations and the products thereof to which the rights provided in this article apply, shall be for the exclusive use of the concessionaire in the operation of his concession or concessions subject to the limitations set forth in article seventy-eight hereof: Provided, however, That all roads and bridges constructed by the concessionaire except those within the compound of the refinery, shall be available for public use, except when otherwise agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire.

ARTICLE 78. Utilization of refining capacity. — The holder of a Refining Concession shall have the preferential right to utilize his installations for the refining or manufacture of petroleum produced by him from his concession, but is obligated to utilize any remaining capacity for the refining or manufacture, pro rata, of such other petroleum as may be offered by others for refining or manufacture, and to charge without discrimination such rates as may have been approved by the Secretary of Agriculture and Natural Resources.

When a refining concessionaire is also an exploitation concessionaire, the Secretary of Agriculture and Natural Resources may require that the royalty in kind due to the Government from the same concessionaire, or an equivalent amount of petroleum of the Government from other sources, be refined or manufactured, pro rata, with that owned by the refining concessionaire, up to the capacity of the installation; and in all cases petroleum owned by the Government shall have priority over all other petroleum for the utilization of the refining or manufacturing capacity in excess of that required to refine or manufacture petroleum owned by the refining concessionaire.

Procedure for the determination of refining rates and the conditions governing the refining of petroleum other than that owned by the refining concessionaire shall conform to the Regulations.

ARTICLE 79. Petroleum produced under this Act shall be given refinery preference. — Any established refinery may be required by the Secretary of Agriculture and Natural Resources to refine crude petroleum produced in the Philippines in preference over any imported crude petroleum.

ARTICLE 80. Term of Refining Concession. — The term of a Refining Concession shall not exceed twenty-five years counted from the date of its issuance, renewable for another twenty-five years, upon application of the concessionaire filed prior to the expiration of the original term.

ARTICLE 81. Right to establish a refinery may be ceded but concessionaire may be required to establish a refinery under certain conditions. — An exploitation concessionaire may assign, transfer, or cede his right to establish a refinery in the Philippines granted him under article eleven of this Act in favor of any person qualified under the provisions of this Act, upon prior written permission of the Secretary of Agriculture and Natural Resources. However, the Secretary of Agriculture and Natural Resources may, after due study of the economic and technical problems involved on the part of the exploitation concessionaire and of the need of the Philippines for a suitable refinery, require an exploitation concessionaire, after he shall have developed a recoverable petroleum reserve of one hundred forty million barrels or more in any one or more of his concessions granted under this Act, capable of maintaining a production rate of ten thousand barrels a day for at least fifteen years, to establish in the Philippines a refinery of a capacity which shall be not less than ten thousand barrels per day.

ARTICLE 82. Renunciation of Refining Concession. — Any Refining Concession may be renounced at any time, except when the undertaking to build a refinery is imposed upon an Exploitation Concessionaire under the provisions of articles nineteen and eighty-one of this Act, in which case, the renunciation shall be subject to the prior written approval of the Secretary of Agriculture and Natural Resources. Renunciation extinguishes all rights granted by the concession, but does not relieve the concessionaire from making any payments due to the Government.

CHAPTER VII — PIPE LINE CONCESSION

ARTICLE 83. Application for Pipe Line Concession. — Application for Pipe Line Concession shall be filed with the Director of Mines in accordance with article twenty-eight of this Act.

When the granting of a Pipe Line Concession is obligatory upon the Government by reason of the provisions of article eleven, and provided, that all the requirements of this Act and of the Regulations have been complied with, an application filed shall operate to confer upon the concessionaire all the rights and obligations which are conferred by this Act through such a concession, pending the execution of the contract of concession.

Pipe Line Concession may also be granted to any person legally qualified under this Act, who is not a holder of an Exploitation or Refining Concession, upon his filing with the Director of Mines an application therefor.

ARTICLE 84. Pipe Line application fee. — When an application for a Pipe Line Concession is filed, the applicant shall pay an application fee of two thousand pesos, in the manner prescribed by the Regulations. In the event that no concession is granted corresponding to such application, the sum shall be returned to the applicant less such amount as corresponds to the expenses incurred by the Government in connection with the consideration, as determined by the Regulations.

ARTICLE 85. Rights conveyed under Pipe Line Concession. — A pipe line concessionaire acquires the non-exclusive right to transport petroleum, by means of, and through, a pipe line or system of pipe lines, between the sources of production and/or refining and the places defined in the Pipe Line Concession, in accordance with the provisions of this Act and the Regulations.

This concession right includes the construction and operation of pipe lines, pumping or compressing stations, storage tanks, gas tanks, power plants, shops, storehouses and other buildings, water supply and communication systems, roads, and such other equipment or facilities as may be needed for the purpose of the concession. All such auxiliary works and operations and the products thereof shall be for the exclusive use of the concessionaire in the operation of his concession: Provided, however, That all roads and bridges constructed by the concessionaire, except as may otherwise be agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire, shall be available for public use.

ARTICLE 86. Pipe line concessionaire as common carrier. — A pipe line concessionaire shall have the preferential right to utilize his installations for the transportation of petroleum owned by him, but is obligated to utilize any remaining transportation capacity pro rata for the transportation of such other petroleum as may be offered by others for transport, and to charge without discrimination such rates as may have been approved by the Secretary of Agriculture and Natural Resources. When the pipe line concessionaire is also an exploitation concessionaire, the Secretary of Agriculture and Natural Resources may require that the royalty in kind of the Government received from the same concessionaire, be transported, pro rata, with that owned by the concessionaire from the same concession; and in all cases the petroleum of the Government shall have priority over all other petroleum in the utilization of the excess capacity of the pipe line over that required to transport petroleum owned by the pipe line concessionaire.

Procedure for the determination of pipe line transportation rates and the conditions governing the transportation of petroleum other than that owned by the concessionaire shall conform to the Regulations.

ARTICLE 87. Term of Pipe Line Concession. — The term of a Pipe Line Concession shall not exceed twenty-five years counted from the date of its issuance, renewable for another twenty-five years, upon application of the concessionaire filed prior to the expiration of the original term.

ARTICLE 88. Renunciation of Pipe Line Concession. — Any Pipe Line Concession may be renounced at any time, except when the undertaking to build a pipe line is imposed upon an Exploitation Concessionaire under the provisions of article nineteen of this Act, in which case, the renunciation shall be subject to the prior written approval of the Secretary of Agriculture and Natural Resources.

Renunciation extinguishes all rights granted by the concession, but does not relieve the concessionaire from making any payments due to the Government.

CHAPTER VIII — PENALTIES AND EXTINCTION OF RIGHTS

ARTICLE 89. Cancellation of concession for falsehood or omission in application. — The statements made in the application or made in support thereof, shall be considered as conditions and essential parts of the concession that may be granted by virtue of such application, and any falsehood in those statements or omission of facts which may alter, change, or affect, substantially the facts set forth in said statements may cause the cancellation of the lease granted.

ARTICLE 90. Other causes for cancellation of concession. — (a) Exploration Concessions may be cancelled under any of the following causes:

1. For failure of the concessionaire to perform the work obligations required by article forty-seven of this Act for two consecutive years; and

2. For failure to pay for two consecutive years the exploration tax due thereon, as required by article forty-nine of this Act.

(b) Exploitation Concessions may be cancelled under any of the following causes:

1. For failure of the concessionaire to perform the exploitation work obligations as required under the provisions of articles sixty and sixty-one of this Act, for two consecutive years;

2. For suspending production operations for more than six months without prior written approval of the Secretary of Agriculture and Natural Resources as provided for in article sixty-two of this Act;

3. For failure to pay for two consecutive years the annual exploitation tax due thereon, as required by article sixty-four of this Act;

4. For failure to deliver or pay to the Government its royalty within one year from the date such royalty becomes due.

(c) Refining and Pipe Line Concessions may be cancelled for failure of the concessionaire to begin the construction of a refinery and pipe line, as the case may be, within one year from the date of the issuance of such concessions.

ARTICLE 91. Procedure for cancellation. — Before any concession is cancelled for cause or caused mentioned in this Act, the concessionaire shall first be notified in writing of such cause or causes, and shall be given an opportunity to be heard, and to show cause why the concession shall not be cancelled. If upon investigation, the Secretary of Agriculture and Natural Resources shall find the concessionaire to be in default, the latter shall be given an opportunity to correct such default. If the concessionaire shall continue to be so in default for a period of ninety days from the date of the decision finding him in default, the concession may be cancelled in an order to that effect, copy of which shall be furnished to the concessionaire, and which order shall become final forty-five days from receipt thereof, unless the concessionaire decides to take advantage of the provisions of article one hundred seven of this Act, in which case the concession shall continue to be in force until, and if, a competent court decides otherwise.

ARTICLE 92. Extinction of rights. — Rights acquired by virtue of a concession granted under this Act shall become extinguished upon the expiration of its term

including the extensions or renewals thereof, if any, or upon the cancellation or renunciation of such concession.

In the event of such extinction of rights, any sum payable to the Government by the concessionaire and then unpaid shall become due and payable forthwith, the property of the concessionaire shall be disposed of in accordance with the provisions of article ninety-three of this Act, and the concession contract shall be surrendered to the Secretary of Agriculture and Natural Resources.

ARTICLE 93. Title to areas, property, and equipment after renunciation, cancellation, or expiration of a concession. — (a) Upon the renunciation, cancellation, or expiration of an Exploration or Exploitation Concession, the area covered thereby shall automatically become part of the National Reserve.

(b) Upon the renunciation, cancellation, or expiration of an Exploration Concession, or of an Exploitation Concession within the first term of twenty-five years or within the first fifteen years of its renewal, if any, as provided for in this Act, the title rights to all apparatus, materials, equipment, supplies and other personal properties, all works, buildings and other facilities and structures which the concessionaire places on the land under the terms of the concession, including but not limited to drilling pipe, warehouse stocks, automotive, aviation and marine equipment, shall remain vested in the concessionaire, and the concessionaire shall have the right to remove and export the same at any time within one year counted from the date the concessionaire shall cease to retain the right to use the lands subject to the concession on which the said property is located: Provided, however, That the Government shall acquire title to all properties not so revoked at the end of the said one-year period: Provided, further, That the Government shall have the exclusive right of option, but not the obligation, to buy from the concessionaire any or all of the properties which the concessionaire has the right to remove under this paragraph within ninety days from the date the concession is renounced, cancelled or terminated: And provided, finally, That the concessionaire shall maintain said properties, pending decision of the Government to purchase the same, in as good condition as the condition of said properties on the date of the said renunciation, cancellation or termination of the concession, ordinary wear and tear and damage caused by circumstances beyond the control of the concessionaire excepted. The price of the said properties shall be fixed by agreement between the parties but in case of any disagreement as to the price, the same shall be submitted to a board of appraisal of three members to be appointed, one, by the Secretary of Agriculture and Natural Resources, another by the concessionaire and the third, by the two appraisers appointed by the two parties, which board shall determine the price to be paid by the Government for the said properties. Roads, bridges, airports, wharves, and casings in the ground shall become the property of the Government without any permanent.

(c) In case of renunciation, cancellation or termination of the Exploitation Concession after the fifteenth year from the date of the renewal, if any, of the concession, all the property mentioned in the preceding paragraph shall become the property of the Government without payment or indemnification to the concessionaire.

(d) The above provisions do not apply to any refinery built by the concessionaire as said refinery shall continue to be the exclusive property of the owner thereof even after the termination of the concession: Provided, That roads and bridges constructed by the concessionaire shall become the property of the Government.

CHAPTER IX — OFFICIALS IN CHARGE AND DUTIES

ARTICLE 94. The Secretary of Agriculture and Natural Resources as executive officer. — The Secretary of Agriculture and Natural Resources shall be the executive officer charged with carrying out the provisions of this Act, through the Director of Mines who shall act under his immediate supervision and control. As such executive officer, the Secretary of Agriculture and Natural Resources shall be vested with the authority to prescribe rules and regulations and issue orders which he may find necessary to effectuate the provisions and purposes of this Act.

ARTICLE 95. Authority of Secretary of Agriculture and Natural Resources to create necessary offices. — The Secretary of Agriculture and Natural Resources is authorized to create an Administration Unit and a Technical Board, both under the Director of Mines.

The Administration Unit shall be under the supervision and control of the Director of Mines and shall be charged with the administration of petroleum lands, the preparation of forms and regulations, the settlement of disputes, and the enforcement of the provisions of this Act with the advice of the Technical Board.

The Technical Board shall consist of at least one petroleum engineer and one petroleum geologist, with the Director of Mines ex-officio chairman thereof. The said Board shall have, among others, the following functions:

- (a) To act in an advisory or consultative capacity on different technological matters relative to the administration and disposition of petroleum lands under this Act, and on petroleum operation and industry;
- (b) To look into the qualifications of applicants for concessions under this Act;
- (c) To recommend whether or not lands within the National Reserve Areas shall be offered for concession and in case it is so offered, to study all applications for concessions within said areas with a view to determining the relative merits thereof and to submit to the Secretary of Agriculture and Natural Resources its findings and recommendations thereon;
- (d) To determine the relative merits of the conflicting applications for concessions covering lands within Free Areas;
- (e) To check on the performances of concessionaires and to determine whether the obligations imposed by this Act and the Regulations promulgated thereunder are being complied with;
- (f) To determine the maximum efficient rate of withdrawal from each well or oil field;
- (g) To supervise production operations to insure conservation of reservoir energy and the optimum recovery from the petroleum deposits in the different oil fields;
- (h) In general, to study ways and means to insure the efficient administration of petroleum lands and the effective enforcement of the provisions of this Act and the Regulations;
- (i) To keep and maintain a complete record as possible on all phases of exploration, development and production of petroleum in the Philippines, including but not limited to geological and geophysical data, well and production records, petroleum engineering studies, computation of petroleum reserve and to prepare therefrom such reports, articles, and bulletins as may be deemed necessary for the proper information of the Government and/or the public.

ARTICLE 96. Funds for salaries and expenses. — For the expenses, including salaries and wages of the personnel, of the Administration Unit and of the Technical Board authorized to be created in accordance with article ninety-five of this Act, a sum of two hundred thousand pesos is hereby appropriated from the funds of the National Treasury not otherwise appropriated. Hereafter the same shall be included in the General Appropriation Act.

CHAPTER X — FINAL PROVISIONS

ARTICLE 97. Bond for performance. — Prior to the issuance of a concession, except the Non-Exclusive Exploration Permit, the concessionaire shall post a bond in favor of the Government in the sum to be fixed by the Regulations and with surety or sureties satisfactory to the Secretary of Agriculture and Natural Resources, conditioned upon the faithful performance by the concessionaire of any or all of his obligations under the concession.

ARTICLE 98. Share of private landowners. — In case an Exploration or Exploitation Concession covers, in whole or in part, private lands title to which has been finally adjudicated by a court of competent jurisdiction, the exploration or exploitation tax due to the Government for the area of such private lands, shall be reduced by ten per cent of the same, which reduction shall be the landowner's share. In the case of lands title to which has not been finally adjudicated all the exploration and exploitation tax for said areas due to the Government shall be paid to the Collector of Internal Revenue or his duly authorized deputy, subject to the rule and regulations of the Bureau of Internal Revenue. In any case, the right of private owner to recover ten per cent share when and if his title shall have been finally adjudicated in his favor shall be respected and for such purpose the Government shall hold the same until such title has been so finally adjudicated.

ARTICLE 99. National emergency measures. — Concessions granted under this Act shall be subject to the rights of the Government, in case of and during the period of war or national emergency, to pass such lawful measures, as it may consider necessary, requisitioning for its use and/or restricting the sale or disposal of all products produced under the terms of the concessions and/or interfering with the free movement thereof, upon just compensation paid to the concessionaires.

ARTICLE 100. Disposition of substances other than petroleum. — In the event that substances other than petroleum, as defined in article two, should occur naturally and be produced with petroleum, the exploitation concessionaire may separate such other substances at his own expense; Provided, That in the event that any such other substances be sold, the value thereof shall be taken into account in fixing the value of petroleum for the purpose of liquidating royalty in cash as provided in article sixty-eight: And provided, further, That if the Secretary of Agriculture and Natural Resources elects to receive such other substances in kind the concessionaire shall, upon request of the Secretary of Agriculture and Natural Resources, separate and deliver to the Government such substances through the facilities of the concessionaire and at the expense of the Government.

ARTICLE 101. Helium rights reserved. — The Government reserves the right to take all helium from any gas produced by the concessionaire and the right to erect, maintain, and operate on lands covered by the concession, all reduction works and

other equipment necessary for the extraction of helium. The Secretary of Agriculture and Natural Resources shall prescribe the necessary rules and regulations governing the delivery to the Government of gas containing helium for the extraction thereof.

ARTICLE 102. Work obligations, taxes, royalties not to be changed. — Work obligations, special taxes and royalties which are fixed by the provisions of this Act or by the concession for any of the kinds of concessions to which this Act relates, are considered as inherent on such concessions after they are granted, and shall not be increased or decreased during the life of the concession to which they apply; nor shall any other special taxes or levies be applied to such concessions, nor shall concessionaires under this Act be subject to any provincial, municipal, or other local taxes or levies; nor shall any sales tax be charged on any petroleum produced from the concession or portion thereof, manufactured by the concessionaire and used in the working of his concession. All such concessionaires, however, shall be subject to such taxes as are of general application, in addition to taxes and other levies specifically provided in this Act.

ARTICLE 103. Customs duties. — During the first five years following the granting of any concession, the concessionaire may import free of customs duty, all equipment, machinery, material, instruments, supplies and accessories. No exemption shall be allowed on goods imported by the concessionaire for his personal use or that of any others; nor for sale or for re-export; and if any goods on which exemption has been allowed be thus used or disposed of, the concessionaire is obliged to make a report to the Secretary of Agriculture and Natural Resources to that effect and to pay such import duty as is due.

ARTICLE 104. No export tax to be imposed. — No export tax shall be levied upon petroleum produced from concessions granted under this Act.

ARTICLE 105. Compulsory collection. — In the event of failure by a concessionaire to pay any tax or royalty due under the provisions of this Act within six months of the date upon which they are due, the Government may resort to compulsory collection under the provisions of applicable laws.

ARTICLE 106. Inspection of operations and examination of books and accounts. — The Secretary of Agriculture and Natural Resources and the Director of Mines shall have authority to send their delegates or representatives to inspect any operations of the concessionaire at all reasonable times and to examine all the books and accounts pertaining to operations or conditions related to payment of taxes and royalties under this Act, and to carry out any other inspections authorized by law.

The concessionaire shall furnish to such delegates or representatives all technical and accounting data specified in the Regulations, and shall give them ample facilities and assistance to discharge their duties as such representatives and inspectors.

For the purpose of enabling proper examination as provided for in this article, each concessionaire shall be obligated to retain within the country all original records or original carbon copies thereof which are essential for the purpose of determining the amount of taxes and royalties due to the Government, except as may be agreed upon between the Secretary of Agriculture and Natural Resources and the concessionaire.

ARTICLE 107. Settlement of disputes by agreement. — For the purpose of settling or terminating any controversy arising out of the provisions of this Act, other than those arising out of conflict of applications, the Secretary of Agriculture and Natural

Resources is authorized, to enter into agreement with any petroleum concessionaire, and in case of their failure to come to such an agreement, the Secretary of Agriculture and Natural Resources shall render his decision thereon, from which decision the concessionaire adversely affected thereby, may bring the matter to the court of competent jurisdiction within forty-five days from the date of his receipt of a copy of said decision. Failure to take such action within the said period, shall make such decision final and binding upon the concessionaire.

Such agreement between the Secretary of Agriculture and Natural Resources and a concessionaire may be reached either with or without the intervention of arbitrators selected by the parties to the controversy.

ARTICLE 108. Definition of "waste." — The term "waste" shall specifically include among other things the following:

- (a) The operation of any petroleum well or wells with an inefficient gas-oil ratio.
- (b) The drowning with water of any stratum or part thereof capable of producing oil or gas, or both oil and gas, in paying quantities.
- (c) Permitting any natural gas well to burn wastefully.
- (d) Physical waste or loss incident to, or resulting from, so drilling, equipping, locating, spacing, or operating well or wells as to reduce or tend to reduce the total ultimate recovery of crude petroleum oil or natural gas from any pool.
- (e) Waste or loss incident to, or resulting from, the unnecessary, inefficient, excessive or improper use of the reservoir energy, including the gas energy or water drive, in any well or pool.
- (f) Surface waste or surface loss, including the storage either permanent or temporary of crude petroleum or the placing of any product thereof, in open pits or earthen storage, and all other forms of surface waste or surface loss, including unnecessary or excessive surface losses, or destruction without beneficial use, either of crude petroleum or of natural gas.
- (g) The production of crude petroleum or natural gas in excess of transportation or market facilities or reasonable market demand.

ARTICLE 109. Prevention of waste. — All concessionaires, operators, contractors, or drillers, pipe line companies, petroleum refining companies, or gas distributing companies, drilling for or producing petroleum or petroleum products, or piping petroleum for any purpose, shall use every possible precaution in accordance with the most improved methods to stop and prevent waste of petroleum or natural gas in drilling and producing operations, storage or in piping or distributing, and shall not wastefully utilize petroleum or natural gas or allow same to leak or escape from natural reservoirs, wells, tanks, containers, or pipes.

ARTICLE 110. Rules and regulations regarding conservation of petroleum. — Rules and regulations may be issued which shall require concessionaires to utilize in their exploration and exploitation operations the latest and most improved methods and devices to prevent waste in petroleum as well as to prevent oil, oil-field brine or other oil-field contamination from causing pollution or otherwise damaging streams, surface or underground water supply, and valuable mineral deposits. The Secretary of Agriculture and Natural Resources may also issue orders which shall control the rate of production from any well in the interest of conservation of the petroleum resources.

ARTICLE 111. Applications filed prior to approval of this Act. — Applications for geological exploration, petroleum drilling lease, concession, or contract of service, presented prior to the promulgation of this Act to the Philippine Oil Commission, the Secretary of Agriculture and Natural Resources, or the Director of Mines, which applications have not been granted, or if granted, had already expired, or are no longer in effect at the time this Act becomes effective, shall remain without effect.

ARTICLE 112. Transfer and assignment. — Holder of concessions under this Act shall not, without previous written approval of the Secretary of Agriculture and Natural Resources, transfer or assign in whole or in part, their rights on their concessions; provided that no such transfer or assignment shall be made to a person who is not qualified to acquire or hold concession under this Act, or who shall hold a total area under exploration or exploitation concessions, including that being transferred or assigned to him, of more than the maximum areas allowed under this Act.

ARTICLE 113. Partial invalidity. — If any clause, sentence, provision or article of this Act should for any reason be held to be invalid or unconstitutional, it shall not affect in anywise the remaining parts of this Act and such remaining parts shall remain in full force and effect.

ARTICLE 114. Repeal of laws, rules and regulations. — All acts, laws, rules and regulations inconsistent with any of the provisions of this Act are hereby repealed.

ARTICLE 115. Effective date. — This Act shall take effect upon its approval.

Approved: June 18, 1949

Annex 8

Porfirio Manacop, “The Principal Marine Fisheries” in *Philippine Fisheries: A Handbook Prepared by the Technical Staff of the Bureau of Fisheries* (D.V. Villadolid, ed., 1953)

Philippines (Republic) Bureau
of Fisheries

PHILIPPINE
FISHERIES

A HANDBOOK PREPARED BY THE
TECHNICAL STAFF OF THE
BUREAU OF FISHERIES

D. V. VILLADOLID, Ph.D.
Director

MANILA
1953

THE PRINCIPAL MARINE FISHERIES

By PORFIRIO R. MANACOP *

Aquatic Biologist

In 1950 the estimated annual production of Philippine fisheries amounted to 220,190 metric tons distributed as follows:

<i>Kind of fishery</i>	<i>Landing in metric tons</i>	<i>Per cent</i>
Fishponds (baños)	25,464	12.00
Municipal	146,793	66.00
Insular	47,933	22.00
Total	220,190	100.00

Of this amount nine-tenths (88%) was landed from marine fisheries by 893 commercial fishing vessels of over three tons gross and by several thousands of subsistence dugout fishing crafts. The remaining 12 per cent consisted principally of baños, *Chanos chanos*, taken from about 82,000 hectares of estuarine fishponds.

Fisheries Act 4003, as amended, provides among other things, a dual control of the administration of Philippine fisheries by the municipal and insular governments. The municipal government has jurisdiction over fishing crafts, powered or non-powered, of three tons gross or less, which operate in inland freshwater units and within the three-nautical mile limit parallel to the marine coastline at mean lower low water level. The insular government, on the other hand, has supervision over commercial fishing vessels of more than three tons gross operating in Philippine waters.

In the absence of any effective system of collecting statistics of catch from municipal fisheries, the production data here indicated were based on estimates and should therefore be taken with some discretion. However, the insular fisheries which are directly under the supervision of the Philippine Bureau of Fisheries have a fairly accurate record of catch based on the regular monthly reports of licensed commercial fishing vessels. All data on fish catch referred to hereunder are based on the landings by the insular fisheries.

The extent of development of the principal marine fisheries may be gauged from the number and types of commercial licensed fishing craft

* M.A. (Biology), Stanford, 1941.

Fisheries and private enterprises are Sibuguey Bay, Lamon Bay, north-eastern part of Camarines Sound, Bacuit Bay, Coron Bay, Taytay Bay and outer Malampaya Sound.

Reef fishing.—The successful introduction of the Japanese trap net (muro-ami) in the early 1930's stimulated the development of an insular

TABLE 9.—Size at sexual maturity of the common fishes caught by trawl in Manila Bay.

SPECIES	MINIMUM SIZE AT SEXUAL MATURITY OF FEMALES (Fork Length)	
	RANGE (mm.)	MEAN (mm.)
Gerridae:		
<i>Gerres kapas</i>	160-169	165
<i>Gerres punctatus</i>	90-99	95
<i>Pentaprion longimanus</i>	80-89	85
Lelognathidae:		
<i>Gazza minuta</i>	100-109	105
<i>Leiognathus equulus</i>	120-129	125
<i>L. bindus</i>	60-69	65
<i>L. splendens</i>	70-79	75
Mullidae:		
<i>Upeneus sulphureus</i>	120-129	125
<i>U. sundaicus</i>	100-109	105
Nemipteridae:		
<i>Nemipterus japonicus</i>	130-139	135
<i>N. marginatus</i>	130-139	135
<i>N. nematophorus</i>	130-139	135
<i>N. taeniopterus</i>	140-149	145
Pomadasidae:		
<i>Pomadasya argyreus</i>	80-89	85
<i>P. hasta</i>	170-179	175
<i>Scolopsis bimaculatus</i>	120-129	125
Psettodidae:		
<i>Psettodes erumei</i>	410-419	415
Synodontidae:		
<i>Saurida tumbil</i>	160-169	165
Trichiuridae:		
<i>Trichiurus haumela</i>	370-389	375

demersal reef fishery. At the outbreak of World War II there were 16 Japanese trap-net fishing vessels in operation in Philippine waters. During the postwar period the number of operating vessels had gradually decreased from 13 in 1927 to only 2 units in 1950. This is attributed to the extensive and intensive use of explosives in the fishing grounds. In 1950 the total catch of the reef fishery was 7,140 metric tons, the major portion of which was landed by 71 fish-carrier vessels. This is equivalent to 14.9 per cent of the total landings making the reef fishery second in rank among the principal groups of insular marine fisheries.

Today this fishery is in jeopardy because of the flagrant use of explosives. The Bureau of Fisheries, in cooperation with other law-enforcing agencies of the government, is waging a continuing punitive and educational campaign against this destructive practice.

The fishery includes about 20 families consisting of 55 species of fishes (Umali and Warfel, 1949). Of these, five species of caesios contributed more than 50 per cent of the total catch. The other groups include the porgies, surgeon fishes, snappers, siganids, etc. in the order of their importance.

The life history and biology of any member of the group are unknown. The size of the individual species of reef fish commonly landed in Manila markets is shown in Table 10 (Umali, 1936).

TABLE 10.—*The commercial size of the individual species of reef fish commonly landed in the fresh fish market.*

ENGLISH NAME	SCIENTIFIC NAME	LENGTH IN CM.
Denticulated caesio	<i>Caesio cunning</i>	30
Black-tailed caesio	<i>C. caeruleus</i>	25
Golden caesio	<i>C. chrysozonus</i>	15-20
Plump caesio	<i>C. lunaris</i>	30
Red caesio	<i>Penjalo typus</i>	40
Common porgy	<i>Lethrinus opercularis</i>	20
Big-eyed porgy	<i>Monotaxis grandoculis</i>	40
Red porgy	<i>Argyrops spinifer</i>	30
Striped rudder fish	<i>Kyphosus lembus</i>	30
Blue-lined surgeon fish	<i>Acanthurus bleekeri</i>	30
Blue-spotted grouper	<i>Plectropomus maculatus</i>	50
Honeycomb grouper	<i>Epinephelus spp.</i>	30-40
Blue-striped snapper	<i>Lutjanus spiliurus</i>	20
Brown-striped snapper	<i>L. vitta</i>	20
Decussated snapper	<i>L. decussatus</i>	20
Orbicular leaf fish	<i>Platax orbicularis</i>	20
Javan siganid	<i>Teuthis javus</i>	30
Variegated siganid	<i>T. variegatus</i>	30

The principal fishing areas include Stewart Banks, Scarborough Reef, Apo Reef, the areas around Fortune, Lubang, Marinduque, Polilio, Ticao, Burias, Masbate, Cuyo and Busuanga Islands. The principal fishing season is during the calm months (December to May).

The fishing gear consists of the Japanese trap net, simple handliness (*kawil*), multiple handliness (*kawil moderno*), trawl lines (*kitang*), fish corrals, and deep-water fish pots (*bubo*). The simple handline is operated day and night and employs light when used during the dark of the moon. Trawl-lines and multiple hand-lines are generally used during the day. Bubsos artificially lighted with an ordinary flashlight tightly sealed in a glass jar are successfully used in this fishery.

Line and trap fishery.—In 1950, this fishery landed 391,968 kilograms which was 0.82 per cent of the total catch of the insular fisheries. This fishery includes the groupers and sea basses (Serranidae), snappers (Lutianidae), the barracudas (Sphyraenidae), and the deep sea *bisugo* (*Pristipomoides microdon*). The fishery consists of the catching of a wide group of demersal species ranging from moderate to large-sized fishes which generally inhabit the extensive "shoal" and "fringing" types of coral reefs obtaining in many parts of the Philippines (Faustino, 1931). As a group, these demersal species contribute to the major portion of the supply of first and second-class fish in the local fresh-fish market. They are considered among the choicest of food fishes characterized with pale to white flesh and generally fine texture. They are usually served baked and have excellent flavor.

Very little is known of the life-history and biology of the group. The juvenile forms of certain species of groupers and sea basses are at times collected from August through November in tidal sloughs and cultured in brackishwater ponds around Manila Bay. The sea bass (*Lates calcarifer*) and the grey snapper (*Lutianus argentimaculatus*) are catadromous species, the latter forming a distinct fishery in Butas River, outlet of Lake Naujan, Mindoro. The seasonal spawning migration occurs from February to April and it is during this period that they are caught in large quantities by traps set across the outlet of lakes. Other species of snappers also manage to enter freshwater streams and lakes and go down to the sea at spawning time.

The commercial sizes of the individual species commonly landed in the local fresh-fish markets are shown in Table 11.

The principal fishing grounds of the deep-sea *Pristipomoides*, groupers, sea bass and the sea-inhabiting shappers are the reefs and shoals of Ilocos Provinces, Southern and Southwestern Luzon which includes Simo Banks, Lubang and Fortune Islands, Apo Reefs, Marinduque, Ticao, Burias and Masbate; Northern and Northwestern Palawan including Cuyo and Busuanga Island groups, Visayan Sea, Northeastern Surigao and Southern Zamboanga and Sulu Archipelago. The fishing season is generally during the calm months (January through May). The principal fishing gear

TABLE 11.—Showing the commercial size of the individual fish commonly taken by the line and trap fishery.

Species	Size of individual fish (mean total length in cm.)
<i>Pristipomoides microdon</i>	40 to 60
<i>Epinephelus undulosus</i>	40
" <i>megachir</i>	30
" <i>corallicola</i>	40
" <i>merra</i>	30
" <i>fuscoyuttatus</i>	40
<i>Plectropomus maculatus</i>	50—attain one meter long
" <i>oligacanthus</i>	50 " " " "
<i>Anyperodon leucogramicus</i>	40-50
<i>Cromileptes altiveles</i>	20-40
<i>Variola lout</i>	40
<i>Lutianus malabaricus</i>	30-40
" <i>gibbus</i>	30-40
" <i>argentimaculatus</i>	50 (attain 80 cm. long)
" <i>decussatus</i>	20
" <i>bohar</i>	40
" <i>monostigma</i>	30
" <i>vitta</i>	20
" <i>spilurus</i>	20
" <i>fulvus</i>	30-50
" <i>johni</i>	20
<i>Sphyraena jello</i>	50 (attain a meter long)
" <i>obtusata</i>	20-25

used in the fisheries are handlines (simple and multiple), set lines, troll lines, fish corrals, and fish pots (*bubos*). Some of the members of the groups are incidentally taken by otter and beam trawls.

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Annex 9

Republic of the Philippines, *Republic Act No. 3046, An Act to Define the Baselines of the Territorial Sea of the Philippines* (17 June 1961)

Republic Act No. 3046 of 17 June 1961.
An Act to Define the Baselines
of the Territorial Sea of the Philippines

Whereas, the Constitution of the Philippines describes the national territory as comprising all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on December 10, 1898, the limits of which are set forth in Article III of said treaty together with all the islands embraced in the treaty concluded in Washington, between the United States and Spain on November 7, 1900, and in the treaty concluded between the United States and Great Britain on January 2, 1930, and all the territory over which the Government of the Philippine Islands exercised jurisdiction at the time of the adoption of the Constitution;

Whereas, all the waters within the limits set forth in the above-mentioned treaties have always been regarded as part of the territory of the Philippine Islands;

Whereas, all the waters around, between and connecting the various islands of the Philippine archipelago, irrespective of their width or dimension, have always been considered as necessary appurtenances of the land territory, forming part of the inland or internal waters of the Philippines;

Whereas, all the waters beyond the outermost islands of the archipelago but within the limits of the boundaries set forth in the aforementioned treaties comprise the territorial sea of the Philippines;

Whereas, the baselines from which the territorial sea of the Philippines is determined consist of straight lines joining appropriate points of the outermost islands of the archipelago; and

Whereas, the said baselines should be clarified and specifically defined and described for the information of all concerned;

Section 1. (See Republic Act No. 5446 infra.)

Section 2. All waters within the baselines provided for in section one hereof are considered inland or internal waters of the Philippines.

Annex 10

Republic of the Philippines, *Presidential Proclamation No. 370, Declaring as Subject to the Jurisdiction and Control of the Republic of the Philippines all Mineral and other Natural Resources in the Continental Shelf*
(20 Mar. 1968)

Presidential Proclamation No. 370 of 20 March 1968
Declaring as Subject to the Jurisdiction and Control
of the Republic of the Philippines all Mineral
and other Natural Resources in the Continental Shelf

Now, therefore, I, Ferdinand E. Marcos, President of the Philippines, do hereby proclaim that all the mineral and other natural resources in the sea bed and subsoil of the continental shelf adjacent to the Philippines, but outside the area of its territorial sea to where the depth of the superjacent waters admits of the exploitation of such resources, including living organisms belonging to sedentary species, appertain to the Philippines and are subject to its exclusive jurisdiction and control for purposes of exploration and exploitation. In any case where the continental shelf is shared with an adjacent state, the boundary shall be determined by the Philippines and that state in accordance with legal and equitable principles. The character of the waters above these submarine areas as high seas and that of the airspace above those waters, is not affected by this proclamation.

Annex 11

Republic of the Philippines, *Republic Act No. 5446, An Act to Amend Section One of Republic Act Numbered Thirty Hundred and Forty-Six, Entitled "An Act to Define the Baselines of the Territorial Sea of the Philippines"*
(18 Sept. 1968)

Republic Act No. 5446 of 18 September 1968.
An Act to Amend Section One of the Republic Act
Numbered Thirty Hundred and Forty-Six,
Entitled "An Act to Define the Baselines
of the Territorial Sea of the Philippines"

Section 1. To correct typographical errors, Section One of Republic Act numbered thirty hundred and forty six is amended to read as follows:

"Section 1. The baselines for the territorial sea of the Philippines are hereby defined and described specifically as follows:

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Y'AMI Island (E) Line 1 (Y'AMI I. (E.)- Tumaruk Rk.)	21°07'03"	121°57'24"	353°27'	81,656
Tumaruk Rk. Line 2 (Tumaruk Rk. -Balintang Is.)	20°28'28"	122°02'06"	347°13'	58,105
Balintang Islands Line 3 (Balintang Is. -Didicas Rk.)	19°57'45"	122°09'28"	357°05'	97,755
Didicas Rk. Line 4 (Didicas Rk.- Higan Pt.)	19°04'50"	122°12'18"	350°39'	86,155
Iligan Pt. Line 5 (Iligan Pt. -Ditolong Pt.)	18°18'45"	122°20'15"	351°23'	136,030
Ditolong Pt. Line 6 (Ditolong Pt.- Diviuisa Pt.)	17°05'50"	122°31'44"	16°56'	34,378
Diviuisa Pt. Line 7 (Diviuisa Pt.- Dijohan Pt.)	16°48'00"	122°26'06"	21°01'	57,781
Dijohan Pt. Line 7a (Dijohan Pt.- Bulubalik Pt.)	16°18'45"	122°14'28"	10°52'	142,360

Bulubalik Pt. Line 8 (Bulubalik Pt.- Tinaga I.)	15°02'56"	121°59'30"	300°15'	120,986
Tinaga I. Line 9 (Tinaga I.- Horadaba Rks.)	14°29'45"	122°57'40"	286°27'	148,690
Horadaba Rks. Line 10 (Horadaba Rk. -Matulin Rk.)	14°06'41"	124°17'23"	306°34'	1,083
Matulin Rk. Line 11 (Matulin Rk. -Atalaya Pt.)	14°06'20"	124°17'23"	331°46'	178,480

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Atalaya Pt. Line 11a (Atalaya Pt.-Finch Rk.)	12°40'59"	125°04'02'	313°30'	22,268
Finch Rk. Line 12 (Finch Rk.- SE of Manjud Pt.)	12°32'40"	125°12'57"	322°27'	14,225
SE Manjud Pt. Line 12a (SE of Manjud Pt.-Sora Cay)	12°27'54"	125°17'59"	322°27'	14,225
Sora Cay Line 13 (Sora Cay- Bunga Pt.)	12°21'47"	125°22'46"	321°03'	22,793
Bunga Pt. Line 13a Bunga Pt.- Tubabao I.)	12°12'10"	125°30'40"	331°50'	12,686
Tubabao I. Line 14 (Tubabao I.- Tugnug Pt.)	12°06'06"	125°33'58"	355°22'	83,235
Tugnug Pt. Line 15 (Tugnug Pt.- Suluan I.)	11°21'06"	125°37'40"	331°03'	75,326
Suluan I. Line 16 (Suluan I.- Tuason Pt.)	10°45'20"	125°57'40"	347°51'	107,070
Tuason Pt. Line 17 (Tuason Pt.- Cauit Pt.)	9°48'33"	126°10'00"	355°25'	55,415
Cauit Pt. Line 18 (Cauit Pt. -Arangasa Is.)	9°18'35"	126°12'25"	342°44'	49,703
Arangasa Is. Line 19 (Arangasa Is. -Quinablangan I.)	8°52'50"	126°20'28"	348°40"	131,330
Quinablangan I. Line 19a (Quinablangan I.-Above Languyan R.)	7°42'58"	126°34'30"	353°08'	25,619

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Above Languyan R. Line 20 (Above Languyan R.-Pusan Pt.)	7°29'10"	126°36'10"	356°52"	22,489
Pusan Pt. Line 21 (Pusan Pt.- Tuguban Pt.)	7°16'59"	126°36'50"	26°39"	36,259
Tuguban Pt. Line 22 (Tuguban Pt.- Cape S. Agustin (N))	6°59'24"	126°28'00"	20°33"	83,350
Cape San Agustin (N) Line 22a (Cape S. Agustin (N)- Cape San Agustin (S))	6°17'03"	126°12'08"	30°16'	1,707
Cape San Agustin (S) Line 23 (Cape S. Agustin (S)-Panguil Bato Pt.)	6°16'15"	126°11'40"	39°23'	125,100
Panguil Bato Pt. Line 23a (Panguil Bato Pt.-Tapundo Pt.)	5°23'45"	125°28'42"	66°32'	7,484
Tapundo Pt. Line 24 (Tapundo Pt. -Manamil I.)	5°22'08"	125°24'59"	88°19'	7,667
Manamil I. Line 24a (Manamil I. -Balut I. (W))	5°22'05"	125°20'50"	139°01'	3,051
Balut I. (W) Line 25 (Balut I. (W) -Middle of 3 Rk. Awash)	5°23'20"	125°19'45"	124°47'	149,840
Middle of 3 Rk. Awash Line 26 (Middle of 3 Rk. Awash- TONGQUIL I.)	6°09'39"	124°13'02"	86°18'	259,400
TONGQUIL I. Line 27 (TONGQUIL I.-Sumbasumba I.)	6°00'15"	121 52'45"	61°29'	115,950

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Sumbasumba I. Line 28 (Sumbasumba I. -Kinapusan Is.)	5°30'10"	120°57'35"	43°19'	44,445
Kinapusan Is. Line 29 (Kinapusan Is. -Manuk Manka I.)	5°12'37"	120°41'05"	63°14'	101,290
Manuk Manka I. Line 30 (MANUK MANKA I.- FRANCES REEF)	4°47'50"	119°52'10"	58°30'	80,847
Frances Reef Line 31 (Frances Reef -Bajapa Reef)	4°24'54"	119°14'54"	134°34'	29,330
Bajapa Reef Line 32 (Bajapa Reef -Pangan I.)	4°36'04"	119°03'36"	164°05'	13,480
Pangan I. Line 33 (Pangan I. -Omapoy I.)	4°43'06"	119°01'36"	238°48'	42,470
Omapoy I. Line 34 (Omapoy I.- Sanga-Sanga I.)	4°55'02"	119°21'15"	246°11'	51,005
Sanga-Sanga I. Line 35 (Sanga-Sanga I. -Pearl Bank)	5°06'12"	119°46'30"	170°05'	80,200
Pearl Bank Line 36 (Pearl Bank- Baguan I.)	5°49'04"	119°39'01"	103°12'	137,050
Baguan I. Line 36a (Baguan I.- Taganak I.)	6°06'00"	118°26'42"	76°52'	15,535
Taganak I. Line 37 (Taganak I.- Gt. Bakkungaan)	6°04'05"	118°18'30"	118°39'	24,805

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Gt. Bakkungaan Line 37a (Gt. Bakkungaan-SIBAUNG [Sibaung] I.)	6°10'32"	118°06'42"	136°04'	18,470
SIBAUNG I. Line 38 (SIBAUNG I.- Muligi I.)	6°17'45"	117°59'45"	215°36'	79,915
Muligi I. Line 39 (Muligi I.- Mangsee Is.)	6°53'00"	118°25'00"	119°14'	140,541
Mangsee Is. Line 39a Mangsee Is. -Cape Melville)	7°30'10"	117°18'20"	134°50'	48,815
Cape Melville Line 49 (Cape Melville -Ligas Pt.)	7°48'50"	116°59'30"	153°54'	15,665
Ligas Pt. Line 41 (Ligas Pt.- Cay)	7°56'28"	116°55'45"	170°40'	5,666
Cay Line 41a (Cay-Secam I.)		7°59'30"	116° 55'15" 204°52'	22,925
Secam I. Line 42 (SECAM I.- N. of Canipan Bay)	8°10'47"	117°00'30"	209°09'	54,990
N. of Canipan Bay Line 43 (N. of Canipan Bay-Tatub Pt.)	8°36'50"	117°15'06"	218°57'	18,570
Tatub Pt. Line 44 (Tatub Pt.- Punta Baja)	8°44'40"	117°21'28"	222°04'	45,125
Punta Baja Line 45 (Punta Baja- Malapackun I.)	9°02'50"	117°37'58"	223°30'	32,195
Malapackun I. Line 46 (Malapackun I. -PIEIRAS Pt.)	9°15'30"	117°50'04"	225°50'	148,260

PIEIRAS Pt.	10°11'28"	118°48'18"		
Line 47 (PIEIRAS Pt.- Tapiutan I.)			203°19'	124,900

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Tapiutan I. Line 48 (Tapiutan I.- Pinnacle Rk.)	11°13'40"	119°15'28"	208°47'	136,590
Pinnacle Rk. Line 49 (Pinnacle Rk. -Cape Calavite)	12°18'34"	119°51'45"	200°40'	134,230
Cape Calavite Line 50 (Cape Calavite -Cabra I.)	13°26'40"	120°18'00"	148°12'	58,235
Cabra I. Line 51 (Cabra I.- Capones Is.)	13°53'30"	120°00'58"	179°26'	113,400
Capones Is. Line 52 (Capones Is. -PALAUIG Pt.)	14°55'00"	120°00'20"	168°09'	58,100
PALAUIG Pt. Line 53 (PALAUIG Pt.- Hermana Mayor I.)	15°25'50"	119°53'40"	164°17'	40,870
Hermana Mayor I. Line 53a (Hermana Mayor I.-Tambobo Pt.)	15°47'10"	119°47'28"	167°10'	20,490
Tambobo Pt. Line 54 (Tambobo Pt.- Rena Pt.)	15°58'00"	119°44'55"	181°43'	22,910
Rena Pt. Line 54a (Rena Pt.- -Cape Bolinao)	16°10'25"	119°45'18"	191°39'	18,675
Cape Bolinao Line 55 (Cape Bolinao -Darigayos Pt.)	16°20'20"	119°47'25"	226°20'	80,016
Darigayos Pt. Line 56 Darigayos Pt.-Dile Pt.)	16°50'15"	120°20'00"	179°58'	81,616
Dile Pt. Line 56a (Dile Pt.- Pinget I.)	17°34'30"	120°19'58"	188°27'	12,060

	<u>N. Latitude</u>	<u>E. Longitude</u>	<u>Azimuth</u>	<u>Distance in Metres</u>
Pinget I. Line 56b (Pinget I.- Badoc I.)	17°40'58"	120°20'58"	192°46'	27,170
Badoc I. Line 57 (Badoc I.- Cape Bojeador)	17°55'20"	120°24'22"	195°03'	65,270
Cape Bojeador Line 58 (Cape Bojeador -Dalupiri I.)	18°29'30"	120°34'00"	222°16'	101,740
Dalupiri I. Line 59 (Dalupiri I.- Catanapan Pt.)	19°10'15"	121°13'02"	213°29'	25,075
Catanapan Pt. Line 60 (Catanapan Pt. -Dequey I.)	19°21'35"	121°20'56"	202°27'	116,870
DEQUEY I. Line 61 (DEQUEY I.- RAILE)	20°20'06"	121°46'35"	180°47'	42,255
RAILE Line 62 (RAILE- Y'AMI I. (W))	20°43'00"	121°46'55"	200°30'	43,140
Y'ami I. (W) Line 63 (Y'ami I. (W)- Y'ami I. (M))	21°07'26"	121°56'39"	238°40'	237
Y'ami I. (M) Line 64 (Y'ami I. (M) -Y'Ami I (E)	21°07'30"	121°56'46"	307°08'	1,376
Y'Ami I. (E)	21°07'03"	121°57'24"		

Section 2. The definiton of the baselines of the territorial sea of the Philippine Archipelago as provided in this Act is without prejudice to the delineation of the baselines of the territorial sea around the territory of Sabah, situated in North North Borneo, over which the Republic of the Philippines has acquired dominion and sovereignty.

Annex 12

Republic of the Philippines, *Constitution of the Republic of the Philippines* (17 Jan. 1973)

Official Gazette

1973 Constitution of the Republic of the Philippines

Published: April 7, 1981.

1973

PREAMBLE

We, the sovereign Filipino people, imploring the aid of Divine Providence, in order to establish a Government that shall embody our ideals, promote the general welfare, conserve and develop the patrimony of our Nation, and secure to ourselves and our posterity the blessings of democracy under a regime of justice, peace, liberty, and equality, do ordain and promulgate this Constitution.

ARTICLE I

THE NATIONAL TERRITORY

SECTION 1. The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all the other territories belonging to the Philippines by historic right or legal title, including the territorial sea, the air space, the subsoil, the sea-bed, the insular shelves, and the other submarine areas over which the Philippines has sovereignty or jurisdiction. The waters around, between, and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines.

ARTICLE II

DECLARATION OF PRINCIPLES AND STATE POLICIES

SECTION 1. The Philippines is a republican state. Sovereignty resides in the people and all governmental authority emanates from them.

SEC. 2. The defense of the State is a prime duty of the Government and the people, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service.

SEC. 3. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

SEC. 4. The State shall strengthen the family as a basic social institution. The natural right and duty of parents in the rearing of the

youth for civic efficiency and the development of moral character shall receive the aid and support of the Government.

SEC. 5. The State recognizes the vital role of the youth in the nation-building and shall promote their physical, intellectual, and social well-being.

SEC. 6. The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits.

SEC. 7. The State shall establish, maintain, and ensure adequate social services in the field of education, health, housing, employment, welfare, and social security to guarantee the enjoyment by the people of a decent standard of living.

SEC. 8. Civilian authority is at all times supreme over the military.

SEC. 9. The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration.

SEC. 10. The State shall guarantee and promote the autonomy of local government units, especially the [barangays], to ensure their fullest development as self-reliant communities.

ARTICLE III

CITIZENSHIP

SECTION 1. The following are citizens of the Philippines:

- (1) Those who are citizens of the Philippines at the time of the adoption of this Constitution.
- (2) Those whose fathers or mothers are citizens of the Philippines.
- (3) Those who elect Philippine citizenship pursuant to the provisions of the Constitution of nineteen hundred and thirty-five.
- (4) Those who are naturalized in accordance with law.

SEC. 2. A female citizen of the Philippines who marries an alien shall retain her Philippine citizenship, unless by her act or omission she is deemed, under the law, to have renounced her citizenship.

SEC. 3. Philippine citizenship may be lost or reacquired in the manner provided by law.

SEC. 4. A natural-born citizen is one who is a citizen of the Philippines from birth without having to perform any act to acquire or perfect his Philippine citizenship.

ARTICLE IV

BILL OF RIGHTS

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

SEC. 2. Private property shall not be taken for public use without just compensation.

SEC. 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

SEC. 4. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety and order require otherwise.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

SEC. 5. The liberty of abode and of travel shall not, be impaired except upon lawful order of the court, or when necessary in the interest of national security, public safety, or public health.

SEC. 6. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, shall be afforded the citizen subject to such limitations as may be provided by law.

SEC. 7. The right to form associations or societies for purposes not contrary to law shall not be abridged.

SEC. 8. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

SEC. 9. No law shall be passed abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

SEC. 10. No law granting a title of royalty or nobility shall be enacted.

SEC. 11. No law impairing the obligation of contracts shall be passed.

SEC. 12. No ex post facto law or bill of attainder shall be enacted.

SEC. 13. No person shall be imprisoned for debt or non-payment of a poll tax.

SEC. 14. No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.

SEC. 15. The privilege of the writ of habeas corpus shall not be suspended except in cases of invasion, insurrection, rebellion, or imminent danger thereof, when the public safety requires it.

SEC. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

SEC. 17. No person shall be held to answer for a criminal offense without due process of law.

SEC. 18. All persons, except those charged with capital offenses when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties. Excessive bail shall not be required.

SEC. 19. In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of

witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustified.

SEC. 20. No person shall be compelled to be a witness against himself. Any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such right. No force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Any confession obtained in violation of this section shall be inadmissible in evidence.

SEC. 21. Excessive fines shall not be imposed, nor cruel or unusual punishment inflicted.

SEC. 22. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

SEC. 23. Free access to the courts shall not be denied to any person by reason of poverty.

ARTICLE V

DUTIES AND OBLIGATIONS OF CITIZENS

SECTION 1. It shall be the duty of the citizen to be loyal to the Republic and to honor the Philippine flag, to defend the State and contribute to its development and welfare, to uphold the Constitution and obey the laws, and to cooperate with the duly constituted authorities in the attainment and preservation of a just and orderly society.

SEC. 2. The rights of the individual impose upon him the correlative duty to exercise them responsibly and with due regard for the rights of others.

SEC. 3. It shall be the duty of every citizen to engage in gainful work to assure himself and his family a life worthy of human dignity.

SEC. 4. It shall be the obligation of every citizen qualified to vote to register and cast his vote.

ARTICLE VI

SUFFRAGE

SECTION 1. Suffrage shall be exercised by citizens of the Philippines not otherwise disqualified by law, who are eighteen years of age or over, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage. The Batasang Pambansa shall provide a system for the purpose of securing the secrecy and sanctity of the vote.

ARTICLE VII

THE PRESIDENT

SECTION 1. The President shall be the head of state and chief executive of the Republic of the Philippines.

SEC. 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, able to read and write, at least fifty years of age on the day of election for President, and a resident of the Philippines for at least ten years immediately preceding such election.

SEC. 3. The President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the thirtieth day of June following the day of the election and shall end at noon of the same date six years thereafter when the term of his successor shall begin.

The returns of every election for President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Speaker at the Batasang Pambansa, who shall, not later than thirty days after the day of the election, and in the presence of the Batasang Pambansa open all the certificates, and the votes shall then be counted.

The person having the highest number of votes shall be proclaimed elected; but in case two or more shall have an equal and the highest number of votes, one of them shall forthwith be chosen by a vote of a majority of all the Members of the Batasang Pambansa in session assembled.

SEC. 4. If, at the time fixed for the beginning of his term, the President-elect shall have died or shall have failed to qualify or if the President shall not have been chosen, the Executive Committee, headed by the Prime Minister, as hereinafter provided, shall exercise the powers and discharge the duties of the President until a President shall have been elected and qualified. If the Batasang Pambansa withdraws its confidence in the Prime Minister, the Speaker shall preside over the Executive Committee. In the absence of an Executive Committee, the Speaker of the Batasang Pambansa shall act as President until a President shall have been elected and qualified.

In the event of death or failure to qualify as herein provided, the Batasang Pambansa shall call a special election in the manner prescribed in Section 7 hereof.

SEC. 5. The President, on assuming office, shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man and consecrate myself to the service of the Nation. So help me God." (In case of affirmation, the last sentence is omitted.)

SEC. 6. (1) The President shall have an official residence and shall receive a compensation to be fixed by law, which shall not be increased or decreased during his term of office. He shall not receive during his tenure any other emolument from the Government or any other source. Until the Batasang Pambansa shall provide otherwise, the President shall receive an annual salary of one hundred thousand pesos.

(2) The President shall not, during his tenure, hold any other office, practice any profession, participate directly or indirectly in the management of any business, or be financially interested directly or indirectly in any contract with, or in any franchise or special privilege granted by, the Government or any subdivision, agency or instrumentality thereof, including any government-owned or controlled corporation.

SEC. 7. In case of permanent disability, death, removal from office or resignation of the President, the Executive Committee headed by the Prime Minister as hereinafter provided shall exercise the powers of the President until a President shall have been elected and qualified. If the permanent disability, death, removal from office or resignation of the President occurs earlier than eighteen (18) months before the expiration of his term, the Batasang Pambansa shall, within thirty days from the time the vacancy occurs, call a special election to be held not earlier than forty-five days nor later than sixty days from the time of such call, to elect a President to serve the unexpired term.

In the absence of an Executive Committee, the Speaker shall act as President until the President shall have been elected and qualified.

SEC. 8. The President shall have control of the ministries.

SEC. 9. The President shall be commander-in-chief of all armed forces of the Philippines and, whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion, insurrection, or rebellion. In case of invasion, insurrection, or rebellion, or imminent danger thereof, when the public safety requires it, he may suspend the privilege of the writ of habeas corpus, or place the Philippines or any part thereof under martial law.

SEC. 10. The President shall appoint the heads of bureaus and offices, the officers of the armed forces of the Philippines from the rank of brigadier general or commodore, and all other officers of the Government whose appointments are not otherwise provided for, those whom he may be authorized by law to appoint. However, the Batasang Pambansa may by law vest in the Prime Minister, members of the Cabinet, the Executive Committee, courts, heads of agencies, commissions, and boards the power to appoint inferior officers.

SEC. 11. The President may, except in cases of impeachment, grant reprieves, commutations and pardons, remit fines and forfeitures and, with the concurrence of the Batasang Pambansa, grant amnesty.

SEC. 12. The President may contract and guarantee foreign and domestic loans on behalf of the Republic of the Philippines, subject to such limitations as may be provided by law.

SEC. 13. The President shall formulate the guidelines of national policy.

SEC. 14. The President shall address the Batasang Pambansa at the opening of its regular session. He may also appear before it at any other time.

SEC. 15. The President shall be immune from suit during his tenure. Thereafter, no suit whatsoever shall lie for official acts done by him or by others pursuant to his specific orders during his tenure.

The immunities herein provided shall apply to the incumbent President referred to in Article XVII of this Constitution.

SEC. 16. All powers vested in the President of the Philippines under the 1935 Constitution and the laws of the land which are not herein provided for or conferred upon any official shall be deemed and are hereby vested in the President unless the Batasang Pambansa provides otherwise.

ARTICLE VIII

BATASANG PAMBANSA

SECTION 1. The Legislative power shall be vested in a Batasang Pambansa.

SEC. 2. The Batasang Pambansa which shall be composed of not more than 200 Members unless otherwise provided by law, shall include representatives elected from the different regions of the Philippines, those elected or selected from various sectors as may be provided by law, and those chosen by the President from the members of the Cabinet. Regional representatives shall be apportioned among the regions in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio.

The number of representatives from each region and the manner of their election shall be prescribed by law. The number of representatives from each sector and the manner of their election or selection shall be prescribed by law.

SEC. 3. (1) The Members of the Batasang Pambansa shall have a term of six years which shall begin; unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

(2) In case the Batasang Pambansa is dissolved, the newly elected Members shall serve the unexpired portion of the term from the time the President convokes the Assembly, which shall not be later than thirty days immediately following their election.

SEC. 4. No person shall be a Member of the Batasang Pambansa as a regional representative unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, a registered voter in the Region in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the

day of the election.

A sectoral representative shall be a natural-born citizen, able to read and write, and shall have such other qualifications as may be provided by law.

SEC. 5. (1) The regular election of the Members of the Batasang Pambansa shall be held on the second Monday of May 1984 and every six years thereafter.

(2) In case a vacancy arises in the Batasang Pambansa eighteen months or more before a regular election, the Commission on Elections shall call a special election to be held within sixty days after the vacancy occurs to elect the Member to serve the unexpired term.

SEC. 6. The Batasang Pambansa shall convene once every year on the fourth Monday of July for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine. However, it may be called to session at any time by the President to consider such subjects or legislation as he may designate;

SEC. 7. (1) The Batasang Pambansa shall, by a majority vote of all its Members, elect its Speaker from the Members thereof. It shall choose such other officers as it may deem necessary.

(2) A majority of all the Members of the Batasang Pambansa shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent Members in such manner, and under such penalties, as the Batasang Pambansa may provide.

(3) The Batasang Pambansa may determine the rules of its proceedings, punish its Members for disorderly behavior, and with the concurrence of two-thirds of all its Members; suspend or expel a Member, but if the penalty is suspension, this shall not exceed sixty days.

(4) The Batasang Pambansa shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may, in its judgment, effect national security; and the yeas and nays on any question shall, at the request of one-fifth of the Members present, be entered in the Journal.

SEC. 8. (1) Unless otherwise provided by law, each Member of the Batasang Pambansa shall receive an annual salary of sixty thousand pesos. The Speaker of the Batasang Pambansa shall receive an annual salary of seventy-five thousand pesos. No increase in salary shall take effect until after the expiration of the term of the Members of the Batasang Pambansa approving such increase.

(2) The records and books of accounts of the Batasang Pambansa shall be open to the public in accordance with law, and such books shall be audited by the Commission on Audit which shall publish annually the itemized expenditures for each Member.

SEC. 9. A Member of the Batasang Pambansa shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest during his attendance at its sessions, and in going to and returning from the same; but the Batasang Pambansa shall surrender the Member involved to the custody of the law within twenty-four hours after its adjournment for a recess or for its next session, otherwise such privilege shall cease upon its failure to do so. A Member shall not be questioned nor be held liable in any other place for any speech or debate in the Batasan or in any committee thereof.

SEC. 10. A Member of the Batasang Pambansa shall not hold any other office or employment in the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, during his tenure except that of Prime Minister, Deputy Prime Minister, Member of the Cabinet or the Executive Committee, or Deputy Minister. Neither shall he, during the term for which he was elected, be appointed to any civil office which may have been created or the emoluments thereof increased while he was a Member of the Batasang Pambansa.

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SEC. 11. No Member of the Batasang Pambansa shall appear as counsel before any court without appellate jurisdiction, before any court in any civil case wherein the Government, or any subdivision, agency, or instrumentality thereof is the adverse party, or in any criminal case wherein any officer or employee of the Government is accused of an offense committed in relation to his office, or before any administrative body. Neither shall he, directly or indirectly be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency or instrumentality thereof, including any government-owned or controlled corporation, during his term of office. He shall not accept employment to intervene in any cause or matter where he may be called to act on account of his office.

SEC. 12. (1) There shall be a question hour at least once a month or as often as the Rules of the Batasang Pambansa may provide, which shall be included in its agenda, during which the Prime Minister, the Deputy Prime Minister or any Minister may be required to appear and answer questions and interpellation by Members of the Batasang Pambansa. Written questions shall be submitted to the Speaker at least three days before a scheduled question hour. Interpellations shall not be limited to the written questions, but may cover matters related thereto. The agenda shall specify the subjects of the question hour. When the security of the State so requires and the President so states in writing, the question hour shall be conducted in executive session.

(2) The Batasang Pambansa or any of its committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in. or affected by such inquiries shall be respected.

SEC. 13. (1) The Batasang Pambansa may withdraw its confidence from the Prime Minister by a majority vote of all its Members. The motion for a vote of no confidence shall be calendared for debate if it is signed by at least one-fifth of the Members of the Batasang Pambansa. No such motion shall be debated and voted upon until after the lapse of seven days after its submission.

Within ten days from receipt of the written advice of the approval of the motion of no confidence, the President may submit a nominee for a Prime Minister to be elected by the Batasang Pambansa.

(2) The Prime Minister may advise the President in writing to dissolve the Batasang Pambansa whenever the need arises for a popular vote of confidence on fundamental issues, but not on a matter involving his own personal integrity. Whereupon, the President may dissolve the Batasang Pambansa not earlier than seven nor later than fourteen days from his receipt of the advice, and call for an election on a date set by him which shall not be earlier than forty-five nor later than sixty days from the date of such dissolution. However, no dissolution of the Batasang Pambansa shall take place within eighteen months immediately preceding a regular election of the Batasang Pambansa or within eighteen months immediately following such election, or during the pendency of impeachment proceedings against the President, or when the powers of the President are exercised by the Executive Committee or the Speaker. The Batasang Pambansa shall not be dissolved oftener than once every twelve (12) months.

SEC. 14. (1) Except as otherwise provided in this Constitution, no treaty shall be valid and effective unless concurred in by a majority of all the Members of the Batasang Pambansa.

(2) The Batasang Pambansa, by a vote of two-thirds of all its Members, shall have the sole power to declare the existence of a state of war.

SEC. 15. In times of war or other national emergency, the Batasang Pambansa may by law authorize the President for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Batasang Pambansa, such powers shall cease upon its next adjournment.

SEC. 16. (1) The Prime Minister shall submit to the Batasang Pambansa within thirty days from the opening of each regular session, as the basis of the general appropriations bill, a budget of receipts based on existing and proposed revenue measures, and of expenditures. The form, content, and manner of preparation of the budget shall be prescribed by law.

(2) No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.

(3) The procedure in approving appropriations for the Batasang Pambansa shall strictly follow the procedure for approving appropriations for other departments and agencies.

(4) A special appropriations bill shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified to by the National Treasurer, or to be raised by a corresponding revenue proposal included therein.

(5) No law shall be passed authorizing any transfer of appropriations; however, the President, the Prime Minister, the Speaker, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may by law be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

(6) If, by the end of any fiscal year, the Batasang Pambansa shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be deemed re-enacted and shall remain in force and effect until the general appropriations bill is passed by the Batasang Pambansa.

SEC. 17. (1) The rule of taxation shall be uniform and equitable. The Batasang Pambansa shall evolve a progressive system of taxation.

(2) The Batasang Pambansa may by law authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts.

(3) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, and non-profit cemeteries, and all lands, buildings, and improvements actually, directly, and exclusively used for religious or charitable purposes shall be exempt from taxation.

(4) No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of the Batasang Pambansa.

SEC. 18 (1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.

(2) No public money or property shall ever be appropriated, applied, paid, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.

SEC. 19. (1) Every bill shall embrace only one subject which shall be expressed in the title thereof.

(2) No bill shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to the Members three days before its passage, except when the Prime Minister certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the yeas and nays entered in the Journal.

SEC. 20. (1) Every bill passed by the Batasang Pambansa shall, before it becomes a law, be presented to the President. If he approves the same, he shall sign it; otherwise, he shall veto it and return the same with his objections to the Batasang Pambansa. The bill may be reconsidered by the Batasang Pambansa and, if approved by two-thirds of all its Members, shall become a law. The President shall act on every bill passed by the Batasang Pambansa within thirty days after the date of receipt thereof;

otherwise it shall become a law as if he had signed it.

(2) The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.

ARTICLE IX

THE PRIME MINISTER, THE CABINET AND THE EXECUTIVE COMMITTEE

SECTION 1 There shall be a Cabinet which shall be composed of Ministers with or without portfolio appointed by the President. At least a majority of the Members of the Cabinet who are heads of ministries shall come from the Regional Representatives of the Batasang Pambansa.

The Prime Minister shall be the head of the Cabinet. He shall, upon the nomination of the President from among the Members of the Batasang Pambansa, be elected by a majority of all the Members thereof.

SEC. 2. The Prime Minister and the Cabinet shall be responsible to the Batasang Pambansa for the program of government approved by the President.

SEC. 3. There shall be an Executive Committee to be designated by the President, composed of the Prime Minister as Chairman, and not more than fourteen other members, at least half of whom shall be Members of the Batasang Pambansa. The Executive Committee shall assist the President in the exercise of his powers and functions and in the performance of his duties as he may prescribe.

The Members of the Executive Committee shall have the same qualifications as those of the Members of the Batasang Pambansa.

SEC. 4. The term of office of the Prime Minister shall commence from the date of his election by the Batasang Pambansa and shall end on the date that the nomination of his successor is submitted by the President to the Batasang Pambansa. Any other member of the Cabinet or the Executive Committee may be removed at the discretion of the President.

SEC. 5. (1) The President may nominate from among the Members of the Batasang Pambansa a Deputy Prime Minister who shall be elected by a majority of the Members thereof. The Deputy Prime Minister shall perform such functions as may be assigned to him by the Prime Minister.

(2) The President shall also appoint the Deputy Ministers who shall perform such functions as may be assigned to them by law or by the respective heads of ministries.

SEC. 6. The Prime Minister, Deputy Prime Minister, the Members of the Cabinet, and the Members of the Executive Committee, on assuming office, shall take the following oath or affirmation:

'I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as (name of position) of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man and consecrate myself to the service of the Nation. So help me God.' (In case of affirmation, the last sentence will be omitted.)

SEC. 7. The salaries and emoluments of the Prime Minister, Deputy Prime Minister, Members of the Cabinet and of the Executive Committee shall be fixed by law which shall not be increased or decreased during their tenure of office. Until otherwise provided by law, the Prime Minister shall receive the same salary as that of the President.

SEC. 8. The Prime Minister, the Members of the Cabinet and the Members of the Executive Committee, shall be subject to the provisions of Section 11, Article VIII hereof and may not appear as counsel before any court or administrative body, or manage any business, or practice any profession, and shall also be subject to such other disqualifications as may be provided by law.

SEC. 9. The Prime Minister, Deputy Prime Minister, any Member of the Cabinet or the Executive Committee may resign for any cause without vacating his seat as Regional or Sectoral Representative in the Batasang Pambansa, or any other government position.

SEC. 10. The Prime Minister shall have supervision of all ministries.

ARTICLE X

THE JUDICIARY

SECTION 1. The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law. The Batasang Pambansa shall have the power to define, prescribe, and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section five hereof.

SEC. 2. (1) The Supreme Court shall be composed of a Chief Justice and fourteen Associate Justices. It may sit en banc or in two divisions.

(2) All cases involving the constitutionality of a treaty, executive agreement, or law shall be heard and decided by the Supreme Court en banc, and no treaty, executive agreement, or law may be declared unconstitutional without the concurrence of at least ten Members. All other cases, which under its rules are required to be heard en banc, shall be decided with the concurrence of at least eight Members.

(3) Cases heard by a division shall be decided with the concurrence of at least five Members, but if such required number is not obtained, the case shall be decided en banc: Provided, that no doctrine or principle of law laid down by the Court in a decision rendered en banc or in division may be modified or reversed except by the Court sitting en banc.

SEC. 3. (1) No person shall be appointed Member of the Supreme Court unless he is a natural-born citizen of the Philippines, at least forty years of age, and has for ten years or more been a judge of a court of record or engaged in the practice of law in the Philippines.

(2) The Batasang Pambansa shall prescribe the qualifications of judges of inferior courts, but no person may be appointed judge thereof unless he is a natural-born citizen of the Philippines and a member of the Philippine Bar.

SEC. 4. The Members of the Supreme Court and judges of inferior courts shall be appointed by the President.

SEC. 5. The Supreme Court shall have the following powers:

(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers, and consuls, and over petitions for certiorari, prohibition, mandamus quo warranto, and habeas corpus.

(2) Review and revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and decrees of inferior courts in—

(a) All cases in which the constitutionality or validity of any treaty, executive agreement, law, ordinance, or executive order or regulation is in question.

(b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

(c) All cases in which the jurisdiction of any inferior court is in issue.

(d) All criminal cases in which the penalty imposed is death or life imprisonment.

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(e) All cases in which only an error or question of law is involved.

(3) Assign temporarily judges of inferior courts to other stations as public interest may require. Such temporary assignment shall not last longer than six months without the consent of the judge concerned.

(4) Order a change of venue or place of trial to avoid a miscarriage of justice.

(5) Promulgate rules concerning pleading, practice, and procedure in all courts, the admission to the practice of law, and the integration of the Bar, which, however, may be repealed, altered, or supplemented by the Batasang Pambansa. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights.

(6) Appoint its officials and employees in accordance with the Civil Service Law.

SEC. 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

SEC. 7. The Members of the Supreme Court and judges of inferior courts shall hold office during good behavior until they reach the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court shall have the power to discipline judges of inferior courts and, by a vote of at least eight Members, order their dismissal.

SEC. 8. The conclusions of the Supreme Court in any case submitted to it for decision en banc or in division shall be reached in consultation before the case is assigned to a Member for the writing of the opinion of the Court. Any Member dissenting from a decision shall state the reasons for his dissent. The same requirements shall be observed by all inferior collegiate courts.

SEC. 9. Every decision of a court of record shall clearly and distinctly state the facts and the law on which it is based. The Rules of Court shall govern the promulgation of minute resolutions.

SEC. 10. The salary of the Chief Justice and of the Associate Justices of the Supreme Court, and of judges of inferior courts shall be fixed by law, which shall not be decreased during the continuance in office. Until the Batasang Pambansa shall provide otherwise, the Chief Justice shall receive an annual salary of seventy-five thousand pesos, and each Associate Justice, sixty thousand pesos.

SEC.11.(1) Upon the effectivity of this Constitution, the maximum period within which a case or matter shall be decided or resolved from the date of its submission, shall be eighteen months for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all inferior collegiate courts, and three months for all other inferior courts.

(2) With respect to the Supreme Court and other collegiate appellate courts, when the applicable maximum period shall have lapsed without "the rendition of the corresponding decision or resolution because the necessary vote cannot be had, the judgment, order, or resolution appealed from shall be deemed affirmed, except in those cases where a qualified majority is required and in appeals from judgments of conviction in criminal cases; and in original special civil actions and proceedings for habeas corpus, the petition in such cases shall be deemed dismissed; and a certification to this effect signed by the Chief Magistrate of the court shall be issued and a copy thereof attached to the record of the case.

SEC. 12. The Supreme Court shall, within thirty days from the opening of each regular session of the Batasang Pambansa, submit to the President, the Prime Minister, and the Batasang Pambansa an annual report on the operations and activities of the Judiciary.

ARTICLE XI

LOCAL GOVERNMENT

SECTION 1. The territorial and political subdivisions of the Philippines are the provinces, cities, municipalities, and barrios.

SEC. 2. The Batasang Pambansa shall enact a local government code which may not thereafter be amended except by a majority vote of all its Members, defining a more responsive and accountable local government structure with an effective system of recall, allocating among the different local government units their powers, responsibilities, and resources, and providing for the qualifications, election and removal, term, salaries, powers, functions, and duties of local officials, and all other matters relating to the organization and operation of the local units. However, any change in the existing form of local government shall not take effect until ratified by a majority of the votes cast in a plebiscite called for the purpose.

SEC. 3. No province, city, municipality, or barrio may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code, and subject to the approval by a majority of the votes cast in a plebiscite in the unit or units affected.

SEC. 4. (1) Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barrios, shall ensure that the acts of their component units are within the scope of their assigned powers and functions. Highly urbanized cities, as determined by standards established in the local government code, shall be independent of the province.

(2) Local government units may group themselves, or consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them.

SEC. 5. Each local government unit shall have the power to create its own sources of revenue and to levy taxes, subject to such limitations as may be provided by law.

ARTICLE XII

THE CONSTITUTIONAL COMMISSIONS

A. COMMON PROVISIONS

SECTION 1. The Constitutional Commissions shall be the Civil Service Commission, the Commission on Elections, and the Commission on Audit.

SEC. 2. Unless otherwise provided by law, the Chairman and each Commissioner of a Constitutional Commission shall receive an annual salary of sixty thousand pesos and fifty thousand pesos, respectively, which shall not be decreased during their continuance in office.

SEC. 3. No Member of a Constitutional Commission shall, during his tenure in office, engage in the practice of any profession or in the management of any business, or be financially interested directly or indirectly in any contract with, or in any franchise or privilege granted by, the Government, or any subdivision, agency, or instrumentality thereof including government-owned or controlled corporations.

SEC. 4. The Constitutional Commissions shall appoint their officials and employees in accordance with the Civil Service Law.

B. THE CIVIL SERVICE COMMISSION

SECTION 1. (1) The Civil Service embraces every branch, agency, subdivision, and instrumentality of the Government, including every government-owned or controlled corporation. It shall be administered by an independent Civil Service Commission composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines, and, at the time of their appointment, are at least thirty-five years of age and holders of a college degree, and must not have been candidates for any elective position in the election immediately preceding their appointment. The Chairman and the Commissioners shall be appointed by the President for a term of seven years without reappointment. Of the Commissioners first appointed, one shall hold office for seven years, another for five years, and the third for three years. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor.

(2) The Commission shall, subject to such limitations as may be provided by law, establish a career service and adopt measures to promote morale, efficiency, and integrity in the Civil Service.

SEC. 2. Appointments in the Civil Service, except as to those which are policy-determining, primarily confidential, or highly technical in nature, shall be made only according to merit and fitness, to be determined as far as practicable by competitive examination.

SEC. 3. No officer or employee in the Civil Service shall be suspended or dismissed except for causes as provided by law.

SEC. 4. (1) Unless otherwise provided by law, no elective official shall be eligible for appointment to any office or position during his tenure, except as Member of the Executive Committee referred to in Section 3, Article IX, hereof.

(2) No candidate who lost in an election shall be eligible for appointment or reappointment to any office in the Government, or in any government-owned or controlled Corporation, within one year following such election.

SEC. 5. No officer or employee in the Civil Service, including members of the armed forces, shall engage directly or indirectly in any partisan political activity or take part in any election except to vote.

SEC. 6. The Batasang Pambansa shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations, taking into account the nature of the responsibilities pertaining to, and the qualifications required for, the positions concerned.

C. THE COMMISSION ON ELECTIONS

SECTION 1. (1) There shall be an independent Commission on Elections composed of a Chairman and eight Commissioners, who shall be natural-born citizens of the Philippines, and, at the time of their appointment, at least thirty-five years of age and holders of a college degree. However, a majority thereof, including the Chairman, shall be members of the Philippine Bar who have been engaged in the practice of law for at least ten years.

(2) The Chairman and the Commissioners shall be appointed by the President for a term of seven years without reappointment. Of the Commissioners first appointed, three shall hold office for seven years, three for five years, and the last three for three years. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor.

SEC. 2. The Commission on Elections shall have the following powers and functions:

(1) Enforce and administer all laws relative to the conduct of elections.

(2) Be the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa and elective provincial and city officials.

(3) Decide, save those involving the right to vote, administrative questions affecting elections, including the determination of the number and location of polling places, the appointment of election officials and inspectors, and the registration of voters.

(4) Deputize, with the consent or at the instance of the President, law enforcement agencies and instrumentalities of the Government, including the armed forces of the Philippines, for the purpose of ensuring free, orderly, and honest elections.

(5) Register and accredit political parties subject to the provisions of Section eight hereof.

(6) Recommend to the Batasang Pambansa effective measures to minimize election expenses and prohibit all forms of election frauds and malpractices, political opportunism, ghost or nuisance candidacy, or other similar acts.

(7) Submit to the President, the Prime Minister, and the Batasang Pambansa a report on the conduct and manner of each election.

(8) Perform such other functions as may be provided by law.

SEC. 3. The Commission on Elections may sit en banc or in three divisions. All election cases may be heard and decided by divisions, except contests involving Members of the Batasang Pambansa, which shall be heard and decided en banc. Unless otherwise provided by law, all election cases shall be, decided within ninety days from the date of their submission for decision.

SEC. 4. The Commission may recommend to the President the removal of, or any other disciplinary action against, any officer or employee it has deputized, for violation or disregard of, or disobedience to, its decision, order, or directive.

SEC. 5. The enjoyment or utilization of all franchises or permits for the operation of transportation and other public utilities, media of communication or information, all grants, special privileges, or concessions granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, may be supervised or regulated by the Commission during the election period for the purpose of ensuring free, orderly, and honest elections.

SEC. 6. Unless otherwise fixed by the Commission in special cases, the election period shall commence ninety days before the day of election and shall end thirty days thereafter.

SEC. 7. No pardon, parole or suspension of sentence for violation of the law or rules and regulations concerning elections shall be granted without the recommendation of the Commission.

SEC. 8. The political parties whose respective candidates for President have obtained the first and second highest number of votes in the last preceding election for President under this Constitution shall be entitled to accreditation if each has obtained at least ten percent (10%) of the total number of votes cast in such election. If the candidates for President obtaining the two highest number of votes do not each obtain at least ten percent (10%) of the total number of votes cast, or in case no election for President shall as yet have been held, the Commission on Elections shall grant accreditation to political parties as may be provided by law;

No religious sect shall be registered as a political party, and no political party which seeks to achieve its goal through violence shall be entitled to accreditation.

SEC. 9. (1) Bona fide candidates for any public office shall be free from any form of harassment and discrimination.

(2) Accredited political parties shall be represented in the registration board, board of election inspectors, board of canvassers, or other similar bodies as may be provided by law.

Accredited political parties may by law be granted other rights or privileges.

SEC. 10. No elective public officer may change his political affiliation during his term of office, and no candidate for any elective office may change his political party affiliation within six months immediately preceding or following an election, unless otherwise provided by law.

SEC. 11. Any decision, order, or ruling of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from his, receipt of a copy thereof.

D. COMMISSION ON AUDIT

SECTION 1. (1) There shall be an independent Commission on Audit composed of a Chairman and two Commissioners, who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least forty years of age and certified public accountants or members of the Philippine Bar for at least ten years.

(2) The Chairman and the Commissioners shall be appointed by the President for a term of seven years without

reappointment. Of the Commissioners first appointed, one shall hold office for seven years, another for five years, and the third for three years. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor.

SEC. 2. The Commission on Audit shall have the following powers and functions:

(1) Examine, audit, and settle, in accordance with law and regulations, all accounts pertaining to the revenues and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations; keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers pertaining thereto; and promulgate accounting and auditing rules and regulations including those for the prevention of irregular, unnecessary, excessive; or extravagant expenditures or uses of funds and property.

(2) Decide any case brought before it within sixty days from the date of its submission for resolution. Unless otherwise provided by law, any decision, order, or ruling of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from his receipt of a copy thereof.

(3) Submit to the President, the Prime Minister, and the Batasang Pambansa, within the time fixed by law, an annual financial report of the Government, its subdivisions, agencies, and instrumentalities, including government-owned or controlled corporations, and recommend measures necessary to improve their efficiency and effectiveness. It shall submit such other reports as may be required by law.

(4) Perform such other duties and functions as may be prescribed by law.

ARTICLE XIII

ACCOUNTABILITY OF PUBLIC OFFICERS

SECTION 1. Public office is a public trust. Public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty, and efficiency, and shall remain accountable to the people.

SEC. 2. The President, the Members of the Supreme Court, and the Members of the Constitutional Commissions shall be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, other high crimes, or graft and corruption.

SEC. 3. The Batasang Pambansa shall have the exclusive power to initiate, try, and decide all cases of impeachment. Upon the filing of a verified complaint, the Batasang Pambansa may initiate impeachment by a vote of at least one-fifth of all its Members. No official shall be convicted without the concurrence of at least two-thirds of all the Members thereof. When the Batasang Pambansa sits in impeachment cases, its Members shall be on oath or affirmation.

SEC. 4. Judgments in cases of impeachment shall be limited to removal from office and disqualification to hold any office of honor, trust, or profit under the Republic of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment, in accordance with law.

SEC. 5. The Batasang Pambansa shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

SEC. 6. The Batasang Pambansa shall create an office of the Ombudsman, to be known as Tanodbayan, which shall receive and investigate complaints relative to public office, including those in government-owned or controlled corporations, make appropriate recommendations, and in case of failure of justice as defined by law, file and prosecute the corresponding criminal, civil, or administrative case before the proper court or body.

ARTICLE XIV

THE NATIONAL ECONOMY AND THE PATRIMONY OF THE NATION

SECTION 1. The Batasang Pambansa shall establish a National economic and Development Authority, to be headed by the President, which shall recommend to the Batasang Pambansa, after consultation with the private sector, local government units, and other appropriate public agencies, continuing, coordinated, and fully integrated social and economic plans and programs.

SEC. 2. The State shall regulate or prohibit private monopolies when the public interest so requires. No combination in restraint of trade or unfair competition shall be allowed.

SEC. 3. The Batasang Pambansa shall, upon recommendation of the National Economic and Development Authority, reserve to citizens of the Philippines or to corporations or associations wholly owned, by such citizens, certain traditional areas of investments when the national interest so dictates.

SEC. 4. The Batasang Pambansa shall not, except by general law, provide for the formation; organization, or regulation of private corporations, unless such corporations are owned or controlled by the Government or any subdivision or instrumentality thereof.

SEC. 5. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of the capital of which is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal in by the Batasang Pambansa when the public interest so requires. The State shall encourage equity participation in public utilities by the general public. The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in the capital thereof.

SEC. 6. The State may, in the interest of national welfare or defense, establish and operate industries and means of transportation and communications, and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

SEC. 7. In times of national emergency when the public interest so requires, the State may temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.

SEC. 8. All lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, wildlife, and other natural resources of the Philippines belong to the State. With the exception of agricultural, industrial or commercial, residential, and resettlement lands of the public domain, natural resources shall not be alienated, and no license, concession, or lease for the exploration, development, exploitation, or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for not more than twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases, beneficial use may be the measure and the limit of the grant.

SEC. 9. The disposition, exploration, development, of exploitation, or utilization of any of the natural resources of the Philippines shall be limited to citizens of the Philippines, or to corporations or association at least sixty per centum of the capital of which is owned by such citizens. The Batasang Pambansa, in the national interest, may allow such citizens, corporations, or associations to enter into service contracts for financial, technical, management, or other forms of assistance with any foreign person or entity for the exploitation, development, exploitation, or utilization of any of the natural resources. Existing valid and binding service contracts for financial, the technical, management, or other forms of assistance are hereby recognized as such.

SEC. 10. Lands of the public domain are classified into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands, and such other classes as may be provided by law.

SEC. 11. The Batasang Pambansa, taking into account conservation, ecological, and developmental requirements of the natural resources, shall determine by law the size of lands of the public domain which may be developed, held or acquired by, or leased to, any qualified individual, corporation, or association, and the conditions therefor. No private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares or acquire by purchase or homestead in excess of twenty-four hectares. No private corporation or association may hold by lease, concession, license, or permit, timber or forest lands and other timber or forest resources in excess of one hundred thousand hectares; however, such area may be increased by the Batasang Pambansa upon recommendation of the National Economic and Development Authority.

SEC. 12. The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution.

SEC. 13. The Batasang Pambansa may authorize, upon payment of just compensation, the expropriation of private land to be subdivided into small lots and conveyed at cost to deserving citizens.

SEC. 14. Save in cases of hereditary succession, no private lands shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

SEC. 15. Notwithstanding the provisions of Section 14 of this Article, a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private land, for use by him as his residence, as the Batasang Pambansa shall provide.

SEC. 16. Any provision of paragraph one, Section fourteen, Article Eight and of this Article notwithstanding, the President may enter into international treaties or agreements as the national welfare and interest may require.

ARTICLE XV

GENERAL PROVISIONS

SECTION 1. The flag of the Philippines shall be red, white, and blue, with a sun and three stars, as consecrated and honored by the people and recognized by law.

SEC. 2. The interim Batasang Pambansa may by law adopt a new name for the country, a national anthem, and a national seal, which shall all be truly reflective and symbolic of the ideals, history, and traditions of the people. Thereafter, the national name, anthem, and seal so adopted shall not be subject to change except by constitutional amendment.

SEC. 3. (1) This Constitution shall be officially promulgated in English and in Pilipino, and translated into each dialect spoken by over fifty thousand people, and into Spanish and Arabic. In case of conflict, the English text shall prevail.

(2) The Batasang Pambansa shall take steps towards the development and formal adoption of a common national language to be known as Filipino.

(3) Until otherwise provided by law, English and Pilipino shall be the official languages.

SEC. 4. All public officers and employees and members of the armed forces shall take an oath to support and defend the Constitution.

SEC. 5. No elective or appointive public officer or employee shall receive additional or double compensation unless specifically authorized by law, nor accept, without the consent of the Batasang Pambansa, any present, emolument, office, or title of any kind from any foreign state.

SEC. 6. No salary or any form of emolument of any public officer or employee, including constitutional officers, shall be exempt from

payment of income tax.

SEC.7. (1) The ownership and management of mass media shall be limited to citizens of the Philippines or to corporations or associations wholly owned and managed by such citizens.

(2) The governing body of every entity engaged in commercial telecommunications shall in all cases be controlled by the citizens of the Philippines.

SEC. 8. (1) All educational institutions shall be under the supervision of, and subject to regulation by, the State. The State shall establish and maintain a complete, adequate, and integrated system of education relevant to the goals of national development.

(2) All institutions of higher learning shall enjoy academic freedom.

(3) The study of the Constitution shall be part of the curricula in all schools.

(4) All educational institutions shall aim to inculcate love of country, teach the duties of citizenship, and develop moral character, personal discipline, and scientific, technological, and vocational efficiency.

(5) The State shall maintain a system of free public, elementary education and, in areas where finances permit, establish and maintain a system of free public education at least up to the secondary level.

(6) The State shall provide citizenship and vocational training to adult citizens and out-of-school youth, and create and maintain scholarships for poor and deserving students.

(7) Educational institutions, other than those established by religious orders, mission boards, and charitable organizations, shall be owned solely by citizens of the Philippines, or corporations or association sixty per centum of the capital of which is owned by such citizens. The control and administration of educational institutions shall be vested in citizens of the Philippines. No educational institution shall be established exclusively for aliens, and no group of aliens shall comprise more than one-third of the enrolment in any school. The provisions of this sub-section shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.

(8) At the option expressed in writing by the parents or guardians, and without cost to them and the Government, religion shall be taught to their children or wards in public elementary and high schools as may be provided by law.

SEC. 9. (1) The State shall promote scientific research and invention. The advancement of science and technology shall have priority in the national development.

(2) Filipino culture shall be preserved and developed for national identity. Arts and letters shall be under the patronage of the State.

(3) The exclusive right to inventions, writings and artistic creations shall be secured to inventors authors, and artists for a limited period. Scholarships, grants-in-aid, or other forms of incentives shall be provided for specially gifted citizens.

SEC. 10. It shall be the responsibility of the State to achieve and maintain population levels most conducive to the national welfare.

SEC. 11. The State shall consider the customs traditions, beliefs, and interests of national cultural communities in the formulation and implementation of state policies.

SEC. 12. The State shall establish and maintain an integrated national police force whose organization, administration, and operation shall be provided by law.

SEC. 13. (1) The armed forces of the Philippines shall include a citizen army composed of all able-bodied citizens of the Philippines

who shall undergo military training as may be provided by law. It shall keep a regular force necessary for the security of the State.

(2) The citizen army shall have a corps of trained officers and men in active duty status as may be necessary to train, service, and keep it in reasonable preparedness at all times.

SEC. 14. The Batasang Pambansa shall establish a central monetary authority which shall provide policy direction in the areas of money, banking, and credit. It shall have supervisory authority over the operations of banks and exercise such regulatory authority as may be provided by law over the operations of finance companies and other institutions performing similar functions. Until the Batasang Pambansa shall otherwise provide, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

SEC. 15. The separation of church and state shall be inviolable.

SEC. 16. The State may not be sued without its consent.

ARTICLE XVI

AMENDMENTS

SECTION 1. (1) Any amendment to, or revision of, this Constitution may be proposed by the Batasang Pambansa upon a vote of three-fourths of all its Members, or by a constitutional convention.

(2) The Batasang Pambansa may, by a vote of two-thirds of all its Members, call a constitutional convention or, by a majority vote of all its Members, submit the question of calling such a convention to the electorate in an election.

SEC. 2. Any amendment to, or revision of, this Constitution shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not later than three months after the approval of such amendment or revision.

ARTICLE XVII

TRANSITORY PROVISIONS

SECTION 1. There shall be an interim National Assembly which shall exist immediately upon the ratification of this Constitution and shall continue until the Members of the regular National Assembly shall have been elected and shall have assumed office following an election called for the purpose by the interim National Assembly. Except as otherwise provided in this Constitution, the interim National Assembly shall have the same powers and its Members shall have the same functions, responsibilities, rights and privileges, and disqualifications as the regular National Assembly and the Members thereof.

SEC. 2. The Members of the interim National Assembly shall be the incumbent President and Vice-President of the Philippines, those who served as President of the nineteen hundred and seventy-one Constitutional Convention, those Members of the Senate and the House of Representatives who shall express in writing to the Commission on Elections within thirty days after the ratification of this Constitution their option to serve therein, and those Delegates to the nineteen hundred and seventy-one Constitutional Convention who have opted to serve therein by voting affirmatively for this Article. They may take their oath of office before any officer authorized to administer oath and qualify thereto, after the ratification of this Constitution.

SEC. 3. (1) The incumbent President of the Philippines shall initially convene the interim National Assembly and shall preside over its sessions until the interim Speaker shall have been elected. He shall continue to exercise his powers and prerogatives under the nineteen hundred and thirty-five Constitution and the powers vested in the President and the Prime Minister under this Constitution until he calls upon the interim National Assembly to elect the interim President and the interim Prime Minister, who shall then exercise their respective powers vested by this Constitution.

(2) All proclamations, orders, decrees, instructions, and acts promulgated, issued, or done by the incumbent President shall be

part of the law of the land, and shall remain valid, legal, binding, and effective even after lifting of martial law or the ratification of this Constitution, unless modified, revoked, or superseded by subsequent proclamations, orders, decrees, instructions, or other acts of the incumbent President, or unless expressly and explicitly modified or repealed by the regular National Assembly.

SEC. 4. The interim Prime Minister and his Cabinet shall exercise all the powers and functions, and discharge the responsibilities of the regular Prime Minister and his Cabinet, and shall be subject to the same disqualifications provided in this Constitution.

SEC. 5. The interim National Assembly shall give priority to measures for the orderly transition from the presidential to the parliamentary system, the reorganization of the Government, the eradication of graft and corruption, the effective maintenance of peace and order, the implementation of declared agrarian reforms, the standardization of compensation of government employees, and such other measures as shall bridge the gap between the rich and the poor.

SEC. 6. The interim National Assembly shall reapportion the Assembly seats in accordance with Section two, Article Eight, of this Constitution.

SEC. 7. All existing laws not inconsistent with this Constitution shall remain operative until amended, modified, or repealed by the National Assembly.

SEC. 8. All courts existing at the time of the ratification of this Constitution shall continue and exercise their jurisdiction, until otherwise provided by law in accordance with this Constitution, and all cases pending in said courts shall be heard, tried, and determined under the laws then in force. The provisions of the existing Rules of Court not inconsistent with this Constitution shall remain operative unless amended, modified, or repealed by the Supreme Court or the National Assembly.

SEC. 9. All officials and employees in the existing Government of the Republic of the Philippines shall continue in office until otherwise provided by law or decreed by the incumbent President of the Philippines, but all officials whose appointments are by this Constitution vested in the Prime Minister shall vacate their respective offices upon the appointment and qualification of their successors.

SEC. 10. The incumbent members of the Judiciary may continue in office until they reach the age of seventy years, unless sooner replaced in accordance with the preceding section hereof.

SEC. 11. The rights and privileges granted to citizens of the United States or to corporations or associations owned or controlled by such citizens under the Ordinance appended to the nineteen hundred and thirty-five Constitution shall automatically terminate on the third day of July, nineteen hundred and seventy-four. Titles to private lands acquired by such persons before such date shall be valid as against other private persons only.

SEC. 12. All treaties, executive agreements, and contracts entered into by the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, are hereby recognized as legal, valid, and binding. When the national interest so requires, the incumbent President of the Philippines or the interim Prime Minister may review all contracts, concessions, permits, or other forms of privileges for the exploration, development, exploitation, or utilization of natural resources entered into, granted, issued, or acquired before the ratification of this Constitution.

SEC. 13. Any public officer or employee separated from the service as a result of the reorganization effected under this Constitution shall, if entitled under the laws then in force, receive the retirement and other benefits accruing thereunder.

SEC. 14. All records, equipment, buildings, facilities, and other properties of any office or body abolished or reorganized under this Constitution shall be transferred to the office or body to which its powers, functions, and responsibilities substantially pertain.

SEC. 15. The interim National Assembly, upon special call by the interim Prime Minister, may, by a majority vote of all its Members, propose amendments to this Constitution. Such amendments shall take effect when ratified in accordance with Article Sixteen

hereof.

SEC. 16. This Constitution shall take effect immediately upon its ratification by a majority of the votes cast in a plebiscite called for the purpose and, except as herein provided, shall supersede the Constitution of nineteen hundred and thirty-five and all amendments thereto.

The foregoing Constitution was approved by the Filipino people in a referendum held between January 10, 1973 and January 15, 1973, the result of which was announced under Proclamation Numbered One Thousand One Hundred Two, dated January 17, 1973, by His Excellency, President Ferdinand E. Marcos. By virtue whereof, the Constitution came into full force and effect as of noon of January 17, 1973. In addition to the 1976 amendments reproduced in the following pages, the Filipino people in two plebiscites respectively held on January 30, 1980 and April 7, 1981 approved the amendments herein incorporated, the results being announced in Proclamation No. 1959 and Proclamation No. 2077.

1976 AMENDMENTS

1. There shall be, in lieu of the interim National Assembly, an interim Batasang Pambansa. Members of the interim Batasang Pambansa which shall not be more than 120, unless otherwise provided by law, shall include the incumbent President of the Philippines, representatives elected from the different regions of the nation, those who shall not be less than eighteen years of age elected by their respective sectors, and those chosen by the incumbent President from the Members of the Cabinet. Regional representatives shall be apportioned among the regions in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio, while the sector shall be determined by law. The number of representatives from each region or sector and the manner of their election shall be prescribed and regulated by law.

2. The interim Batasang Pambansa shall have the same powers and its Members shall have the same functions, responsibilities, rights, privileges, and disqualifications as the interim National Assembly and the regular National Assembly and the Members thereof.

3. The incumbent President of the Philippines shall, within 30 days from the election and selection of the Members, convene the interim Batasang Pambansa and preside over its sessions until the Speaker shall have been elected. The incumbent President of the Philippines shall be the Prime Minister and he shall continue to exercise all his powers even after the interim Batasang Pambansa is organized and ready to discharge its functions, and likewise he shall continue to exercise his powers and prerogatives under the 1935 Constitution and the powers vested in the President and the Prime Minister under this Constitution.

4. The President (Prime Minister) and his Cabinet shall exercise all the powers and functions, and discharge the responsibilities of the regular President (Prime Minister) and his Cabinet, and shall be subject only to such disqualifications as the President (Prime Minister) may prescribe. The President (Prime Minister), if he so desires, may appoint a Deputy Prime Minister or as many Deputy Prime Ministers as he may deem necessary.

5. The incumbent President shall continue to exercise legislative powers until martial law shall have been lifted.

6. Whenever in the judgment of the President (Prime Minister), there exists a grave emergency or a threat or imminence thereof, or whenever the interim Batasang Pambansa or the regular National Assembly fails or is unable to act adequately on any matter for any reason that in his judgment requires immediate action, he may, in order to meet the exigency, issue the necessary decrees, orders, or letters of instructions, which shall form part of the law of the land.

7. The Barangays and sanggunians shall continue as presently constituted but their functions, powers and composition may be altered by law.

Referenda conducted through the barangays and under the supervision of the Commission on Elections may be called at any time the Government deems it necessary to ascertain the will of the people regarding any important matter, whether of national or local interest.

8. All provisions of this Constitution not inconsistent with any of these amendments shall continue in full force and effect.

9. These amendments shall take effect after the incumbent President shall have proclaimed that they have been ratified by a majority of the votes cast in the referendum-plebiscite.

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Archives

Sections

Annex 13

Republic of the Philippines, *Presidential Decree No. 1599, Establishing an Exclusive Economic Zone and for Other Purposes* (11 June 1978)

**Presidential Decree No. 1599 of 11 June 1978 establishing
an Exclusive Economic Zone and for other purposes**

Section 1. There is hereby established a zone to be known as the exclusive economic zone of the Philippines. The exclusive economic zone shall extend to a distance of two hundred nautical miles beyond and from the baseline from which the territorial sea is measured: provided, that, where the outer limits of the zone as thus determined overlap the exclusive economic zone of an adjacent or neighbouring State, the common boundaries shall be determined by agreement with the State concerned or in accordance with pertinent generally recognized principles of international law on delimitation.

Section 2. Without prejudice to the rights of the Republic of the Philippines over its territorial sea and continental shelf, it shall have and exercise in the exclusive economic zone established herein the following:

- A. Sovereign rights for the purpose of exploration and exploitation, conservation and management of the natural resources whether living or non-living, both renewable and non-renewable, of the seabed, including the subsoil and the superjacent waters, and with regard to other activities for the economic exploitation and exploration of the resources of the zone, such as the production of energy from the water, currents and winds;
- B. Exclusive rights and jurisdiction with respect to the establishment and utilization of artificial islands, off-shore terminals, installations and structures, the preservation of the marine environment, including the prevention and control of pollution, and scientific research;
- C. Such other rights as are recognized by international law or State practice.

Section 3. Except in accordance with the terms of any agreement entered into with the Republic of the Philippines or of any licence granted by it or under authority by the Republic of the Philippines, no person shall, in relations to the exclusive economic zone:

- A. Explore or exploit any resources;
- B. Carry out any research, excavation or drilling operations;
- C. Conduct any research;
- D. Construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device; or
- E. Perform any act or engage in any activity which is contrary to, or in derogation of, the sovereign rights and jurisdiction herein provided.

Nothing herein shall be deemed a prohibition on a citizen of the Philippines, whether natural or juridical, against the performance of any of the foregoing acts, if allowed under existing laws.

Section 4. Other States shall enjoy in the exclusive economic zone freedoms with respect to navigation and overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea relating to navigation and communications.

Section 5. (a) The President may authorize the appropriate government office/agency to make and

promulgate such rules and regulations which may be deemed proper and necessary for carrying out the purposes of this decree.

(b) Any persons who shall violate any provision of this decree or of any rule or regulation promulgated hereunder and approved by the President shall be subject to a fine which shall not be less than two thousand pesos (Pesos 2,000.00) nor be more than one hundred thousand pesos (Pesos/100,000.00) or imprisonment ranging from six (6) months to ten (10) years, or both such fine and imprisonment, in the discretion of the Court. Vessels and other equipment or articles used in connection therewith shall be subject to seizure and forfeiture.

Section 6. This decree shall take effect thirty (30) days after publication in the official Gazette.

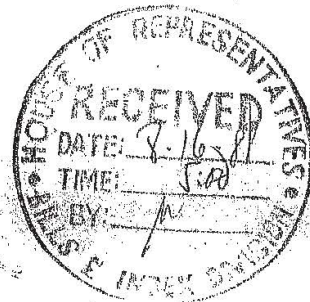
Annex 14

Republic of the Philippines, House of Representatives, *House Bill No. 16085, An Act to Define the Archipelagic Baselines of the Philippines* (1987)

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Second Session

HOUSE BILL NO. 16085



Introduced by Hon. Lorna L. Verano-Yap

EXPLANATORY NOTE

The Constitution defines the national territory by referring to the "Philippine Archipelago" instead of to the Treaty of Paris, the Treaty of Washington, etc., as in previous Philippine Constitutions. This manner of defining the national territory is in cognizance of the formal acceptance in conventional international law of the concept of, and a separate regime for, mid-ocean archipelagoes under the United Nations Convention on the Law of the Sea. The Convention was signed by 118 States, including the Philippines, in Jamaica on 10 December 1982. The Philippines deposited its instrument of ratification with a declaration on 8 May 1984.

The Convention, in Article 47 thereof, establishes the mode by which an archipelagic state may delimit the baselines, called archipelagic baselines, from which the breadth of its territorial sea, contiguous and continental shelf may be measured. The sovereignty of an archipelagic state extends to the waters enclosed by the archipelagic baselines, described as archipelagic waters, regardless of their depth or distance from the coast. Sovereignty or sovereign rights also extend to the airspace over the archipelagic waters as well as to its seabed and subsoil and the resources contained therein.

The same article 47 of the Convention abovesited requires that the archipelagic baselines drawn up by the archipelagic state shall be shown on charts or alternatively, in lists of geographical coordinates of points specifying the geodetic datum. The charts or lists of geographical coordinates are to be given due publicity and copies thereof deposited with the Secretary General of the United Nations.

The proposed legislation delineates the archipelagic baselines of the Philippines in compliance and in accordance with Part IV (articles 47-54) of the United Nations Convention on the Law of the Sea, and repeals Republic Acts No. 3046 and 5446 and all other laws, decrees, orders and regulations otherwise inconsistent therewith.

Lorna L. Verano-Yap
(Sgd.) LORNA L. VERANO-YAP
Representative
Pasay City

House of Representatives
Archives and Museum
Management Service

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DIVINA S. MEDINA
OIC - Director II

28 JAN 2014
Date: _____ Time: _____

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Second Session

HOUSE BILL NO. 16085

Introduced by Hon. Lorna L. Verano-Yap

AN ACT TO DEFINE THE ARCHIPELAGIC BASELINES OF THE PHILIPPINES

1 WHEREAS, the Constitution of the Republic of the Philip-
2 pines proclaims the national territory as comprising the
3 Philippine Archipelago, with all the islands and waters em-
4 braced therein, and all other territories over which the Philip-
5 pines has sovereignty or jurisdiction, consisting of its ter-
6 restrial, fluvial, and aerial domains, including its territo-
7 rial sea, the seabed, the subsoil, the insular shelves, and
8 other submarine areas;

9 WHEREAS, the Constitution provides that the waters around,
10 between, and connecting the islands of the archipelago, regard-
11 less of their breadth and dimensions form part of the internal
12 waters of the Philippines;

13 WHEREAS, the definition of national territory in the
14 Constitution, in referring to the Philippine archipelago, adopts
15 a concept that recently gained official acceptance under conven-
16 tional international law through the United Nations Convention
17 on the Law of the Sea;

18 WHEREAS, the Philippines signed the United Nations Conven-
19 tion on the Law of the Sea on 10 December 1982 and deposited
20 its instrument of ratification on 8 May 1984 with a Declaration;

21 WHEREAS, the Constitution declares as among its Principles
22 that the Philippines adopts the generally accepted principles
23 of international law as part of the law of the land;

24 WHEREAS, the United Nations Convention on the Law of the
25 Sea provides for a special mode by which an archipelagic State

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DIVINA S. MEDINA
OIC - Director II

29 JAN 2014
Date: _____

Time: _____

- 2 -

1 may delineate its archipelagic baselines;

2 WHEREAS, it is necessary for the Philippines to delineate
3 the archipelagic baselines from which the breadth of its exclu-
4 sive economic zone and continental shelf may be measured to
5 accord with the relevant provisions of the constitution and the
6 United Nations Convention on the Law of the Sea, Now, therefore;

7 Be it enacted by the Senate and House of Representatives
8 of the Philippines in Congress assembled;

House of Representatives
Archives and Museum
Management Service

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DIVINA S. DIEDINA
OIC - Director II

28 JAN 2014 Date: _____ Time: _____

Section 1. The archipelagic baselines of the Philippines are hereby defined and described as follows:

	N. Latitude	E. Longitude	Azimuth	Distance (in Meters)
Amianan Island (E)... Line 1 (Amianan Is. (E) Balintang I.)	21° 07'03"	121° 57'24"	350° 38'	129,578 69.96 n.m.
Balintang Is..... Line 2 (Balintang Is. Didicas Rk.)	19° 57'45"	122° 09'28"	357° 05'	97,754 52.78 n.m.
Didicas Rk..... Line 3 (Didicas Rk. Iligan Pt.)	19° 04'50"	122° 12'18"	350° 38'	86,154 46.52 n.m.
Iligan Pt..... Line 4 (Didicas Rk. Iligan Pt.)	18° 18'45"	122° 20'15"	351° 23'	136,025 73.44 n.m.
Ditolong Pt..... Line 5 (Iligan Pt. Ditolong Pt.)	17° 05'50"	122° 31'44"	16° 55'	34,379 18.56 n.m.
Diviusa Pt..... Line 6 (Diviusa Pt. Dijohan Pt.)	16° 48'00"	122° 26'06"	21° 00'	57,781 31.20 n.m.
Dijohan Pt..... Line 7 (Dijohan Pt. Bulubalic Pt.)	16° 18'45"	122° 14'28"	10° 50'	142,352 76.86 n.m.
Bulubalic Pt..... Line 8 (Bulubalic Pt. Tinaga Is.)	15° 02'56"	121° 59'30"	300° 15'	120,989 65.33 n.m.
Tinaga Is..... Line 9 (Tinaga Is. - Horadaba Rk.)	14° 29'45"	122° 57'40"	286° 27'	148,690 80.29 n.m.
Horadaba Rks..... Line 10 (Horadaba Rk. Matulin Rk.)	14° 06'41"	124° 16'54"	306° 34'	1,083 0.58 n.m.

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29 JAN 2014

Fin Rk..... Line 11 (Matulin Rk. Atalaya Pt.)	14° 06'20"	124° 17'23"	331° 45'	178,488 96.37 n.
Atalaya Pt..... Line 12 (Atalaya Pt. Finch Rk.)	12° 40'59"	125° 04'02"	313° 30'	22,267 12.02 n.m.
Finch Rk..... Line 13 (Finch Rk. SE of Manjud Pt.)	12° 32'40"	125° 12'57"	313° 56'	12,664 6.84 n.m.
SE of Manjud Pt.... Line 14 (SE of Manjud Pt. Sora Cay)	12° 27'54"	125° 17'59"	322° 26'	14,224 7.68 n.m.
Sora Cay..... Line 15 (Sora Cay- Bunga Pt.)	12° 21'47"	125° 22'46"	321° 03'	22,793 12.31 n.m.
Bunga Pt..... Line 16 (Bunga Pt.- Suluan Is.)	12° 12'10"	125° 30'40"	342° 54'	167,446 90.41 n.m.
Suluan I..... Line 17 (Suluan I. Tuason Pt.)	10° 45'20"	125° 57'40"	347° 50'	107,072 57.81 n.m.
Tuason I..... Line 18 (Tuason Pt. Arangasa Is.)	9° 48'33"	126° 10'00"	349° 25'	104,478 56.41 n.m.
Arangasa Is..... Line 19 (Arangasa Is. Quinablangan I.)	8° 52'50"	126° 20'28"	348° 40'	131,334 70.91 n.m.
Quinablangan I..... Line 20 (Quinablangan I. Above Languyon R.)	7° 42'58"	126° 34'30"	353° 07'	25,620 13.83 n.m.
Above Languyon R.... Line 21 (Above Langu- yon R. -Pusan Pt.)	7° 29'10"	126° 36'10"	356° 52'	22,489 12.14 n.m.
Pusan Pt..... Line 22 (Pusan Pt. Cape S. Agustin (N))	7° 16'59"	126° 36'50"	22° 24'	119,471 64.51 n.m.
Cape S. Agustin (N).... Line 23 (Cape S. Agustin (N))	6° 17'03"	126° 12'08"		

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Cape S. Agustin (S)			30° 16'	1,707 0.92 n.
Cape S. Agustin (S).....	6° 16'15"	126° 11'40"		
Line 24 (Cape S. Agustin (S) Panguil Bato Pt.)			39° 22'	125,109 67.55 n
Panguil Bato Pt.....	5° 23'45"	125° 28'42"		
Line 25 (Panguil Bato Pt.-Tapundo Pt.)			66° 32'	7,484 4.04 n.
Tapundo Pt.....	5° 22'08"	125° 24'59"		
Line 26 (Tapundo Pt. - Manamil I.)			89° 18'	7,666 4.14 n.
Manamil I.....	5° 22'05"	125° 20'50"		
Line 27 (Manamil I. Balut I. (W))			139° 01'	3,051 1.65 n.
Balut I. (W).....	5° 23'20"	125° 19'45"		
Line 28 (Balut I. (W) Middle of 3 Rk Awash)			124° 46'	149,849 80.91 n
Middle of 3 Rk. Awash.	6° 09'39"	124° 13'02"		
Line 29 (Middle of 3 Rk- Awash-Kauluan I.)			98° 22'	222,202 119.98 n
Kauluan I.....	6° 27'00"	122° 13'48"		
Line 30 (Kauluan I. Tongquil I. East Pt.)			35° 27'	55,194 29.80 n
Tongquil I. East Pt.....	6° 02'36"	121° 56'27"		
Line 31 (Tongquil I. East Pt. Tongquil SE Pt.)			54° 09'	4,248 2.29 n.
Tongquil I. SE Pt.....	6° 01'15"	121° 54'35"		
Line 32 (Tongquil I. SE Pt.-Tongquil South Pt.)			61° 25'	3,852 2.08 n.
Tongquil I. South Pt...	6° 00'15"	121° 52'45"		
Line 33 (Tongquil I. South Pt.-Sumbasumba I)			61° 28'	115,955 62.61 n
Sumbasumba I.....	5° 30'10"	120° 57'35"		
Line 34 (Sumbasumba I.- Kinapusan Is.)			43° 18'	44,443 24.00 n
Kinapusan Is.....	5° 02'13"	120° 41'05"		
Line 35 (Kinapusan Is.- Manuk Manka I.)			63° 14'	101,296 54.69 n

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Manuk Manka I..... Line 36 (Manuk Manka I - Frances Reef)	4° 47'50"	119° 52'10"	58° 30'	80,848 43.65 n.
Frances Reef..... Line 37 (Frances Reef - Bajapa Reef)	4° 24'54"	119° 14'54"	134° 33'	29,332 15.84 n.
Bajapa Reef..... Line 38 (Bajapa Reef - Panguan I.)	4° 36'04"	119° 03'36"	164° 04'	13,479 7.28 n.m
Panguan I..... Line 39 (Panguan I. - Omapoy I.)	4° 43'06"	119° 01'36"	238° 47'	42,468 22.93 n.
Omapoy I..... Line 40 (Omapoy I. Sanga-Sanga I.)	4° 55'02"	119° 21'15"	246° 11'	51,005 27.54 n.
Sanga Sanga I..... Line 41 (Sanga-Sanga Is. - Pearl Bank)	5° 06'12"	119° 46'30"	170° 04'	80,204 43.31 n.
Pearl Bank..... Line 42 (Pearl Bank Banguan I.)	5° 49'04"	119° 39'01"	103° 13'	137,052 74.00 n.
Banguan I..... Line 43 (Banguan I. - Taganak I.)	6° 06'00"	118° 26'42"	76° 51'	15,535 8.39 n.m
Taganak I..... Line 44 (Taganak I. GT. Bakkungaan)	6° 04'05"	118° 18'30"	118° 38'	24,803 13.39 n
GT. Bakkungaan.... Line 45 (GT. Bakkun- gaan-Sibaung I.)	6° 10'32"	118° 06'42"	136° 03'	18,472 9.97 n.m
Sibaung I..... Line 46 (Sibaung I. - Muligi I.)	6° 17'45"	117° 59'45"	215° 35'	79,918 43.15 n.
Muligi I..... Line 47 (Muligi I. - Mangsee I.)	6° 53'00"	118° 25'00"	119° 14'	140,547 75.89 n.
Mangsee I..... Line 48 (Mangsee Is. Cape Melville)	7° 30'10"	117° 18'20"	134° 49'	48,818 26.36 n.

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Melville..... Line 49 (Cape Melville-Rizal Reef)	7° 48'50"	116° 59'30"	107° 46'	198,56 107.21
Rizal Reef..... Line 50 (Rizal Reef-Antonio Luna Rk.)	8° 21'30"	115° 16'30"	52° 25'	125,280 67.65 n
Antonio Luna Rk.... Line 51 (Antonio Luna Rk.-Kalantiyaw Cay)	7° 40'00"	114° 22'30"	98° 15'	164,366 88.75 n
Kalantiyaw Cay..... Line 52 (Kalantiyaw Cay - Quezon Reef Gitna)	7° 52'40"	112° 54'00"	152° 14'	129,884 70.13 n
Quezon Reef (Gitna).. Line 53 (Q. Reef Gitna-Kagitingan Reef)	8° 55'00"	112° 21'00"	218° 47'	93,467 50.47 n.
Kagitingan Reef..... Line 54 (Kagitingan Reef-Gomez Reef)	9° 34'30"	112° 53'00"	227° 05'	108,439 58.55 n.
Gomez Reef..... Line 55 (Gomez Reef-Pugad I.)	10° 14'30"	113° 36'30"	210° 32'	152,090 82.12 n.1
Pugad I..... Line 56 (Pugad I.-Parola I.)	11° 25'30"	114° 19'00"	224° 36"	5,179 2.80 n.m.
Parola I..... Line 57 (Parola I.-Patag I.)	11° 27'30"	114° 21'00"	293° 14'	176,528 95.32 n.m
Patag I..... Line 58 (Patag I.-del Pilar Reef)	10° 49'30"	115° 50'00"	270° 50'	112,104 60.53 n.m.
Del Pilar Reef.... Line 59 (Del Pilar Reef-Piedras Pt.)	10° 48'30"	116° 51'30"	287° 35'	223,766 120.82 n.m
Piedras Pt..... Line 60 (Piedras Pt. Tapiutan I.)	10° 11'28"	118° 48'18"	203° 19'	124,906 67.44 n.m.
Tapiutan I..... Line 61 (Tapiutan I.)	11° 13'40"	119° 15'28"		

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Date:

Pinnacle Rk.)			208° 47'	136,605 73.76 n.m.
Pinnacle Rk.....	12° 18'34"	119° 51'45"		
Line 62 (Pinnacle R.- Cabra I.)			185° 25'	175,831 94.94 n.m.
Cabra I.....	13° 53'30"	120° 00'58"		
Line 63 (Cabra I. Caponos Is.)			179° 25'	113,413 61.24 n.m.
Caponos Is.....	14° 55'00"	120° 00'20"		
Line 64 (Caponos Is.- Palauig Pt.)			168° 09'	58,101 31.37 n.m.
Palauig Pt.....	15° 25'50"	119° 53'40"		
Line 65 (Palauig Pt. Hermana Mayor I.)			164° 16'	40,874 22.07 n.m.
Hermana Mayor I.....	15° 47'10"	119° 47'28"		
Line 66 (Hermana Mayor I. - Tambobo Pt.)			167° 10'	20,491 11.06 n.m.
Tambobo Pt.....	15° 58'00"	119° 44'55"		
Line 67 (Tambobo Pt.- Rena Pt.)			181° 42'	22,910 12.37 n.m.
Rena Pt.....	16° 10'25"	119° 45'18"		
Line 68 (Rena Pt.- Cape Bolinao)			191° 38'	18,674 10.08 n.m.
Cape Bolinao	16° 20'20"	119° 47'25"		
Line 69 (Cape Bolinao Dile Pt.)			202° 49'	148,499 80.18 n.m.
Dile Pt.....	17° 34'30"	120° 19'58"		
Line 70 (Dile Pt. Pinget I.)			188° 25'	12,058 6.51 n.m.
Pinget I.....	17° 40'58"	120° 20'58"		
Line 71 (Pinget I.- Badoc I.)			192° 45'	27,173 14.67 n.m.
Badoc I.....	17° 55'20"	120° 24'22"		
Line 72 (Badoc I.- Cape Bojeador)			195° 03'	65,275 35.24 n.m.
Cape Bojeador	18° 29'30"	120° 34'00"		
Line 73 (Cape Bojea- dor-Dalupiri I.)			222° 15'	101,749 54.94 n.m.

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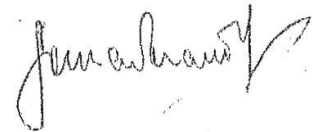
20 JAN 2014

Dalupiri I..... Line 74 (Dalupiri I.- Catanapan Pt.)	19° 10' 15"	121° 13' 02"	213° 28'	25,075 13.54 n
Catanapan Pt..... Line 75 (Catanapan Pt.-Raile	19° 21' 35"	121° 20' 56"	196° 42'	156,901 84.72 n
Raile..... Line 76 (Raile - Amianan I. (W)	20° 43' 00"	121° 46' 55"	200° 29'	48,140 25.99 n
Amianan I. (W)..... Line 77 (Amianan I (W) Amianan I. (M)	21° 07' 25"	121° 56' 39"	238° 39'	236 0.13 n.
Amianan I. (M)..... Line 78 (Amianan I. (M) Amianan I. (E)	21° 07' 30"	121° 56' 46"	307° 07'	1,375 0.74 n.
Amianan I. (E).....	21° 07' 03"	121° 57' 24"		

Sec. 2 Republic Act No. 3046 and Republic Act No. 5446 and all other laws, decrees, orders and regulations otherwise inconsistent with this Act are hereby repealed.

Sec. 3 This act shall take effect upon its approval.

APPROVED,



RECEIVED
 DIVISION OF RECORDS AND COMMUNICATIONS
 DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT
 OFFICE OF THE DIRECTOR
 DATE: 29 JAN 2014

Annex 15

Republic of the Philippines, Senate, *S. No. 206, An Act to Define the Archipelagic Baselines of the Philippines*
(1987)

CONGRESS OF THE PHILIPPINES
SENATE
RECORDS AND ARCHIVES DIVISION
(Congress of the Philippines)
First Regular Session)

SENATE

S. No. 206

Introduced by Senator Shahani

EXPLANATORY NOTE

The Constitution defines the national territory by referring to the "Philippine Archipelago" instead of to the Treaty of Paris, the Treaty of Washington, etc., as in previous Philippine constitutions. This manner of defining the national territory is in cognizance of the formal acceptance in conventional international law of the concept of, and a separate regime for, mid-ocean archipelagos under the United Nations Convention on the Law of the Sea. The Convention was signed by 118 States, including the Philippines, in Jamaica on 10 December 1982. The Philippines deposited its instrument of ratification with a declaration on 8 May 1984.

The Convention, in Article 47 thereof, establishes the mode by which an archipelagic state may delimit the baselines, called archipelagic baselines, from which the breadth of its territorial sea, contiguous, and continental shelf may be measured. The sovereignty of an archipelagic state extends to the waters enclosed by the archipelagic baselines, described as archipelagic waters, regardless of their depth or distance from the coast. Sovereignty or sovereign rights also extend to the airspace over the archipelagic waters as well as to its seabed and subsoil and the resources contained therein.

The same article 47 of the Convention abovesited requires that the archipelagic baselines drawn up by the archipelagic state shall be shown on charts or alternatively, in lists of geographical coordinates of points specifying the geodetic datum. The charts or lists of geographical coordinates are to be given due publicity and copies thereof deposited with the Secretary General of the United Nations.

The proposed legislation delineates the archipelagic baselines of the Philippines in compliance and in accordance with Part IV (Articles 47-54) of the United Nations Convention on the Law of the Sea, and repeals Republic Act Nos. 3046 and 5446 and all other laws, decrees, orders and regulations otherwise inconsistent therewith.

(Sgd.) LETICIA R. SHAHANI
Senator

/fe

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ANTONIA P. BARROS
DIRECTOR III

LEG. RECORDS & ARCHIVES SVC.
SENATE OF THE PHILIPPINES

Congress of the Philippines)
First Regular Session)

SENATE

S. No. 206

Introduced by Senator Shahani

AN ACT
TO DEFINE THE ARCHILELAGIC BASELINES OF THE PHILIPPINES

WHEREAS, the Constitution of the Republic of the Philippines proclaims the national territory as comprising the Philippine Archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas;

WHEREAS, the Constitution provides that the waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions form part of the internal waters of the Philippines;

WHEREAS, the definition of national territory in the Constitution, in referring to the Philippine Archipelago, adopts a concept that recently gained official acceptance under conventional international law through the United Nations Convention on the Law of the Sea;

WHEREAS, the Philippines signed the United Nations Convention on the Law of the Sea on 10 December 1982 and deposited its instrument of ratification on 8 May 1984 with a Declaration;

WHEREAS, the Constitution declares as among its Principles that the Philippines adopts the generally accepted principles of international law as part of the law of the land;

WHEREAS, the United Nations Convention on the Law of the Sea provides for a special mode by which an archipelagic State may delineate its archipelagic baselines;

WHEREAS, it is necessary for the Philippines to delineate the archipelagic baselines from which the breadth of its exclusive economic zone and continental shelf may be measured to accord with the relevant provisions of the constitution and the United Nations Convention on the Law of the Sea, Now, therefore,

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

/fa

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Antonia P. Barros
ANTONIA P. BARROS
DIRECTOR III
LEG. RECORDS & ARCHIVES SVC.
SENATE OF THE PHILIPPINES

S. No. 206

- 2 -

1 SECTION 1. The archipelagic baselines of the Philippines are hereby defined
2 and described as follows:

3				Distance
4		N. Latitude	E. Longitude	(in Meters)
5	Amianan Island (E)...	21° 07' 03"	121° 57' 24"	
6	Line 1 (Amianan Is.			129,573
7	(E) Balintang I.)			69.96 n.m.
8				
9	Balintang Is.	19° 57' 45"	122° 09' 28"	
10	Line 2 (Balintang Is.			97,754
11	Didicas Rk.)			52.78 n.m.
12	Didicas Rk.	19° 04' 50"	122° 12' 18"	
13	Line 3 (Didicas Rk.			86,154
14	Iligan Pt.)			46.52 n.m.
15				
16	Iligan Pt.	18° 18' 45"	122° 20' 15"	
17	Line 4 (Didicas Rk.			136,025
18	Iligan Pt.)			73.44 n.m.
19				
20	Ditolong Pt.	17° 05' 50"	122° 31' 44"	
21	Line 5 (Iligan Pt.			34,379
22	Ditolong Pt.)			18.56 n.m.
23				
24	Diviusa Pt.	16° 48' 00"	122° 26' 06"	
25	Line 6 (Diviusa Pt.			57,781
26	Dijohan Pt.)			31.20 n.m.
27				
28	Dijohan Pt.	16° 18' 45"	122° 14' 28"	
29	Line 7 (Dijohan Pt.			142,352
30	Bulubalic Pt.)			76.86 n.m.
31				
32	Bulubalic Pt.	15° 02' 56"	121° 59' 30"	
33	Line 8 (Bulubalic Pt.			120,989
34	Tinaga Is.)			65.33 n.m.
35				
36	Tinaga Is.	14° 29' 45"	122° 57' 40"	
37	Line 9 (Tinaga Is.			148,690
38	Horadaba Rk.)			80.29 n.m.
39				
40	Horadaba Rks.	14° 06' 41"	124° 16' 54"	
41	Line 10, (Horadaba Rk.			1,083
42	Matulin Rk.)			0.58 n.m.

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- 3 -

1	Matulin Rk	14° 06' 20"	124° 17' 23"		
2	Line 11 (Matulin Rk.				
3	Atalaya Pt.)			331° 45'	178,488 96.37 n.m.
4	Atalaya Pt.	12° 40' 59"	125° 04' 02"		
5	Line 12 (Atalaya Pt.				
6	Finch Rk.)			313° 30'	22,267 12.02 n.m.
7					
8	Finch Rk.	12° 32' 40"	125° 12' 57"		
9	Line 13 (Finch Rk				
10	SE of Manjud Pt.)			313° 56'	12,664 6.84 n.m.
11	SE of Manjud Pt.	12° 27' 54"	125° 17' 59"		
12	Line 14 (SE of Manjud Pt.				
13	Sora Cay)			322° 26'	14,224 7.68 n.m.
14					
15	Sora Cay	12° 21' 47"	125° 22' 46"		
16	Line 15 (Sora Cay-				
17	Bunga Pt.)			321° 03'	22,793 12.31 n.m.
18	Bunga Pt.	12° 12' 10"	125° 30' 40"		
19	Line 16 (Bunga Pt.-				
20	Suluan Is.)			342° 54'	167,446 90.41 n.m.
21					
22	Suluan I	10° 45' 20"	125° 57' 40"		
23	Line 17 (Suluan I.				
24	Tuason Pt.)			347° 50'	107,072 57.81 n.m.
25					
26	Tuason I	9° 48' 33"	126° 10' 00"		
27	Line 18 (Tuason Pt.				
28	Arangasa Is.)			349° 25'	104,478 56.41 n.m.
29					
30	Arangasa Is	8° 52' 50"	126° 20' 28"		
31	Line 19 (Arangasa Is.				
32	Quinablangan I.)			348° 40'	131,334 70.91 n.m.
33					
34	Quinablangan I.	7° 42' 58"	126° 34' 30"		
35	Line 20 (Quinablangan I.				
36	Above Languyon R.)			353° 07'	25,620 13.83 n.m.
37					
38	Above Languyon R.	7° 29' 10"	126° 36' 10"		
39	Line 21 (Above Langu-				
40	yon R. Pusan Pt.)			356° 52'	22,489 12.14 n.m.
41					
42	Pusan Pt.	7° 16' 59"	126° 36' 50"		
43	Line 22 (Pusan Pt.				
44	Cape S. Agustin (N)			22° 24'	119,471 64.51 n.m.
45					

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DIRECTOR III

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S. No. 206

- 4 -

1	Cape S. Agustin (N)	6° 17' 03"	126° 12' 08"		
2	Line 23 (Cape S. Agustin (N)				
3	Cape S. Agustin (S)			30° 16'	1,707
4					0.92 n.m.
5	Cape S. Agustin (S)	6° 16' 15"	126° 11' 40"		
6	Line 24 (Cape S.				
7	Agustin (S)				
8	Panguil Bato Pt.)			39° 22'	125,109
9					67.55 n.m.
10	Panguil Bato Pt.....	5° 23' 45"	125° 28' 42"		
11	Line 25 (Panguil Bato				
12	Pt.-Tapundo Pt.)			66° 32'	7,484
13					4.04 n.m.
14	Tapundo Pt.	5° 22' 08"	125° 24' 59"		
15	Line 26 (Tapundo Pt.				
16	-Manamil I.)			89° 18'	7,666
17					4.14 n.m.
18	Manamil I.	5° 22' 05"	125° 20' 50"		
19	Line 27 (Manamil I.				
20	Balut I. (W.)			139° 01'	3,051
21					1.65 n.m.
22	Balut I. (W)	5° 23' 20"	125° 19' 45"		
23	Line 28 (Balut I. (W)				
24	Middle of 3 Rk Awash)			124° 46'	149,849
25					80.91 n.m.
26	Middle of 3 Rk. Awash.	6° 09' 39"	124° 13' 02"		
27	Line 29 (Middle of 3				
28	Rk-Awash-Kauluan I.)			98° 22'	222,202
29					119.98 n.m.
30	Kauluan I.	6° 27' 00"	122° 13' 48"		
31	Line 30 (Kauluan I.				
32	Tongquil I. East Pt.)			35° 27'	55,194
33					29.80 n.m.
34	Tongquil I. East Pt.....	6° 02' 36"	121° 56' 27"		
35	Line 31 (Tongquil I. East				
36	Pt. Tongquil SE Pt.)			54° 09'	4,248
37					2.29 n.m.
38	Tongquil I. SE Pt.....	6° 01' 15"	121° 54' 35"		
39	Line 32 (Tongquil I.				
40	SE Pt.-Tongquil				
41	South Pt.)			61° 25'	3,852
42					2.08 n.m.
43	Tongquil I. South Pt.....	6° 00' 15"	121° 52' 45"		
44	Line 33 (Tongquil I.				
45	South Pt.-Sumbasumba I)			61° 28'	115,955
46					62.61 n.m.
47	Sumbasumba I	5° 30' 10"	120° 57' 35"		
48	Line 34 (Sumbasumba				
49	I.-Kinapusan Is.)			43° 18'	44,443
50					24.00 n.m.

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S. No. 206

- 5 -

1	Kinapusan Is.....	5° 12'37"	120° 41'05"		
2	Line 35 (Kinapusan I.			63° 14'	101,296
3	Manuk Manka I.)				54.69 n.m.
4					
5	Manuk Manka I.....	4° 47'50"	119° 52'10"		
6	Line 36 (Manuk Manka			58° 30'	80,848
7	I-Frances Reef)				43.65 n.m.
8					
9	Frances Reef	4° 24'54"	119° 14'54"		
10	Line 37 (Frances Reef			134° 33'	29,332
11	-Bajapa Reef)				15.84 n.m.
12					
13	Bajapa Reef	4° 36'04"	119° 03'36"		
14	Line 38 (Bajapa Reef			164° 04'	13,479
15	-Fanguan I.)				7.28 n.m.
16					
17	Panguan I.....	4° 43'06"	119° 01'36"		
18	Line 39 (Panguan I.			238° 47'	42,468
19	-Omapoy I.)				22.93 n.m.
20					
21	Omapoy I.....	4° 55'02"	119° 21'15"		
22	Line 40 (Omapoy I.			246° 11'	51,005
23	Sanga-Sanga I.)				27.54 n.m.
24					
25	Sanga Sanga I	5° 06'12"	119° 46'30"		
26	Line 41 (Sanga-Sanga			170° 04'	80,204
27	Is.-Pearl Bank)				43.31 n.m.
28					
29	Pearl Bank.....	5° 49'04"	119° 39'01"		
30	Line 42 (Pearl Bank)			103° 13'	137,052
31	Banguan I.)				74.00 n.m.
32					
33	Banguan I.	6° 06'00"	118° 26'42"		
34	Line 43 (Banguan I.-			76° 51'	15,535
35	Taganak I.)				8.39 n.m.
36					
37	Taganak I.....	6° 04'05"	118° 18'30"		
38	Line 44 (Taganak I.			118° 38'	24,803
39	Gt. Bakkungaan)				13.39 n.m.
40					
41	Gt. Bakkungaan	6° 10'32"	118° 06'42"		
42	Line 45 (Gt. Bakkun-			136° 03'	18,472
43	gaan-Sibaung I.)				9.97 n.m.
44					
45	Sibaung I.....	6° 17'45"	117° 59'45"		
46	Line 46 (Sibaung I.-			215° 35'	79,918
47	Muligi I.)				43.15 n.m.
48					

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 SENATE OF THE PHILIPPINES

S. No. 206

- 6 -

1	Muligi I.....	6° 53'00"	118° 25'00"		
2	Line 47 (Muligi I.-			119° 14'	140,547
3	Mangsee I.)				75.89 n.m.
4					
5	Mangsee I.....	7° 30'10"	117° 18'20"		
6	Line 48 (Mangsee Is.			134° 49'	48,818
7	Cape Melville)				26.36 n.m.
8					
9	Cape Melville.....	7° 48'50"	116° 59'30"		
10	Line 49 (Cape Mel-			107° 46'	198,561
11	ville-Rizal Reef)				107.21 n.m.
12					
13	Rizal Reef	8° 21'30"	115° 16'30"		
14	Line 50 (Rizal Reef-			52° 25'	125,280
15	Antonio Luna Rk.)				67.65 n.m.
16					
17	Antonio Luna Rk.....	7° 40'00"	114° 22'30"		
18	Line-51 (Antonio Luna			98° 15'	164,366
19	Rk- Kalantiyaw Cay)				88.75 n.m.
20					
21	Kalantiyaw Cay.....	7° 52'40"	112° 54'00"		
22	Line 52 (Kalantiyaw Cay-			152° 14'	129,884
23	Quezon Reef Gitna)				70.13 n.m.
24					
25	Quezon Reef (Gitna)	8° 55'00"	112° 21'00"		
26	Line 53 (Q.Reef Gitna-			218° 47'	93,467
27	Kagitingan Reef)				50.47 n.m.
28					
29	Kagitingan Reef.....	9° 34'30"	112° 53'00"		
30	Line 54 (Kagitingan			227° 05'	108,439
31	Reef-Gomez Reef)				58.55 n.m.
32					
33	Gomez Reef.....	10° 14'30"	113° 36'30"		
34	Line 55 (Gomez Reef-			210° 32'	152,090
35	- Pugad I.)				82.12 n.m.
36					
37	Pugad I.....	11° 25'30"	114° 19'00"		
38	Line 56 (Pugad I.-			224° 36'	5,179
39	Parola I.)				2.80 n.m.
40					
41	Parola I.	11° 27'30"	114° 21'00"		
42	Line 57 (Parola I.-			293° 14'	176,528
43	Patag I.)				95.32 n.m.
44					
45	Patag I.....	10° 49'30"	115° 50'00"		
46	Line 58 (Patag I.-			270° 50'	112,104
47	del Pilar Reef)				60.53 n.m.
48					
49	Del Pilar Reef.....	10° 48'30"	116° 51'30"		
50	Line 59 (Del Pilar			287° 35'	223,766
51	Reef-Piedras Pt.)				120.82 n.m.
52					

CERTIFIED TRUE COPY

APBARRAS
 ANTONIA P. BARRAS
 DIRECTOR III
 LEG. RECORDS & ARCHIVES SVC.
 SENATE OF THE PHILIPPINES

S. No. 206

- 7 -

1	Piedras Pt.....	10° 11'28"	118° 48'13"		
2	Line 60 (Piedras Pt.				
3	Tapiutan I.)			203° 19'	124,906
4					67.44 n.m.
5	Tapiutan I.....	11° 13'40"	119° 15'28"		
6	Line 61(Tapiutan I.				
7	Pinnacle Rk)			208° 47'	136,605
8					73.76 n.m.
9	Pinnacle Rk.....	12° 18'34"	119° 51'45"		
10	Line 62 (Pinnacle R.-				
11	Cabra I.)			185° 25'	175,831
12					94.94 n.m.
13	Cabra I.....	13° 53'30"	120° 00'58"		
14	Line 63 (Cabra I.				
15	Capones Is.)			179° 25'	113,413
16					61.24 n.m.
17	Capones Is.....	14° 55'00"	120°00'20"		
18	Line 64 (Capones Is.-				
19	Palauig Pt.)			168° 09'	58,161
20					31.37 n.m.
21	Palauig Pt.....	15° 25'50"	119° 53'40"		
22	Line 65 (Palauig Pt.				
23	Hermana Mayor I.)			164° 16'	40,874
24					22.07 n.m.
25	Hermana Mayor I.....	15° 47'10"	119° 47'28"		
26	Line 66 (Hormana Mayor				
27	I.-Tambobo Pt.)			167° 10'	20,491
28					11.06 n.m.
29	Tambobo Pt.....	15° 58'00"	119° 44'55"		
30	Line 67 (Tambobo Pt.-				
31	Rena Pt.)			181° 42'	22,910
32					12.37 n.m.
33	Rena Pt.....	16° 10'25"	119° 45'18"		
34	Line 68 (Rena Pt.-				
35	Cape Bolinao)			191° 38'	18,674
36					10.08 n.m.
37	Cape Bolinao.....	16° 20'20"	119° 47'25"		
38	Line 69 (Cape Bolinao				
39	Dile Pt.)			202° 49'	148,499
40					80.18 n.m.
41	Dile Pt.....	17° 34'30"	120° 19'58"		
42	Line 70 (Dile Pt.				
43	Pinget I.)			188° 25'	12,058
44					6.51 n.m.
45	Pinget I.....	17° 40'58"	120° 20'58"		
46	Line 71 (Pinget I.-				
47	Badoc I.)			192° 45'	27,173
48					14.67 n.m.

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Antonina P. Barras
 ANTONINA P. BARRAS
 DIRECTOR III
 LES. RECORDS & ARCHIVES SVC.

S. No. 206

- 8 -

1	Badoc I.....	17° 55'20"	120° 24'22"		
2	Line 72 (Badoc I.-				
3	Cape Bojeador)			195° 03'	65,275
4					35.24 n.m.
5	Cape Bojeador.....	18° 29'30"	120° 34'00"		
6	Line 73 (Cape Bojea-				
7	dor-Dalupiri I.)			222° 15'	101,749
8					54.94 n.m.
9	Dalupiri I.....	19° 10'15"	121° 13'02"		
10	Line 74 (Dalupiri I.-				
11	Catanapan Pt.)			213° 28'	25,075
12					13.54 n.m.
13	Catanapan Pt.....	19° 21'35"	121° 20'56"		
14	Line 75 (Catanapan				
15	Pt.-Raile)			196° 42'	156,901
16					84.72 n.m.
17	Raile	20° 43'00"	121° 46'55"		
18	Line 76 (Raile-				
19	Amianan I. (W)			200° 29'	48,140
20					25.99 n.m.
21	Amianan I. (W).....	21° 07'26"	121° 56'39"		
22	Line 77 (Amianan I (W)				
23	Amianan I. (M)			238° 39'	236
24					0.13 n.m.
25	Amianan I. (M)....	21° 07'30"	121° 56'46"		
26	Line 78 (Amianan I.				
27	(M) Amianan I. (E)			307° 07'	1,375
28					0.74 n.m.
29	Amianan I. (E).....	21° 07'03"	121° 57'24"		

30 SEC. 2. Republic Act No. 3046 and Republic Act No. 5446 and all other
 31 laws, decrees, orders and regulations otherwise inconsistent with this Act
 32 are hereby repealed.

33 SEC. 3. This Act shall take effect upon its approval.

Approved,

CERTIFIED TRUE COPY

APPROVED
ANTONIA P. BARROS
 DIRECTOR III
 LEG. RECORDS & ARCHIVES SVC.
 SENATE OF THE PHILIPPINES

/fe

Annex 16

Memorandum for the Assistant Secretary, Office of Asian and Pacific Affairs, Department of Foreign Affairs,
Republic of the Philippines (23 Mar. 1992)



1992-3

Kagawaran ng Agnayang Panlabas

Department of Foreign Affairs

MANILA

OFFICE OF ASIAN AND PACIFIC AFFAIRS

MEMORANDUM FOR

The Assistant Secretary
Office of Asian and Pacific Affairs

SUBJECT : Seven Chinese Fishermen Detained by Members
of the Philippine Armed Forces at Kalayaan
Islands on 17 March 1992

Mr. Lin Guozhang, First Secretary and Consul-General of the Chinese Embassy, accompanied by Mr. Guo Lu Hing, First Secretary and Consul, called on the undersigned today, 23 March, requesting for clarification and information concerning a certain Mr. Shu Shuwan and six other Chinese fishermen of Hainan province who were reportedly apprehended by members of the Philippine Armed Forces while fishing near Zhong Ye Island (11° 15' N, 114° 20' E) (Pagasa) of the Nansha Islands (Spratly Islands) in the afternoon of 17 March 1992. The seven fishermen were reportedly brought to Philippine territory on 20 March 1992.

Mr. Lin Guozhang would also like to know the whereabouts of these fishermen and requests that they be released as soon as possible.

Furthermore, Mr. Lin reiterated the position of the People's Republic of China that it has undisputed sovereignty over the Nansha Islands (Spratly Islands) and its nearby waters. He stated that the Chinese fishermen were carrying out their traditional and normal fishing activities within the Chinese territorial waters. He expressed regret over the incident and hoped that the Chinese fishermen could be released immediately in the interest of the traditional friendship between China and the Philippines.

In reply, the undersigned stated that ASPAC will bring this matter to the attention of relevant Philippine authorities and will notify the Chinese Embassy of developments thereon in due course.

For your information and consideration.

[Handwritten Signature]
ALLAREY

23 March 1992

Annex 17

Memorandum from the Undersecretary of Foreign Affairs of the Republic of the Philippines to the Ambassador of the People's Republic of China in Manila (6 Feb. 1995)



Kagawaran ng Ugnayang Panlabas

Department of Foreign Affairs

MANILA

OFFICE OF THE UNDERSECRETARY FOR POLICY

**VERY URGENT
SECRET**

AMBAPHIL BEIJING

6 FEBRUARY 1995

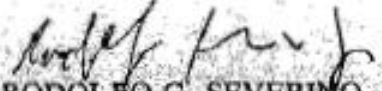
FOR FYI ONLY, I GAVE ATTACHED AIDE MEMOIRE TO CHINESE AMBASSADOR TODAY. FOLLOWING IS ACCOUNT OF HIS CALL ON ME:

As approved by the President, the Department called the PRC Ambassador yesterday afternoon and summoned him to the Department to meet with Undersecretary Rodolfo C. Severino at 0830H today. Undersecretary Severino expressed to the PRC ambassador the gravity of the Philippines' concern. Undersecretary Severino objected particularly to the fact that the Chinese had made a significant change in the disposition of forces in the South China Sea and had done so in a place nearer to the Philippines than any other such Chinese-occupied spot. This is destabilizing to the situation, Undersecretary Severino told the PRC Ambassador, and therefore, contrary to the Philippines' understanding of what was required for peace and stability in the area.

The PRC Ambassador merely repeated previous statements of the PRC Ministry of Foreign Affairs' spokesman that the Chinese Navy had not arrested and detained Filipino fishermen and was not building a "base" on "Meijijiao".

Undersecretary Severino then handed the PRC Ambassador the attached *aide memoire*.

YOU ARE NOT TO MAKE ANY REPRESENTATIONS WITH PROC ON THIS. IF SUMMONED, YOU ARE MERELY TO SAY THAT YOU WILL CONVEY TO DEFORAF WHATEVER PROC TELLS YOU. END.


 RODOLFO C. SEVERINO
 Undersecretary of Foreign Affairs

AIDE MEMOIRE

The Philippine Government expresses its serious concern over the following:

1. The presence of three large warships and five smaller vessels belonging to the People's Republic of China on or around Panganiban Reef, otherwise known as Mischief Reef;
2. The construction by the People's Republic of China of certain structures on Panganiban Reef; and
3. The detention of Filipino fishermen by military elements of the People's Republic of China deployed on and around Panganiban Reef.

Panganiban Reef is part of Philippine territory. Therefore, the presence of personnel and vessels of the People's Republic of China in the area is a violation of the sovereignty of the Philippines and of the norms of international law.

Moreover, it violates the spirit of the 1992 ASEAN Declaration on the South China Sea, to which both the Philippines and the People's Republic of China adhere, and further complicates the situation in the South China Sea.

The People's Republic of China is called upon to account for the detention of Filipino nationals.

In order to promote stability in the area, the personnel and vessels of the People's Republic of China must be removed forthwith from Panganiban Reef and further acts must be avoided which may adversely affect the peace and stability of the South China Sea and of East Asia as a whole.

The Philippine Government, in accordance with its well-known position on the South China Sea question, is confident that this matter shall be resolved peacefully and amicably.

6 February 1995

Annex 18

Memorandum from the Ambassador of the Republic of the Philippines in Beijing to the Undersecretary of Foreign Affairs of the Republic of the Philippines (10 Mar. 1995)

Annex 19

Memorandum from Erlinda F. Basilio, Acting Assistant Secretary, Office of Asian and Pacific Affairs, Department of Foreign Affairs, Republic of the Philippines, to the Secretary of Foreign Affairs of the Republic of the Philippines (29 Mar. 1995)



1995-15

Kagawaran ng Ugnayang Panlabas

Department of Foreign Affairs

MANILA

OFFICE OF ASIAN AND PACIFIC AFFAIRS

MEMORANDUM FOR THE SECRETARY

Through : Undersecretary Severino

FROM : *E. F. Basilio*
ERLINDA F. BASILIO
Acting Assistant Secretary

SUBJECT : Detention of Chinese fishermen in Palawan

DATE : 29 March 1995

1. The Deputy Chief of Mission of the Chinese Embassy, Mr. Peng Zengjiu, called on me today at 10 a.m. to ask the Philippines to release the four fishing boats and the fishermen on board captured by the Philippine Navy on 25 March 1995. He said he was doing this upon the instruction of the Chinese government.

The following are the points he made:

- 1.1. The four boats were from Hainan province. He does not know the exact number of fishermen on board and would like further information. He said the fishermen were conducting traditional fishing activities on Chinese traditional fishing grounds in the Nansha waters.
- 1.2. China has indisputable sovereignty over the Nansha and adjacent waters. Xian-e dao (Alicia Annie Reef?) belongs to China.
- 1.3. The detention by Philippine authorities of the fishermen is a violation and an infringement of legitimate rights and interests of the Chinese fishermen.
- 1.4. He expressed "deep regret" over the Philippine action.

cc: Ambaphil Beijing

- 1.5. During the bilateral consultations, both sides reached an understanding that problems would be handled in a sober and constructive way.
- 1.6. The Philippines should release the fishing boats as early as possible.
2. I conveyed the following to him:
 - 2.1. The DFA is still awaiting a full report on the matter, but initial reports indicate that the fishermen were caught poaching in Philippine territorial waters. I explained such is an illegal act under Philippine laws. Our action is a defensive one aimed at protecting our territory, our natural resources, and our environment.
 - 2.2. I reiterated that the Philippines has sovereignty over the KIG, and that the Alicia Annie Reef is within the KIG.
 - 2.3. I expressed concern over reports that explosives and cyanide were found on board the vessels. I said using explosives and cyanide for fishing is a violation of Philippine, as well as, international environmental laws.
 - 2.4. I also inquired if they have a list of the fishermen on board the vessels.
3. Mr. Peng said that both sides were very clear that sovereignty over the Nansha islands is disputed and, he would not debate on the question of sovereignty. He said that as the Chinese fishermen were fishing "naturally" in their traditional Chinese fishing waters, Philippine accusations of "poaching" and "illegal entry" were without basis. Philippine actions thus violated the legitimate rights and interests of the Chinese fishermen.
4. Mr. Peng said China also places great importance on the protection of the productive environment. In fact, Article 28 of the Chinese Fisheries Law disallows the use of blasting and poisoning methods in fishing. He said such methods are clearly and severely prohibited. However, he said no one knows yet if the accusations against the Chinese fishermen were true. What should be done first is for the fishermen to be released, upon which Chinese authorities would investigate. He said that if it were indeed true that the fishermen were using illegal methods of fishing, then the fishermen will be punished appropriately according to Chinese laws.
5. I reiterated that the Chinese were apprehended because they violated Philippine laws, and that this was not the first case of intrusion of Chinese vessels into Philippine territorial waters. The Philippines will not, in any way, countenance a violation of Philippine territorial waters.

6. I added that China has brought world attention to its actions because the Chinese fishermen were reported to be hauling giant sea turtles (*pawikan*), which are one of the world's remaining endangered, and therefore, protected, species. I also cited that reports said the Chinese fishermen were collecting red and blue corals. Such actions destroy the environment in the area. Worse, the use of blasting agents destroy the breeding grounds of marine resources. Once destroyed, it would take many years before they are replaced by new outgrowth.
7. I emphasized that fisheries is a very important livelihood in the Philippines and that this would be adversely affected if blasting and other illegal fishing methods continue. The common heritage of mankind would also be affected. I suggested that the Chinese government should ask its fishermen to desist from using such methods. I said that China and the Philippines can undertake joint projects to prevent such.
8. I informed him that the crew of the Chinese vessels were being investigated and that due process is being followed. Embassy officials can visit their nationals. I informed him that if the fishermen were found not guilty, they will be released accordingly.
9. Mr. Peng reiterated that China also prohibits illegal methods of fishing and that China attaches great importance to the protection of rare species. However, these are not the nature of the issue. The real issue is that the Chinese fishermen had not violated Philippine territory because they were conducting "normal routinary fishing" in traditional Chinese fishing grounds. All the things about courts and investigations were baseless and were unacceptable to the Chinese.
10. Finally, Mr. Peng cited the friendship between the Philippines and China, and cited that this year marks the 20th anniversary of the establishment of Philippines-China diplomatic relations. He expressed the hope that the issue would not impede on the bilateral relations of both countries.
11. I said that repeated intrusions in Philippine territory will be an irritant. I suggested that the Chinese government should tell their fishermen to fish closer to their coast as the question of territorial sovereignty has not yet been resolved. I also suggested that perhaps both sides could delineate an area where both can fish.
12. Mr. Peng noted the suggestion, but said that before such could be undertaken, the Chinese fishermen should be released first. This is necessary in order to avoid affecting bilateral relations. He also said that in following international laws, the demarcation and implementation of the 200 EEZ should be without prejudice to the respective sovereignty and respective territorial waters of each country.

Annex 20

Memorandum from Lauro L. Baja, Jr., Assistant Secretary, Office of Asian and Pacific Affairs, Department of Foreign Affairs, Republic of the Philippines, to the Secretary of Foreign Affairs of the Republic of the Philippines (7 Apr. 1995)



1995-18

Kagawaran ng Ugayayang Panlabas

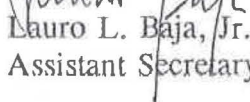
Department of Foreign Affairs

MANILA

OFFICE OF ASIAN AND PACIFIC AFFAIRS

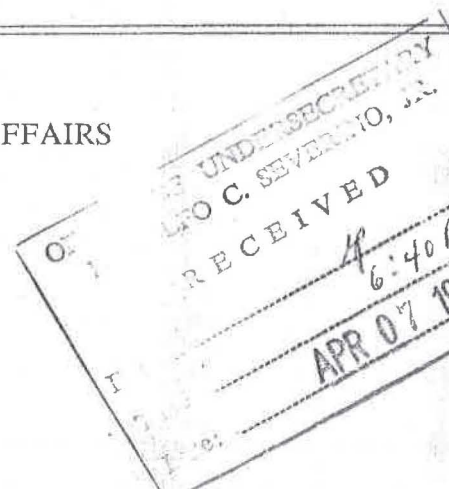
MEMORANDUM FOR THE SECRETARY

Through Undersecretary Severino

From :  Lauro L. Baja, Jr.
Assistant Secretary

Subject : Protest note on illegal fishing methods by detained Chinese fishermen in Palawan

Date : 7 April 1995



Mrs. Basilio handed the attached note to Chinese Embassy Charge d' Affaires Mr. Peng Zengjiu this afternoon and stressed certain points in the note orally.

In reply, Mr. Peng stressed the following points:

1. He can not accept the Philippine position. He can not understand why the Philippines is acting thus. He expresses his regret over Philippine actions.
2. The 62 fishermen were conducting "normal" fishing operations in "traditional Chinese fishing grounds." This does not constitute any violation of Philippine sovereignty.
3. The act of detaining the fishermen is "wrong." It will do no good to the friendly relations between the Philippines and China. Filing charges against the fishermen only adds insult to injury. The Philippines should stop this series of wrongdoings.
4. China treasures RP-China relations. He expressed hope that bilateral relations would not be harmed by such acts. For the sake of RP-China relations, the 62 fishermen should be released as soon as possible.

5. The Philippines should not take advantage of this case to stress that "these waters" are within the 200 EEZ of the Philippines. This will do no good to the settlement of the (South China Sea) dispute.
6. It is obvious that some people in the Philippine Government are deliberately "creating an incident" out of the case.
7. Even if the fishermen were engaged in unlawful fishing, it is only appropriate that Chinese authorities deal with the case as the fishermen were in Chinese territory.
8. If the Philippines conduct these acts in "our" (Chinese) territory, then the Chinese Government will definitely oppose them.
9. When Chinese embassy officials visited the 62 fishermen in Palawan, the fishermen admitted to possessing explosives, but they said that the explosives were for defensive purposes. The fishermen claimed that some Chinese fishermen had been killed by pirates before. However, for this fishing expedition, the explosives were never used.

One of the fishermen claimed to have been fishing in the area for the past 40 years, and this is the first time that he was detained. The fisherman expressed shock and bewilderment.

10. He called the attention of the Philippine government to the poor living and sanitary conditions of the prisoners.

In reply to the points he raised, Mrs. Basilio reiterated the following:

1. The KIG is Philippine territory.
2. The Philippines is opposed to illegal fishing techniques and is committed to the preservation of endangered species. China should tell its fishermen to stop using illegal fishing methods that are harmful to the environment.
3. With regard to the lodgings of the Chinese, Filipinos and foreign prisoners are treated in the same manner. But the DFA will look into the observation of the Chinese Embassy.
4. The fact that the fishermen were arrested in Philippine waters meant that they intruded into Philippine territory. The judicial process is now functioning. The Philippine Constitution's Bill of Rights and relevant laws ensure that the rights of the Chinese fishermen will be respected.
5. The entire coastline of the Philippines is being guarded by the Philippine Coast Guard and, foreign intruders will be apprehended.

No. **951244**

The Department of Foreign Affairs presents its compliments to the Embassy of the People's Republic of China and, with reference to the Department's Note No. 951217 of 4 April 1995, has the honor to refer to the arrest of the sixty two (62) Chinese nationals on 25 March 1995 at the vicinity Southwest off Alicia Annie Shoal, Kalayaan Group of Islands, Palawan, and the filing of the criminal complaints by the Palawan Provincial Police Command against these Chinese nationals for Illegal Fishing with the Use of Explosives, Illegal Fishing Using Obnoxious/Poisonous Substances and Violation of Executive Order No. 5421/MNR Administrative Order No. 12, Series of 1979 (Conservation of Marine Turtles in the Philippines).

The Philippine Government exercises supervision and responsibility in the management of the resources and environment in the Kalayaan Island Group (KIG) and in the Exclusive Economic Zone (EEZ) consistent with its obligations under the United Nations Convention on the Law of the Sea (UNCLOS), Agenda 21 (Chapter 17) of the Rio Declaration of 1992, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Philippine authorities strictly implement these conventions and laws to ensure the protection and preservation of the marine environment in the territory of the Philippines and the areas of its international responsibility.

The Philippine Government notes that the propagules from the Kalayaan and surrounding island groups are carried to coastal states by way of currents and tides. These propagules serve as seed in the propagation of marine flora and fauna in the South China Sea and its surrounding coasts and as nutrient and food for fish so that they enrich the primary productivity of the coastal states, including the Philippines and China. The viability of coastal and marine fisheries in countries bordering the South China Sea is, therefore, highly dependent on the presence and abundance of these propagules in the South China Sea.

For this reason, the Philippine Government strongly protests the apparent application by the 62 Chinese nationals of fishing techniques that are unfriendly to the environment and threaten the ecological balance in the KIG and in the EEZ. The use of toxic materials and explosives and the illegal capture of sea turtles in any part of the South China Sea, particularly in the Philippine KIG and EEZ, seriously threaten the propagules and the fisheries in the coastal areas surrounding the region and consequently the livelihood of the fishing communities around the South China Sea.

..... / The Philippine

The Philippine Government stresses that the illegal fishing methods, which are the subject of the criminal complaints against the 62 Chinese nationals, violate the pertinent provisions of UNCLOS, Agenda 21 (Chapter 17) of the Rio Declaration of 1992, and CITES. It is therefore imperative that such illegal fishing activities be terminated immediately.

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

7 April 1995

A handwritten signature in dark ink, appearing to be the initials 'JH' or similar, located to the right of the date.

Annex 21

Memorandum from the Ambassador of the Republic of the Philippines in Beijing to the Undersecretary of Foreign Affairs of the Republic of the Philippines (10 Apr. 1995)

URGENT

C C

ASPAC

Proc'd. By

Date & Time

1995-21

TO : SECFORAF MANILA 10 APRIL 1995
 ATTN : USECRCS, ASPAC
 FROM : AMPHIL PEKING PGs: 1 OF 5
 RE : CHINESE REPRESENTATION ON SPRATLYS
 DISPUTE, ARREST OF 62 CHINESE
 FISHERMEN, AND RP MILITARY ACTIONS
 IN SOUTH CHINA SEA.

ZPE- 204 -95 This morning I was invited by the Ministry of Foreign Affairs for a meeting at 2:00 p.m. with Assistant Minister Wang Yingfan. Mr. Wang said he was under instructions to make representations on the above-captioned subjects. Hereunder were the points he raised:

On Spratlys Dispute

- China expounded on its position regarding its dispute with the Philippines in particular and the South China Sea in general during the recent RP-PRC Bilateral Consultations and ASEAN-China Senior Officials Consultations;
- China attaches great importance to its friendship with the Philippines and to the maintenance of regional peace and stability;
- There is no conflict of fundamental interests with the Philippines. Disputes can be resolved through friendly consultations.
- However, RP has disregarded solemn representations made by Chinese side and taken "irresponsible actions" that have caused deterioration of the situation. RP military has destroyed Chinese markers and detained Chinese fishermen doing normal fishing operations in the Nansha and filed criminal charges against the fishermen.
- China expresses "strong dissatisfaction and regret" over these RP acts, which have touched the national feelings of the Chinese people.
- China has indisputable sovereignty over the Nansha Islands and their adjacent waters;
- China had protested on two occasions when RP encroached upon Chinese sovereignty and territorial integrity. First time was in 1971 when RP sent troops to occupy two islands in the Nansha area. The second was in 1978 when the Philippine Government issued a proclamation making the Kalayaan Island Group part of the Philippines. China views these actions by the Philippines as null and void.

ASIAN AND PACIFIC AFFAIRS
 DEPARTMENT OF FOREIGN AFFAIRS

DATE: APR 11 1995
 TIME: _____

BY: _____

276

On the Nansha issue, it is the Philippines which has encroached upon China's sovereignty, not the other way around.

- It is totally legal and irreproachable for Chinese fishermen to fish in the Nanshas since these are their traditional fishing grounds.
- The arrest by the Philippine Navy of Chinese fishermen is a serious violation of the legitimate rights and interests of the Chinese fishermen.
- If RP side continues to detain the Chinese fishermen, it will inevitably complicate the situation and damage bilateral relations.
- It is China's sincere hope that RP will set store by the larger interest of protecting friendly bilateral relations and stop judicial proceedings against the Chinese fishermen, accord them humanitarian assistance and release them as soon as possible.

On Mischief Reef

- China has even considered allowing Filipino fishermen to use the shelter facilities at Mischief Reef in emergency cases.
- But RP "flexed its muscles" by destroying Chinese survey markers and sending military vessels to the area.
- China has exercised great restraint regarding RP's "provocative" actions, but hopes that RP will not misunderstand China's restrained attitude;
- China demands that RP stop all such military actions.
- China and RP are friendly neighbors; it is not impossible to resolve the dispute through peaceful negotiations.
- China hopes that RP will guard against attempts by third parties to sow discord between RP and China.
- China hopes that both sides will seek appropriate solution to the dispute in a calm, constructive and pragmatic manner.

- China hopes that RP will take ' 's question seriously.
- Whenever military action is involved and restraint is not exercised, this will give rise to a situation neither side would hope to see.
- RP has made provocative moves by repeatedly sending naval vessels and warplanes to the Nansha area and destroying Chinese survey markers there.
- China has exercised great restraint in the interest of maintaining good bilateral relations.
- China hopes that RP will not take any more military actions.
- During recent call by Usec Severino on Vice Premier and Fdormin Qian Qichen in Beijing, Qian said that both sides should not allow dispute over 1 or 2 islands to affect the normal development of bilateral relations.
- China is confident that solutions can be found through dialogue and consultations.
- China hopes that RP will make positive consideration of Chinese proposals.

I assured Asst. Min. Wang that I would immediately convey his remarks to my authorities in Manila. However, I took the opportunity of this meeting with him to make the following points:

- The filing of criminal charges against the 62 Chinese fishermen was the subject of a recent DFA Note Verbale to the Chinese Embassy in Manila which clearly explains RP's position on the matter.
- RP agrees with China regarding the importance of maintaining their friendly bilateral relations. RP also believes that disputes can be resolved through peaceful dialogue.
- RP reaffirms its sovereignty over the KIG, even as it recognizes that there are disputes over sovereignty in the South China Sea.
- As ASEAN pointed out in the ASEAN-China SOM in Hangzhou, the issue of sovereignty should be sorted out first; otherwise, misunderstandings will continue to occur in the area.

- even though China said at the Hangzhou meeting that it does not claim the entire South China Sea but only the "Nansha" and "Xisha" islands and their adjacent waters, misunderstandings will continue to occur unless PRC clearly defines to RP and other countries concerned what precisely are the "Nansha" islands.

- Even reefs, atolls and shoals which are only about 100 nautical miles or less from Palawan are being claimed by China.

- China says that these reefs, atolls and shoals and their adjacent waters are traditional fishing grounds of Chinese fishermen; but since they are only about a hundred miles or less from the Philippines and are hundreds and hundreds of miles from China's main coastlines, they are all the more the traditional fishing ground of Filipino fishermen than of fishermen from any other country.

- ASEAN's frank statements at the Hangzhou meeting showed that ASEAN is sincerely desirous of reaching a comprehensive and lasting understanding with China on the South China Sea.

- I recalled that the way RP quietly handled two incidents in 1991 when Chinese fishermen were arrested on Pag-Asa Island and quickly released manifested RP's concurrence with PRC leaders' proposition that the time was not yet ripe to resolve the sovereignty question, and RP's desire to maintain good relations with China.

- At the conclusion of each of those two incidents in 1991, I earnestly requested the Chinese Ambassador in Manila to convey to his authorities the request that Chinese fishermen be dissuaded from straying too close to RP waters again, so that these incidents will not recur.

- China has repeatedly called for setting aside the dispute over sovereignty if such cannot be settled at the present time. However, when a country sends its fishermen to intrude too close to another's coastline, that is not acting in the spirit of setting aside the dispute over sovereignty; rather, it is forcing the issue of sovereignty.

- The 62 detained Chinese fishermen were found in possession of explosives and cyanide, the use of which is harmful to the marine environment and thus, illegal. When coral reefs are destroyed, it takes generations

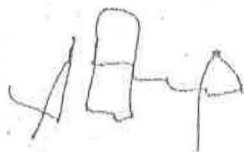
before they can be rebuilt. And the poisoning of the marine environment so close to Palawan's shores is a matter of grave concern to the Philippine Government.

Assistant Minister Wang then made the following comments:

- China has noted RP's and ASEAN's desire for early resolution of sovereignty issue. But China is worried that both sides may just be bogged down in endless debate if sovereignty is discussed since it is a complicated issue and touches upon national feelings of people.
- Since China is dealing with friendly neighbors, it has proposed the shelving of the dispute over sovereignty and carrying out joint development.
- China notes that RP keeps on emphasizing that Chinese fishermen are venturing too close to RP waters. But one fact should not be overlooked: it is that Chinese fishermen have been fishing in these areas since ancient times. Their fishing rights and interests should therefore be guaranteed since there are historical and jurisprudential bases for their claims.
- Asst. Min. Wang proposed that China's and RP's Foreign Ministries and fishing authorities get together and work closely to reach agreement on "arrangements" to avoid similar situations in the future. (AMPHIL COMMENT: To my recollection, this is the first time Chinese side has responded to RP's proposal of a "modus vivendi." I recommend this matter be taken up seriously and quickly, even as the sovereignty question is sorted out, per the ASEAN position at Hangzhou).
- In the past, RP adopted friendly attitude toward arrests of Chinese fishermen. China hopes that RP will deal with the 62 fishermen with a calm and realistic approach as it did in the past.
- If any criminal charges are filed against the 62 Chinese fishermen, imagine the reaction by the fishing community and government of China; this will definitely complicate the situation.

Assistant Minister Wang appeared surprised and pleased when I mentioned my intention to make official visits to Fujian and Hainan in the very near future.

ROMUALDO A. ONG
Ambassador



Annex 22

Memorandum from the Ambassador of the Republic of the Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-231-95 (20 Apr. 1995)

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ORIGINAL TO	
RCS	
ACTION OFFICE	
C C	Rec'd. By
ASPAC	Date & Time

TO: Secforaf Manila
 Attn: USECRCS and ASPAC
 FR: Amphil Peking
 RE: Chinese Statement on the Issue of Spratly Islands

20 April 1995

PGs: 1 of 1

ZPE- 231 -95 Following is a verbatim quote of the English translation of statement made by MFA spokesman on 20 April during the MFA weekly press briefing in reply to query concerning the Spratlys issue:

Question: Recent report reveals that the facilities China has built in the Meiji Reef will be unfavorable to the security of passage in the South China Sea. What is your comment on the issue?

Answer: China has indisputable sovereignty over Nansha Islands and their adjacent waters. The shelter facilities constructed on the Meiji Reef by some local Chinese fishing administration is to protect the safety and life of Chinese fishermen.

While maintaining its sovereignty over the Nansha Islands and the maritime rights and interests in the area, China also fulfills according to international laws the obligation of guaranteeing the free passage of foreign vessels or aircraft through the international sea lanes or air routes in the South China Sea.

It is out of ulterior motives to spread the talk that China's peaceful use of the Nansha Islands will affect the security of passage in the area. PE

[Signature]
 Romaldo A. Ong
 Ambassador

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ASIAN AND PACIFIC AFF
 DEPARTMENT OF FOREIGN

RECEIVED
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 TIME:
 BY:

Annex 23

Memorandum from the Secretary of Foreign Affairs of the Republic of the Philippines to the President of the Republic of the Philippines (31 July 1995)



Magkabayang Pambansang Pagsasama

Department of Foreign Affairs

MANILA

SECRET AND URGENT

MEMORANDUM FOR H.E. THE PRESIDENT

FROM : The Secretary of Foreign Affairs

SUBJECT : Bilateral Meeting with Qian Qichen,
Bandar Seri Begawan, 30 July 1995

DATE : 31 July 1995

I wish to report that I met in the afternoon of July 30 with Chinese Vice-Premier and Foreign Minister Qian Qichen, in Bandar Seri Begawan's International Convention Center, immediately after the closing of the 28th ASEAN Ministerial Meeting (AMM).

Economic Relations

I reiterated the Philippine wish to raise our two-way trade up to the level of \$ 1 billion. Vice-Premier Qian and I agreed that our bilateral trade is lower than its full potential and that we should work together to increase it.

He also agreed with my suggestion that our two sides discuss the possible conclusion of a bilateral avoidance of taxation and fiscal evasion treaty and the expansion of our exchanges in science and technology cooperation.

Vice-Premier Qian said Beijing sincerely appreciates the President's 1993 decision to lift trade restrictions with China, and also the recent decision to remove China from the list of socialist and centrally-planned economy countries (SOCPEC) whose trade with the Philippines is controlled through PITC.

I said the Philippines looks forward to the 18th Meeting of the Philippines-China Joint Trade Committee scheduled in Manila in early August as an opportunity to enhance bilateral cooperation.

SECRETSouth China Sea Problem

Vice-Premier Qian recalled that we have just celebrated the 20th anniversary of the establishment of Philippines-China diplomatic relations. He recalled that the Philippines was one of the first ASEAN countries to have diplomatic ties with China.

The Vice-Premier assured me that China would not engage in acts inimical to the stability of the South China Sea area. He noted that Chinese officials had even discussed the South China Sea problem during the ASEAN-China Senior Officials Meeting held last April in Hangzhou. He said Beijing was gratified by the President's recent statement describing the South China Sea issue as a political rather than a military problem.

Vice-Premier Qian stated that China is seeking a peaceful settlement of the problem mainly through bilateral dialogue. He reiterated that Beijing's basic approach to settlement, as enunciated by Deng Xiaopeng, is to shelve the sovereignty question and pursue joint development in the area with other claimants.

The Vice-Premier stated that China understands this view has been confirmed by Philippine leaders, which he feels shows that a consensus on the approach to settling the problem is being reached between our two countries. We expressed confidence that since both sides have a common interest in peaceful settlement, the next bilateral meeting between our senior officials scheduled in Manila on August 8-12 should be able to attain some progress.

Vice-Premier Qian raised two specific proposals. First, he requested that we exercise restraint in mass media to avoid sensationalizing press reporting on the problem. Second, he proposed that we conclude a bilateral fisheries agreement that would also cover safety of fishermen in the South China Sea.

The Vice-Premier noted that while the South China Sea is a traditional Chinese fishing ground, fishing vessels of many countries operate in the area. An agreement between the Philippines and China would help avoid conflicts that fisheries disputes have caused in other regions.

On my part, I informed Vice-Premier Qian that the Philippines views positively recent pronouncements from Beijing that China is willing to consider the resolution of the South China Sea problem using international law, including the United Nations Convention on the Law of the Sea (UNCLOS).

SECRET

I recalled that the ASEAN Ambassadors had received this position from the Chinese Foreign Ministry in Beijing last June 27, and that Undersecretary Severino had obtained the same position from the Chinese Ambassador in Manila last June 29. I also noted my understanding that the Chinese side had reiterated this position during the ASEAN-China Consultative Meeting held here on July 30.

I said the Philippines welcomed this indication that China's approach to resolving the problem now incorporates reference to the principles of international law, including UNCLOS, in addition to Beijing's claims based on its perceived historic right to the South China Sea.

I also stated that the Philippines is satisfied with China's affirmation in its July 30 Consultative Meeting with ASEAN that the problem can be discussed during the ASEAN-China Senior Officials Meeting, which is a multilateral forum.

I outlined my three-level approach to the management of the problem. I said that, first, the Philippines will continue bilateral consultations on the problem with China. Second, I stated that the Philippines also favors multilateral discussions, since the problem is regional in nature.

And third, I indicated that the Philippines proposes the establishment of sister-city and sister-province linkages between local government units of both our countries that have close interests in the South China Sea.

In this regard, I informed my Chinese counterpart that Cebu or Palawan could have such links with Hainan, which is the base for many Chinese fishermen, and Chinese military and naval units that operate in the area.

I noted the two proposals made by Vice-Premier Qian regarding media and a fisheries agreement. On media, I explained that the Philippine Government will always act and report on the problem in an objective and responsible manner, but that we do not control media in the Philippines. On the fisheries agreement, I replied that while we could examine the possible merits of the Chinese proposal, the proposal should be discussed with other claimant countries as well.

In addition, I stressed clearly that the Philippines remains deeply concerned with the Chinese structures on Mischief Reef, because these are far too near to Palawan. I informed my Chinese counterpart that Philippine public opinion regards the structures as a threat to Philippine national security.



SECRETNuclear Weapons Testing

I registered Philippine opposition to nuclear weapons testing by all countries, including China, especially in view of the recent indefinite extension of the Nuclear Non-Proliferation Treaty (NPT). I called on China to meet its commitment to sign the Comprehensive Test Ban Treaty (CTBT) before the end of 1996.

Vice-Minister Qian reiterated Beijing's support for the NPT. However, he explained further that since the other nuclear weapons states did not support Beijing's proposal to conclude a no-first-nuclear-strike agreement, China itself remains under a nuclear threat and therefore cannot observe the test ban moratorium. Nonetheless, he said China would join the CTBT next year.

Consular Relations

I appealed for leniency, if not clemency, on behalf of Jun Efren Torres and Joel Aristoteles, two Filipinos sentenced to death by a Xiamen court for drug smuggling in February 1995.

In reply to Vice-Premier Qian's request for the release of the 62 Chinese fishermen presently incarcerated in Palawan, I explained that under our political system, the judiciary is an independent branch of government. I told him that the case of the fishermen is now with the court. I said that the government would consider overall Philippines-China relations when it acts on the case after the ruling of the court.

Other Areas of Cooperation

Vice-Premier Qian and I also discussed cooperation in APEC and the United Nations. I said that since the Philippines will become APEC Chairman next year, we look forward to cooperating with China more closely on APEC questions.

I also mentioned our interest in working together with China on the reform of the United Nations system, and in this connection, I expressed appreciation for China's willingness to strengthen the United Nations and its development bodies in conjunction with us.

For the President's information.



Annex 24

Memorandum from the Ambassador of the Republic of the Philippines in Beijing, Romualdo A. Ong, to Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-246-96 (16 May 1996)

#33

1/2

VIA FAX
URGENT

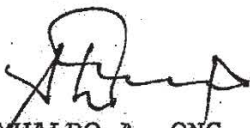
To: Secforaf
Attn: Usec RCS/ ASPAC
Fr: Amphil Peking

16 May 1996
2 pages

Re: China's ratification of UNCLOS and declaration of its baselines

ZFE-246-96 . *Xinhua* reported late yesterday that the Standing Committee of the Chinese National People's Congress has ratified the UNCLOS. Simultaneously, the PRC Government also issued "Declaration of the Government of the People's Republic of China on the Baselines of the Territorial Sea of the People's Republic of China." Attached is the first part of the declaration. Amphil will fax rest of the declaration as soon as available. PE.

Attachment: as stated.



ROMUALDO A. ONG
Ambassador

Plum T. ...

China declares its sea baselines

THE Chinese Government yesterday issued a statement on the baselines of part of its territorial sea adjacent to the mainland and those of the territorial sea adjacent to its Xisha Islands. The full text of the Statement is as follows:

Declaration of the Government of the People's Republic of China on the Baselines of the Territorial Sea of the People's Republic of China (15 May 1996) In accordance with the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone adopted and promulgated on 25 February 1992, the Government of the People's Republic of China hereby announces the baselines of part of its territorial sea adjacent to the mainland and those of the territorial sea adjacent to its Xisha Islands as follows:

1. The baselines of part of the territorial sea adjacent to the mainland are composed of all the straight lines joining the adjacent base points listed below:

1) Shandonggaojiao (1) 37 Degree 24.0'N 122 Degree 42.3'E	25) Nanpengliedao (1) 23 Degree 12.9'N 117 Degree 14.9'E
2) Shandonggaojiao (2) 37 Degree 23.7'N 122 Degree 42.3'E	26) Nanpengliedao (2) 23 Degree 12.3'N 117 Degree 13.9'E
3) Moyedao (1) 36 Degree 57.8'N 122 Degree 34.2'E	27) Shibeishanjiao 22 Degree 56.1'N 116 Degree 29.7'E
4) Moyedao (2) 36 Degree 55.1'N 122 Degree 32.7'E	28) Zhentouyan 22 Degree 18.9'N 115 Degree 07.5'E
5) Moyedao (3) 36 Degree 53.7'N 122 Degree 31.1'E	29) Jiapengliedao 21 Degree 48.5'N 113 Degree 58.0'E
6) Sushandao 36 Degree 44.8'N 122 Degree 15.8'E	30) Weijiadao 21 Degree 34.1'N 112 Degree 47.9'E
7) Chaoliandao 35 Degree 53.6'N 120 Degree 53.1'E	31) Dafanshi 21 Degree 27.7'N 112 Degree 21.5'E
8) Dashandao 35 Degree 00.2'N 119 Degree 54.2'E	32) Qizhouliedao 19 Degree 58.5'N 111 Degree 16.4'E
9) Macaiheng 33 Degree 21.8'N 121 Degree 20.8'E	33) Shuangfan 19 Degree 53.0'N 111 Degree 12.8'E
10) Waikējiao 33 Degree 00.9'N 121 Degree 38.4'E	34) Dazhoudao (1) 18 Degree 39.7'N 110 Degree 29.6'E
11) Sheshandao 31 Degree 25.3'N 122 Degree 14.6'E	35) Dazhoudao (2) 18 Degree 39.4'N 110 Degree 29.1'E
12) Haijiao 30 Degree 44.1'N 123 Degree 09.4'E	36) Shuangfanshi 18 Degree 26.1'N 110 Degree 08.4'E
13) Dongnanjiao 30 Degree 43.5'N 123 Degree 09.7'E	37) Lingshuijiao 18 Degree 23.0'N 110 Degree 03.0'E
14) Liangxiangdiyu 30 Degree 10.1'N 122 Degree 56.7'E	38) Dongzhou (1) 18 Degree 11.0'N 109 Degree 42.1'E
15) Yushanliedao 28 Degree 53.3'N 122 Degree 16.5'E	39) Dongzhou (2) 18 Degree 11.0'N 109 Degree 41.8'E
16) Taizhouliedao (1) 28 Degree 23.9'N 121 Degree 55.0'E	40) Jinmujiao 18 Degree 09.5'N 109 Degree 34.4'E
17) Taizhouliedao (2) 28 Degree 23.5'N 121 Degree 54.7'E	41) Shenshijiao 18 Degree 14.6'N 109 Degree 07.6'E
18) Daotiaoshan 27 Degree 27.9'N 121 Degree 07.8'E	42) Xigudao 18 Degree 19.3'N 108 Degree 57.1'E
19) Dongyindao 26 Degree 22.6'N 120 Degree 30.4'E	43) Yinggezui (1) 18 Degree 30.2'N 108 Degree 41.3'E
20) Dongshadiao 26 Degree 09.4'N 120 Degree 24.3'E	44) Yinggezui (2) 18 Degree 30.4'N 108 Degree 41.1'E
21) Niushandao 25 Degree 25.8'N 119 Degree 56.3'E	45) Yinggezui (3) 18 Degree 31.0'N 108 Degree 40.6'E
22) Wuqiuyu 24 Degree 58.6'N 119 Degree 28.7'E	46) Yinggezui (4) 18 Degree 31.1'N 108 Degree 40.5'E
23) Dongdingdao 24 Degree 09.7'N 118 Degree 14.2'E	47) Gan'enjiao 18 Degree 50.5'N 108 Degree 37.3'E
24) Daganashan 23 Degree 31.9'N 117 Degree 41.3'E	48) Sigengshajiao 19 Degree 11.6'N 108 Degree 36.0'E
	49) Junbijiao 19 Degree 21.1'N 108 Degree 38.6'E

2. The baselines of the territorial sea adjacent to the Xisha Islands of the People's Republic of China are composed of all the straight lines joining the adjacent base points listed below:

1) Dongdao (1) 16 Degree 40.5'N 112 Degree 44.2'E	15) Beijiao (1) 17 Degree 04.9'N 111 Degree 26.9'E
2) Dongdao (2) 16 Degree 40.1'N 112 Degree 44.5'E	16) Beijiao (2) 17 Degree 05.4'N 111 Degree 26.9'E
3) Dongdao (3) 16 Degree 39.8'N 112 Degree 44.7'E	17) Beijiao (3) 17 Degree 05.7'N 111 Degree 27.2'E
4) Langhuajiao (1) 16 Degree 04.4'E 112 Degree 35.8'E	18) Beijiao (4) 17 Degree 06.0'N 111 Degree 27.8'E
5) Langhuajiao (2) 16 Degree 01.9'N 112 Degree 32.7'E	19) Beijiao (5) 17 Degree 06.5'N 111 Degree 29.2'E
6) Langhuajiao (3) 16 Degree 01.5'N 112 Degree 31.8'E	20) Beijiao (6) 17 Degree 07.0'N 111 Degree 31.0'E
7) Langhuajiao (4) 16 Degree 01.0'N 112 Degree 29.8'E	21) Beijiao (7) 17 Degree 07.1'N 111 Degree 31.6'E
8) Zhongjiandao (1) 15 Degree 46.5'E 111 Degree 12.6'E	22) Beijiao (8) 17 Degree 06.9'N 111 Degree 32.0'E
9) Zhongjiandao (2) 15 Degree 46.4'N 111 Degree 12.1'E	23) Zhaoshudao (1) 16 Degree 59.9'N 112 Degree 14.7'E
10) Zhongjiandao (3) 15 Degree 46.4'N 111 Degree 11.8'E	24) Zhaoshudao (2) 16 Degree 59.7'N 112 Degree 15.6'E
1) Zhongjiandao (4) 15 Degree 46.5'N 111 Degree 11.6'E	25) Zhaoshudao (3) 16 Degree 59.4'N 112 Degree 16.6'E
2) Zhongjiandao (5) 15 Degree 46.7'N 111 Degree 11.4'E	26) Beidao 16 Degree 58.4'N 112 Degree 18.3'E
3) Zhongjiandao (6) 15 Degree 46.9'N 111 Degree 11.3'E	27) Zhongdao 16 Degree 57.6'N 112 Degree 19.6'E
4) Zhongjiandao (7) 15 Degree 47.2'N 111 Degree 11.4'E	28) Nandao 16 Degree 56.9'N 112 Degree 20.5'E
	1) Dongdao (1) 16 Degree 40.5'N 112 Degree 44.2'E

The Government of the People's Republic of China will announce the remaining baselines of the territorial sea of the People's Republic of China at another time. (Xinhua)

Annex 25

Memorandum from Rodolfo C. Severino, Undersecretary, Department of Foreign Affairs of the Republic of the Philippines, to the President of the Republic of the Philippines (27 May 1997)

OFFICE OF THE UNDERSECRETARY FOR POLICY

MEMORANDUM FOR H.E. THE PRESIDENT

Through : Secretary of Foreign Affairs
 From : Undersecretary Rodolfo C. Severino
 Subject : Bilateral Consultations with China
 Date : 27 May 1997

I am pleased to report the results of my meeting with Chinese Vice Foreign Minister Tang Jiaxuan. I met with Minister Tang during the last two days in the context of the annual bilateral consultations between the Foreign Ministries of the Philippines and China.

1. The meeting was heavily burdened by the recent irritants on Kota and Panata and the misunderstandings on Scarborough Shoal. In fact, China's agenda for the meeting was focused almost entirely on what Minister Tang referred to as "problems in our relations". Although this was the underlying theme of China's message for the meeting, the Chinese side repeatedly stressed an equally important principle for China that, despite the disagreements and the frank discussion on resolving our differences, the "natural development" of RP-China bilateral relations should not be derailed. The relations are important enough for both sides to exert constructive efforts to overcome the difficulties the relations are encountering at present.

2. China made the following presentation on the issue of the recent incidents in the South China Sea:

- China and the Philippines have already reached a consensus on the basic approach to reduce tension and avoid conflict in the area, which includes:

- i. Peaceful settlement of the dispute through negotiations based on international law, particularly the UNCLOS;
- ii. Unhampered development of bilateral relations in spite of the dispute;
- iii. Shelving of the sovereignty question and the pursuit of joint development in the disputed areas; and
- iv. Use of consultative mechanisms to explore specific issues on fisheries, environmental protection and confidence building.

- The South China Sea issue is being effectively addressed through various bilateral mechanisms as well as the ASEAN-

China political consultations, the latest of which was held in Huangshan, China last month. Singaporean Prime Minister Goh Chok Tong and Malaysian Foreign Minister Abdullah Badawi, both recent visitors to Beijing, have given a positive assessment of the Huangshan meeting.

- ✓ China deeply regretted that recent actions by the Philippine armed forces on Scarborough Shoal in violation of China's territorial integrity have soured the bilateral relations. Worst of all, the Philippine Government placed the blame on China for the recent misunderstandings between the two sides.

- China explained its position on the incidents off Kota and Panata, and at Scarborough Shoal.

i. ✓ The Kota and Panata incidents were blown out of proportion by the Philippines. Five Chinese vessels were involved -- three civilian ships, and two ships which used to belong to the Chinese navy. The vessels were surveying the depths of the waters around the Spratlys, which was a legitimate exercise of sovereignty by China over its territory. The Philippine attempt to put political pressure on China by playing up the issue in the mass media and with ASEAN and other countries was an overreaction, which undermined our friendly relations. For the sake of these relations, and because China understood the Philippine Government's domestic problems, ✓ the Chinese vessels were asked to pull back even before the Philippines filed its protest note.

ii. The Philippine action on Scarborough Shoal (which China calls Hwangyan Dao, or "Yellow Rock Island") further escalated the situation after the Kota and Panata incidents. The "island" is part of Zhongsha "islands" (Macclesfield Bank) over which China has an indisputable claim based on historical and jurisprudential grounds. All of China's official maps and textbooks since 1935 have included Scarborough Shoal as its territory without any disagreement from the international community. China's sovereignty over the shoal has been recognized by various amateur radio groups, which applied for permits to explore and establish radio antennas on the shoal. International law and various state acts by the Philippines militate against its claims over the shoal. The Treaty of Paris, the 1900 treaty between the United States and Spain, and the 1930 Treaty of Washington between the United States and Great Britain did not include the shoal within Philippine territory. Furthermore, the Philippines never considered the shoal as part of its territory as indicated by the 18 November 1994 statement by DENR and the Philippine Amateur Radio Association to the United States Amateur Radio

Association that the scope of Philippine territory is only up to the limits of the Treaty of Paris. The Philippines also cannot claim the shoal by virtue of the rights of coastal states to EEZ under UNCLOS. The EEZ rights in the area cannot negate China's territorial sovereignty over the shoal. Furthermore, China's vested rights over the shoal cannot be altered by the later entry into force of UNCLOS.

- China insisted that the ^{my dear} Philippines conveniently turned a blind eye on the uncontroverted facts it presented and engaged in provocative acts in violation of China's territorial sovereignty, such as conducting military exercises in the area, playing up the issue in the media and with other countries, and allowing the Philippine Navy to ferry to the shoal Philippine legislators, who planted a flag there and threatened to legislate the inclusion of the shoal in Philippine territory. These acts have damaged RP-China relations and undermined regional stability.
- China asserted that it had exercised self-restraint and acted soberly in the face of Philippine provocations. It warned the Philippines not to abuse, ignore or misinterpret this sober posture of China "by taking a yard after taking an inch."
✓ Chinese self-restraint has limits and it will not sit idly by forever.
- ✓ China demanded that the Philippines "pull out its warships and stop all military exercises around Scarborough Shoal, remove all its illegal structures, refrain from further slipping on this erroneous slope and rectify its mistakes."

3. I emphasized the advanced stage of RP-China relations and the linkages that exist between the two countries at all levels. The overall relations are good and improving rapidly because of the impetus provided by the meeting between the President and President Jiang Zemin in November last year. The only issue of significance between the two sides remains the dispute on South China Sea. I stressed the common understandings between the two sides on resolving the issue peacefully and on approaching the dispute through the shelving of the sovereignty question and pursuing joint development. I reiterated the proposal of the President on the stewardship principle as a temporary measure pending resolution of the dispute. I agreed with the Chinese side that the present difficulties should not hamper the continued development of our bilateral relations.

4. I placed in perspective the recent misunderstandings in the area by emphasizing that China's occupation of Mischief Reef has sensitized the Philippine public, which would explain the furore over perceived Chinese provocation very near the Philippine mainland. The Mischief Reef incident had also confirmed to th

minds of many Filipinos their long-held suspicion about Chinese intentions in the area. Although the Philippine Government does not consider China as a threat, any action by China, as a big country with enormous political and military power, close to the Philippine mainland is perceived by the Philippine public as threatening.

5. I explained the Philippine position on the Scarborough Shoal dispute.

- The Scarborough Shoal is not an island susceptible of sovereign territorial claim by any country. It is a shoal, which is merely a geographic feature of the Philippine EEZ. The Philippines, therefore, has the exclusive right to exploit, preserve and develop the shoal for its benefit. (I also pointed out the similar geologic feature of Mischief Reef with Scarborough Shoal, which is not susceptible to any territorial sovereign claim.)
- Even assuming, without conceding, that the shoal is susceptible to territorial claims, the Philippines has been exercising effective jurisdiction over the shoal for many years. Its being outside the Treaty of Paris does not mean that the Philippines cannot exercise jurisdiction over the shoal. In fact, the Philippines has been exercising effective jurisdiction over the shoal by the enforcement of its laws on smuggling and illegal fishing and the establishment of a lighthouse on the shoal. The Philippine armed forces has also conducted, unilaterally or jointly with friendly forces, various activities on the shoal.
- No amount of unilateral assertion of claim, inclusion in China's official maps or statements by amateur radio associations can negate Philippine claim or provide proof to China's claim over the shoal.

6. I clarified that the Philippines has not conducted military exercises in the area and we have not stirred up the media on the issue. Indeed, the President has tried to calm the media's coverage of the issue.

7. To calm the situation and build confidence between the two sides, I proposed the convening of a working group to flesh out the details of the agreed code of conduct between the two sides. Possible areas of discussion include:

- i. Keeping appropriate distances between naval vessels of both sides and between the vessels of one party and the respective occupied islands of the other;
- ii. Prior notification of "major" moves by either side in the area;
- iii. Exchange of visits among military garrisons in the area;

and

- iv. Cooperative activities or joint exercises on search and rescue and disaster relief.

8. China agreed in principle to the proposal to convene a working group on CBM.

9. Almost as a postscript, China expressed its displeasure over recent developments in the interaction between the Philippines and Taiwan. The Chinese side cited the following "unpleasant" incidents, which it warned might have repercussions on RP-China relations:

- i. The visit of Taiwanese "Foreign Minister" to Manila in April 1997;
- ii. The meeting between the highest officials of the Philippine and Taiwanese economic and trade offices in May 1997;
- iii. The reported agreement by the Philippines to lease part of its airspace for the training of Taiwanese pilots;
- iv. The initial decision to allow Taiwan's "Minister" of Tourism to attend the meeting of the World Tourism Organization in Manila, although the Taiwanese official was ultimately not allowed in the meeting; and
- v. The reported plan by Vice President Joseph Estrada to visit Taiwan soon.

10. I assured the Chinese side of the continued adherence by the Philippines to the "One-China" policy. I promised to look further into the reported lease of air space to Taiwan and the proposed visit of the Vice President to Taiwan.

For the President's information.

Annex 26

Department of Foreign Affairs of the Republic of the Philippines, *Press Release No. 69: RP, PRC To Convene Working Group for Talks on South China Sea* (28 May 1997)

1997-8

INFORMATION BULLETIN

Department of Foreign Affairs

Office of Public Information Services

Pasay City, Tel. 834-4000 .



Department of Foreign Affairs
Pasay City
Release No. 69

RP, PRC TO CONVENE WORKING GROUP FOR TALKS ON SOUTH CHINA SEA

BEIJING, May 28 -- The Philippines and China yesterday agreed to convene a working group on "confidence-building" soon to thresh out their disagreements over areas of the South China Sea and to work out measures to ensure that these disputes do not develop into conflict.

Meeting in the annual political consultations between the Foreign Ministries of the two countries, Philippine Undersecretary of Foreign Affairs Rodolfo Severino and China's Vice Minister for Foreign Affairs, Tang Jiaxuan, also agreed that the South China Sea disputes should be prevented from damaging the general relations between the Philippines and China.

Severino proposed that, aside from examining the legal grounds for the respective claims of the two countries, the working group formulate certain rules to govern behavior of persons and movement of vessels of both countries in the disputed parts of the South China Sea and to recommend cooperative undertakings in such areas as search and rescue, disaster relief, and exchange of visits between military garrisons in the Spratlys. Tang stated that China would study these proposed subjects closely.

Severino also reiterated President Ramos' proposed principle of stewardship, under which each coastal state is to manage the area of the sea closest to it while the disputes have not yet been settled. He urged that each side give to the other prior notification of major moves in the areas in dispute.

2.

At their meeting in Manila last year, Severino and Tang had set up a "mechanism" for consultations on the South China Sea. The "mechanism" consists of three working groups -- one for fisheries, another for the environment, and a third for confidence-building. The working group on fisheries met in September last year in the Philippines and will meet again starting tomorrow in Beijing. The working group on the environment convened last March and is expected to be called for a second time later this year. The working group on confidence-building has not been convened.

In their talks Monday and yesterday, Severino and Tang agreed on the need for the two sides to exercise self-restraint, to calm the atmosphere surrounding the disputes, to avoid acts that tend to de-stabilize the situation, and to approach the disputes on the basis of international law, including the United Nations Convention on the Law of the Sea, particularly its provisions on the maritime regimes like the exclusive economic zone.

The talks covered the dispute over Scarborough Shoal, which is some 160 nautical miles off the coast of Zambales. Severino asserted that Scarborough is a mere shoal that lies within the Philippines' 200-nautical mile exclusive economic zone. Shoals, he pointed out, cannot be claimed as territory under international law. Even if Scarborough could be claimed, he said, the Philippines would have the right to it, since Manila has exercised jurisdiction over the shoal, enforcing Philippine law against smuggling and illegal fishing, constructing a lighthouse many years ago, and using the shoal as target practice for air force pilots.

On the other hand, China claims Scarborough Shoal on the ground that parts of it are above water and therefore can be claimed as islands; it is part of Macclesfield Bank, which it claims as Chinese territory. Beijing has re-named it three times, and foreign amateur radio hobbyists have asked China for permission to use the shoal.

Vice Minister Tang also complained that Philippine politicians and media had blown up and exploited the issue of the South China Sea.

Severino cited the sensitivity of many Filipinos about the perceived threat to their security posed by Chinese actions, particularly the occupation by Chinese elements of Mischief Reef, some 135 nautical miles off Palawan, early in 1995. The Chinese still occupy the reef despite the fact that it is

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totally under water all the time and is well within the Philippines' exclusive economic zone.

Monday afternoon, Undersecretary Severino met with Chinese Vice Premier and Foreign Minister Qian Qichen. Both of them agreed on the need to expand the relationship between the two countries despite the differences between them. They observed that both President Ramos and Chinese President Jiang Zemin looked forward to their bilateral encounters at the APEC leaders' meeting in Vancouver in November and at the meeting between the heads of government of ASEAN and China on the occasion of the ASEAN informal summit in Kuala Lumpur in December.

Foreign Minister Qian said that he himself looked forward to seeing Foreign Secretary Domingo Siazon at the ceremonies in Hong Kong marking the handover of the territory from British to Chinese sovereignty at the end of June and at the ASEAN Regional Forum meeting and the ASEAN Post-Ministerial Conferences in Kuala Lumpur in July.

Severino and Tang also discussed several international issues, particularly those pertaining to East Asia.

Annex 27

Philippines National Mapping and Resource Information Authority, *Descriptive Report on Scarborough Reef*
(Jul. 1997)

**A DESCRIPTIVE REPORT ON
SCARBOROUGH REEF**

Prepared by
The Coast and Geodetic Survey Department
National Mapping and Resource Information Authority
July 1997

A DESCRIPTIVE REPORT ON SCARBOROUGH REEF

Prepared by
The Coast and Geodetic Survey Department
National Mapping and Resource Information Authority

Introduction

From 30 June to 02 July 1997, a topographic survey of the Scarborough Reef was conducted by a team of surveyors from the Coast and Geodetic Survey Department (NAMRIA) with the assistance of the Philippine Navy. During the survey, prominent features of the reef were observed at various stages of the tide and their positions determined by GPS. This report presents a general description of the topographic and hydrographic features of the reef including six (6) prominent rocks.

Geography

Scarborough Reef, on which the Ship Scarborough struck in 1748, is a triangular formation that consists of a narrow belt of barely submerged coral reefs enclosing a lagoon of clear blue water. Its center is at latitude 15°08'32"N, longitude 117°44'50"E, which is about 122 nautical miles from the west coast of Zambales. The distances in nautical miles of other surrounding features (as measured from this central point) are:

1. Treaty of Paris (i.e., 118° longitude)	13.0
2. Nearest point on RP Baselines (RA 3046 as amended by RA 5446)	121.4
3. Nearest point in Zambales (Palauig)	122.7
4. Nearest Point in Paracel Islands and Reefs (Bombay Reef)	310.0
5. Center of Macclessfield Bank	202.0
6. SE Coast of Hainan Dao	473.0
7. Neareast Point in Mainland China (Shibeshan Jiao)	472.0
8. Nearest Point in KIG (Parola Is)	293.0
9. East Coast of Vietnam	500.0

The reef is separated from the Macclessfield Bank in the west by a large basin of 5,000 m-deep waters, and from Luzon by a narrow 4500 m-deep trench running parallel to the coast.

Hydrography and Topography

The reef is steep-to on all sides; the northeastern side descends steeply to depths of 100 to 200 meters, while the western and southern sides to depths of 200 to 400 meters. Just a nautical mile further, the surrounding depths increase abruptly to 1000 meters. A 0.3 nautical mile channel leading to the lagoon can be found in the southeastern extremity of the reef. The channel and the lagoon itself have depths ranging from 9 to 11 meters, but obstructed by patches of reefs having least depths of 2.7 meters.

The sides of the reef measure approximately 7 by 7 by 10 nautical miles and have an average breadth of 0.7 nautical mile. Scattered along the belt are numerous rocks of hard calcareous materials (corals), most of which are submerged at high tide. At least six of these rocks are prominent and were observed to remain above water at high tide. During the survey, these rocks were monumented and their geographic positions determined by Global Positioning System survey of second-order geodetic accuracy. Following are their geographic descriptions:

1. **Rock A** is situated 1.5 nautical miles southwest of the entrance to the lagoon. It is oval in shape, measures 1.83 m long and 0.91 m across, and protrudes 1.0 m above high water. Its exact position is 15°06'13.1147"N, 117°49'05.49"E. The geodetic marker is the head of a 4" copper nail embedded on the top of a 30-cm high cylindrical concrete monument bearing the inscriptions "PAB-70A, 1997, PHILIPPINES, NAMRIA",

2. **Rock B**, which is identified as the South Rock in various charts and publications, is the most prominent among the natural above-water features in Scarborough. It is situated 1 nautical mile west of Rock A. It is triangular in shape, and has dimensions of 1.30 m x 1.30 m x 1.84 m and elevation of 1.2 m above high water. Its exact position is 15°06'16.011"N, 117°48'05.177"E. The geodetic marker is the head of a 4" copper nail embedded atop a 25 cm x 25 cm concrete monument bearing the inscriptions "PAB-70B, 1997, NAMRIA, PHILIPPINES". Alongside is another monument which is 20 cm in height, cylindrical in shape and bearing the inscriptions "PILIPINAS".

3. **Rock C** is about 1.3 nautical miles west-northwest of Rock B. It is elliptical in shape and measures 1.52 m long and 0.90 m wide. Standing at 0.40 m above high water, it was positioned at 15°06'32.85"N, 117°46' 45.724"E. The geodetic marker is the head of a 4" copper nail embedded on a cement putty which is set flush on the surface of the rock. On the surface of the cement putty are inscriptions which read "PAB-70C, 1997, PHILIPPINES, NAMRIA".

4. **Rock D** lies at the western edge of the reef, about 1.2 nautical miles from the northern tip. It has an irregular shape and an approximate area of 2.6 sq.m. Its elevation is 0.30 m above high water. Its exact position is 15°12'17.542"N, 117°42'46.86"E. The geodetic marker is the head of a 4" copper nail embedded atop a 30-cm diameter cylindrical concrete protruding 20 cm above the surface of the rock. The inscriptions on the top surface read "PAB-70D, 1997, NAMRIA, PHILIPPINES".

5. **Rock E** is a square-shaped feature lying 0.3 nautical mile from the northernmost edge of the shoal, near the apex. It measures 0.90 m x 0.90 m and is about 0.40 m above high water. Its exact position is 15°13'18.947"N, 117°44'17.003"E. Geodetic marker is the head of a 4" copper nail set on the center of a 25 cm x 25 cm concrete monument bearing the inscriptions "PAB-70E, 1997, NAMRIA, PHILIPPINES".

6. **Rock F** is a round-shaped formation lying on the easternmost edge of the reef just 0.7 nautical mile north of the entrance to the lagoon. It has a diameter of 0.76 m and elevation of 0.40 m above high water. It was positioned at 15°08'01.928"N, 117°50'48.624"E. Mark is the head of a 4" copper nail embedded on a cement putty that is set flush on top of the rock, with inscriptions "PAB-70F, 1997, PHILIPPINES, NAMRIA". A ship wreck just 200 m southwest of the rock is very prominent and visible within a distance of 10 nautical miles.

Tides and Currents

During the three-day survey, it was observed that the tides in Scarborough Reef correspond well with the predicted tides in Zambales. In the absence of long-period actual tidal measurements, it can only be roughly estimated based from the tides in Zambales and Manila that the tidal range in the reef is about 1.0 m.

In the vicinity of the reef the current varies with the monsoon. The predominant direction is north-westerly or westerly during the NE monsoon, and north-easterly during the SW monsoon.

Remarks and Recommendations

Scarborough is alternately classified/named as Shoal and Reef in various maps and charts. The Hydrographic Dictionary published by the International Hydrographic Organization defines shoal as "*an offshore hazard to navigation on which there is a depth of ten fathoms or twenty meters or less, composed of unconsolidated material, except coral or rock*". The same book defines reef as "*an offshore consolidated rock hazard to navigation with a least depth of ten fathoms or twenty meters or less*". From these definitions, it is evident that reef is the more appropriate classification for Scarborough. The rocks described in this report form part of the configuration of the reef, but being permanently above water, they can be treated as another geographical entity having a different juridical character.

The hydrographic publications on the South China Sea are consistent in their accounts on these rocks dotting the belt of Scarborough Reef. The most prominent is the South Rock which is consistently featured in maps dating as early as 1866 and all editions of Coast Pilot books for the South China Sea published by the British Admiralty, US Defense Mapping Agency and Philippine Coast and Geodetic Survey. Results of surveys by the former BCGS in the early 60's and the recent one conducted by NAMRIA are likewise consistent with these previous accounts on Scarborough Reef.

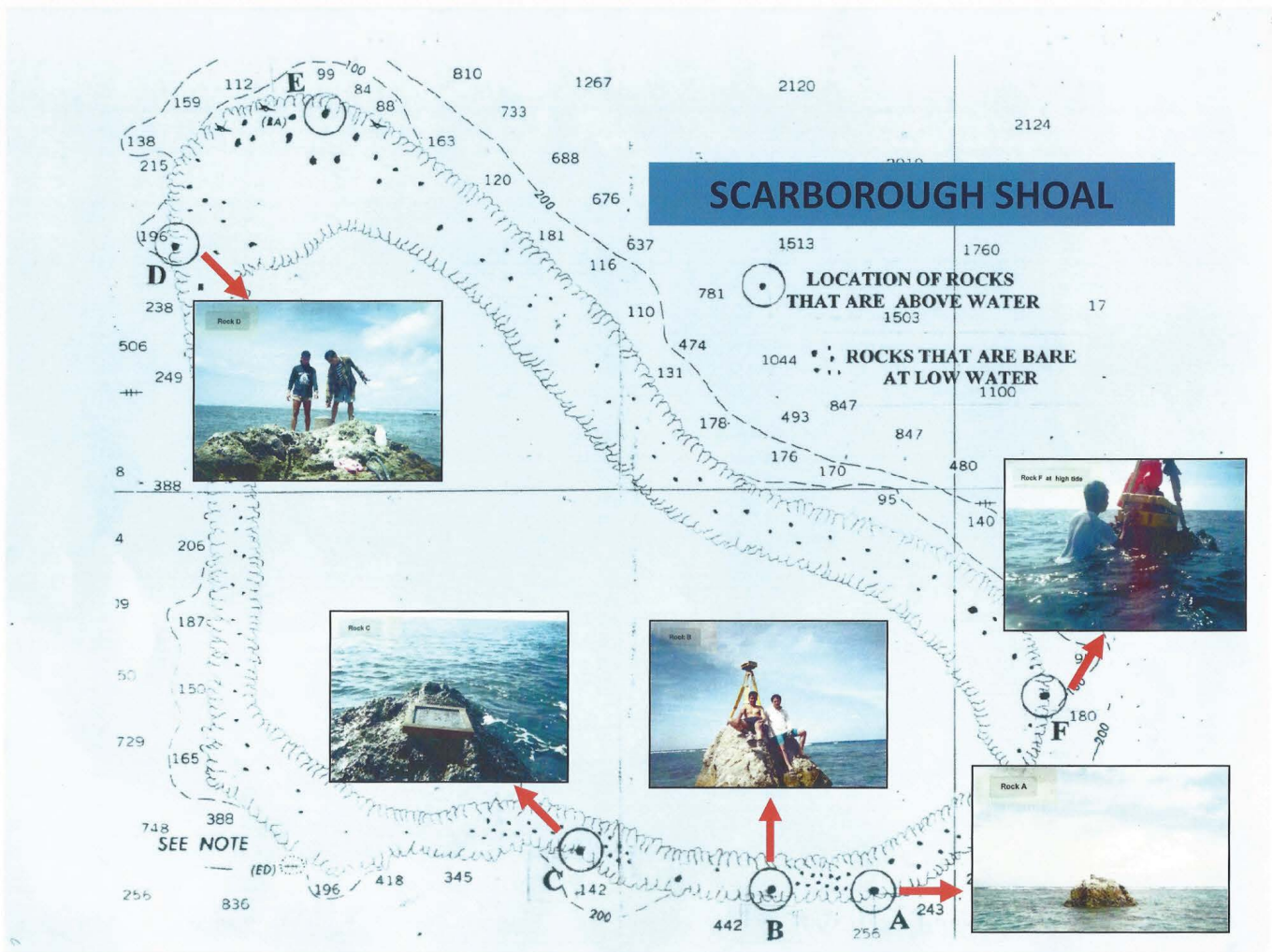
The existence of prominent rocks in the reef makes an interesting case in so far as UNCLOS is concerned in that it offers additional options in optimizing the Philippine claims to its maritime territories. Technically, they qualify as basepoints which can be connected to the main baselines system. In this case, the two lines that will connect the rocks to Luzon will exceed 100 nautical miles, but still within the 125 nautical mile maximum allowable length of baselines. This means that at least 66 more basepoints will have to be established in other parts of the archipelago in order to satisfy the required 3 per cent ratio of long baselines to the total number of baselines.

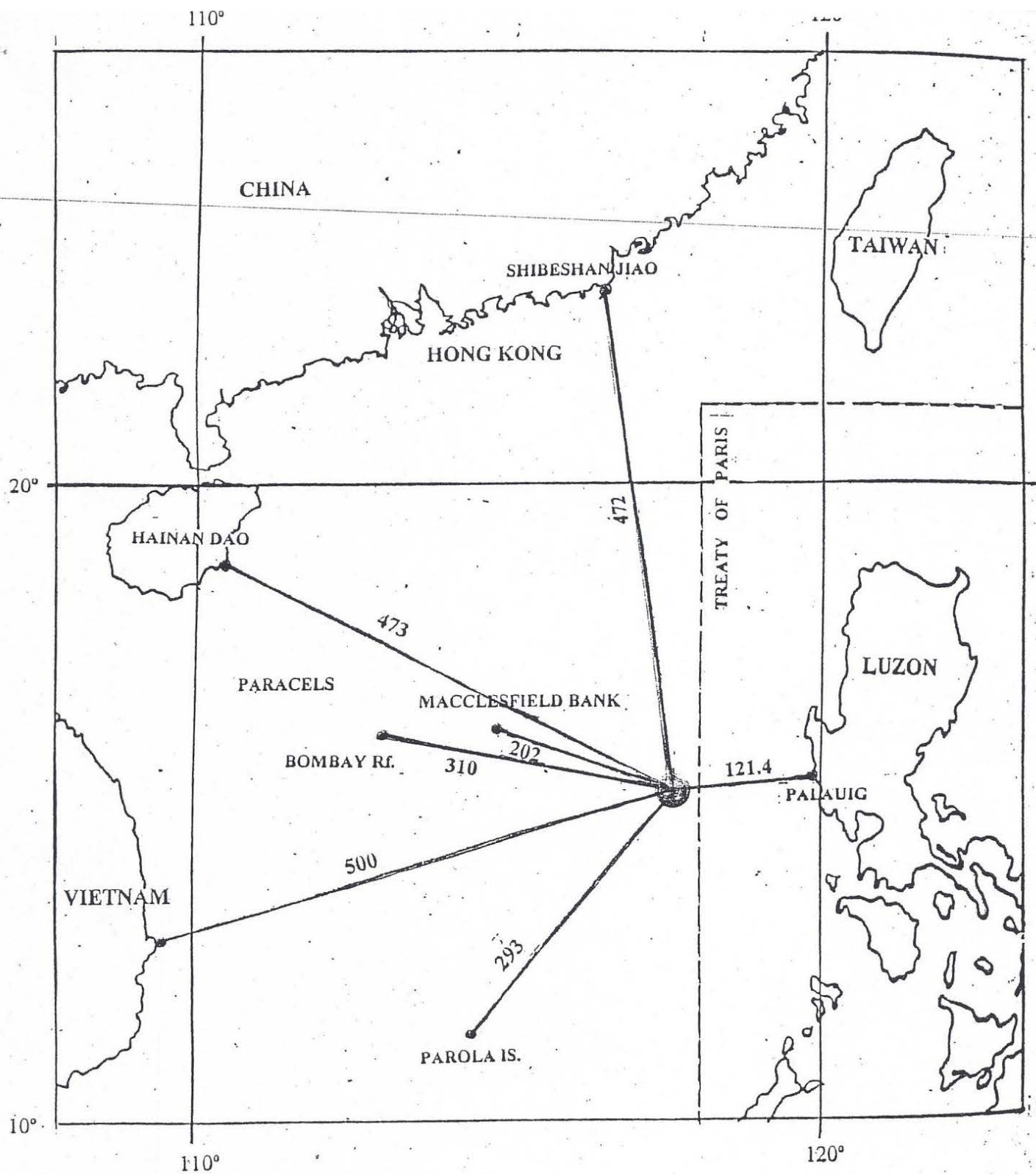
If the rocks are treated as a separate regime of islands, they shall have no exclusive economic zone and continental shelf (UNCLOS, Art. 121).

It is recognized that in considering any of these options, caution must be taken so as not to prejudice our position in other parts of the archipelago especially in the Kalayaan Islands Group. This brings into focus the urgent need for a strong and clear position on the extent of the national territory. Such a position will facilitate decision-making and ensure that actions and even statements regarding territorial issues will be consistent and within the context of an overall national strategy.

Acknowledgment

NAMRIA acknowledges with sincere thanks the unconditional support extended by the leadership of the Philippine Navy to the survey activities in the Scarborough Reef. Special credit goes to the Special Warfare Group who assisted in the execution of the survey, and the officers and men of BRP RAJAH HUMABON who transported the survey teams, patiently kept watch over them while at work, and ensured everyone's safety and comfort until the ship's return to homeport.





DISTANCES IN NAUTICAL MILES
MEASURED FROM CENTER OF SCARBOROUGH SHOAL

Annex 28

Memorandum from Fact Finding Committee, National Police Commission, Republic of the Philippines, to Chairman and Members of the Regional Committee on Illegal Entrants for Region 1, Republic of the Philippines (28 Jan. 1998)

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P. 02

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Republic of the Philippines
 NATIONAL POLICE COMMISSION
 PHILIPPINE NATIONAL POLICE
 POLICE REGIONAL OFFICE 1
 Camp Brigadier General Oscar M. Mercado
 Purok, San Fernando, La Union

MEMORANDUM

FOR : Chairman & Members of the Regional Committee on
 Illegal Entrants (RCIE) for Region 1

FROM : Fact-Finding Committee

SUBJECT : Alleged Illegal Entry of two (2) PROC Fishing Boats

DATE : January 28, 1998.

I. AUTHORITY:

1. Executive Order No. 236 issued on 22 April 1995 entitled "ORGANIZING THE NATIONAL COMMITTEE ON ILLEGAL ENTRANTS, REPEALING E.O. 656, Series of 1981, to ensure effective coordination among member agencies in the investigation and disposition of cases involving the illegal entry of Foreign National and Vessels, and providing funds for the operations".

2. NCIE Resolution No. 03-95 with subject entitled "Guidelines For the Arrest of Illegal Entrants and their vessels" and

3. Standard Operating Procedure as amended approved on December 2, 1991 prescribing the guidelines and procedure in the implementation of executive Order No. 656.

II. MATTERS TO BE INVESTIGATED:

4. The alleged illegal entry/intrusion of two (2) Peoples Republic of China (PROC) Fishing Boats with a total of twenty two (22) officers and crewmembers into the territorial waters of the country.

5. To determine if the aforesaid fishing boats were involved in illegal fishing within Philippine waters.

6. Likewise, to determine if the said Chinese nationals breached our national security.

III. FACTS OF THE CASE:

7. On or about 171548H January 1998, Philippine Navy Patrol Vessel BRP ARTEMIO RICARTE (PS37) apprehended two (2) PROC Fishing Boats with boat numbers 00372 and 00473 while anchored at Scarborough shoal or at Latitude 15 degs 06.4 mins North Longitude 117 degs 51.4 mins East as per written report of the Commander, 7th Coast Guard District, dated 19 January 1998 addressed to the Chairman RCIE (Annex A).

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8. On or about 191900H January 1998, the two (2) PROC fishing boats with the crew on board were turned-over to the 7th Coast Guard District under the command of Navy Captain Franklin G. Mangonon (CSC).

9. Initial investigation conducted by the 7th Coast Guard District revealed that subject fishing boats originated from Hainan, China and are manned by the following crewmembers:

Fishing Boat No. 00372

SHIN YE FEN - Master
HO CHO UY
HO CHO YEN
FUN JEN
SHIN YK HO
LIN CHOW
PAI TONG
SUN HAI
LI HUAN
LI FEN
LANG YONG

Fishing Boat No. 00473

SHIN CHOW FO - Master
XAN YI SHE
LIN YE
HUANG KHO SUNG
FANG HAN
TANG HUAN HO
SHIN CHOW HOW
SHIN CHOW KJAW
SHIN CHO LO
SHIN CHOW HO
TANG PANG HING

10. The 7th Coast Guard District also conducted an inventory of the equipment, cargoes and paraphernalia found aboard the apprehended fishing boats together with the inventory team of PS 37 for proper documentation.

11. On January 20, 1998, the 7th Coast Guard District formally turned-over to RCIE the two (2) PROC fishing boats with officers and crewmen on board and pertinent documents such as a list of inventoried items found aboard said boats (Annex B).

12. That the apprehended Chinese nationals were physically examined by the medical officer of the Naval Station at Porto Point and she certified that no physical injuries nor sign and symptoms were noted at the time of examination (Annex C).

13. That at the time of apprehension, the weather condition was rather fine as evidenced by the weather reports disseminated by the Philippine Navy to commanders of naval units and other units afloat (Annex D).

14. Pursuant to Executive Order 236 and its implementing rules specifically NCIE Resolution No. 03-95 and the Standard Operating Procedure as amended, a Fact-Finding Committee composed of representative of the DA Regional Office (BFAR), BI, PCG, BUCOS and NICA was convened on 231000H January 1998 to determine/discuss the facts and circumstances surrounding the intrusion into our territorial waters of the apprehended Chinese nationals and to recommend the proper course of action to the RCIE. Said meeting was presided by Director Renato B. Bartolome of the National Intelligence Coordinating Agency (NICA).

15. In the aforesaid meeting, the representative of the government agencies concerned were given specific tasks and shall submit their findings/recommendations/reports on 27 January 1998.

16. On Tuesday 27 January 1998, the Fact-Finding Committee convened again with Director Leonor Soliven of the DPA as an observer. The representative of the various agencies concerned composing the committee unanimously agreed that there was prima facie evidence that the Chinese nationals committed Illegal Entry. At the instance of the representative of BFAR, it was also unanimously agreed that Chinese shall also be charged for exploiting our marine resources since there were corals and marine turtles found aboard the fishing vessels.

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17. As to the national security aspect, the NICA representative stated that they are still digging deeper into the case to find out if our national security laws have been violated.


IV. COMMENT/FINDINGS:

18. gleaned from the reports and other documents submitted, the apprehended Chinese nationals, who were not in possession of valid documents and did not notify the proper authorities of their arrival, committed illegal entry pursuant to Section 46 of Commonwealth Act No. 631

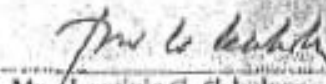
19. Likewise, the said Chinese nationals exploited our marine resources for being found in their possession marine turtles and corals, thus, violated our Fisheries Laws.

V. RECOMMENDATION:


20. In view of the foregoing, the Fact-Finding Committee recommends that the twenty two (22) Chinese nationals on board (2) Fishing Boats with bow numbers 00372 and 00473, be charged criminally for illegal entry pursuant to the provisions of our Immigration Law and for violation of Executive Order No. 542 in conjunction with MNR Administrative Order No. 12 series of 1979 for gathering and possessing marine turtles. The Committee further recommends that the apprehended Chinese nationals be charged also for violating PD No. 1219, otherwise known as the "Coastal Resources Development and Conservation Decree," in conjunction with Fisheries Administrative Order No. 184 series of 1992 for gathering precious or semi-precious corals without any permit.


Dir. Renato E. Bartolome
National Intelligence Coordinating
Agency (NICA)


Mr. Rodolfo L. Cruz
Bureau of Immigration (BI)


Mr. Herminio C. Cabaluna
Dept. of Agriculture Reg'l
Fisheries Unit (DA, RFUI)


LCDR Rolando M. Dizon
Philippine Coast Guard (PCG)


Mr. Antonio C. Ferraren
Bureau of Customs (BUCOS)


ATTY. Tommy DL Aquino
Secretary, RCIE

Annex 29

Memorandum from Assistant Secretary of the Department of Foreign Affairs, Republic of the Philippines to the Secretary of Foreign Affairs of the Republic of the Philippines (23 Mar. 1998)

1998-35



CONFIDENTIAL

REPUBLIKA NG PILIPINAS
KAGAWARAN NG UGNAYANG PANLABAS



OFFICE OF ASIAN AND PACIFIC AFFAIRS

MEMORANDUM FOR THE SECRETARY

FROM : **JUANITO P. JARASA**
Assistant Secretary

SUBJECT : Chinese Fishermen apprehended by the Philippine Navy in Scarborough Shoal on 17 January and 11 March 1998

DATE : 23 March 1998

I have the honor to inform the Secretary of the following developments on the arrest and continued detention of fifty-one (51) Chinese fishermen, who were apprehended by the Philippine Navy on board four fishing vessels in separate incidents at Scarborough Shoal on 17 January and 11 March 1998:

1. Investigations showed that the first batch of 22 Chinese fishermen apprehended on 17 January 1998 were found in possession of several sacks of precious and semi-precious corals and dead marine turtles. However, it took the Regional Committee on Illegal Entrants in Region I (RCIE I), based in San Fernando, La Union, almost one month to complete its investigation on the case and to recommend the filing of charges for violation of E.O. No. 542 in conjunction with MNR Administrative Order No. 12 series of 1997 for gathering and possessing marine turtles and for violation of P.D. 1219, as amended, otherwise known as the "Coral Resources Development and Conservation Decree" in conjunction with Fisheries Administrative Order No. 184 series of 1992, for gathering precious or semi-precious corals without permit.
2. As soon as the above charges were about to be filed, the Department of Justice gave the advice that jurisdiction over the case be transferred to the Regional Committee on Illegal Entrants in Region 3 (RCIE 3) on the ground that Scarborough Shoal, the place where the offenses were alleged to have been committed, fall within the competent jurisdiction of the Regional Trial Courts in Iba, Zambales. The respondent Chinese fishermen together with their vessels as well as all the records of investigation and the evidences gathered were subsequently turned over to the authorities in RCIE 3.
3. In view of the length of time the Chinese fishermen had been detained without the appropriate charges filed against them, the Department of Foreign Affairs, in its capacity as Chairman of the National Committee on Illegal Entrants (NCIE), recommended the filing of appropriate charges against the two (2) fishing boat captains and the release of the rest of the Chinese crew together with their fishing vessels. This recommendation was left unheeded and the prosecuting fiscal in Zambales, instead, proceeded with the filing of charges against all the 22 Chinese fishermen for violation of Section 3(a) of P.D. 1599 in relation to Section 5(b) thereof, for wilfully, unlawfully and feloniously exploring or exploiting marine resources within the Exclusive Economic Zone of the Philippines.
4. On 17 March 1998, the Department received a copy of the situation report from the Chief, AFPJOC on the apprehension of 29 Chinese fishermen on board two fishing vessels in Scarborough Shoal on 11 March 1998. Initial reports disclosed that they were allegedly in possession of semi-precious corals and two sacks of dynamite at the time of

their arrest. For proper and speedy disposition of this case, the Department of Foreign Affairs recommended that subject fishermen and all their paraphernalia be turned over immediately to the appropriate authorities of RCIE 3 and that, upon due investigation, charges be filed against them without much delay. On 17 March 1998, the provincial prosecutor of Zambales filed charges against the 29 Chinese fishermen for violation of Section 33 of P.D. 704, for illegal possession of explosives intended for illegal fishing.

Comments:

a. The Department has observed that Regional and Provincial Committees on Illegal Entrants are not up to their tasks of efficiently handling and disposing of cases involving illegal entrants with dispatch. The abovementioned cases and other past cases attest to this fact. To make matters worse, in one such case (People of the Philippines v. Chia Say Chaw, et al.) the court dismissed the illegal entry case filed against 21 Chinese illegal entrants.

b. Unnecessary delays in the disposition of these cases, particularly the filing of appropriate charges, will make the government vulnerable to criticism and even to accusations of violation of the statutory rights of an accused person. Moreover, the authorities having custody of the illegal entrants (i.e. Philippine National Police or Philippine Navy) are susceptible to countercharges of illegal or arbitrary detention for failing to file the necessary charges within the reglementary period provided for by law. This procedural infirmity, in fact, could result in the dismissal of the cases by our courts.

c. The delay in resolving the cases of Chinese fishermen is also unnecessarily affecting our relations with China which has gone to the extent of asserting its sovereignty in the area where the fishermen were apprehended.

d. The NCIE, of which the DFA is the Chairman, is adequately empowered to deal with all cases involving illegal entrants under Executive Order No. 236, copy of which is attached for ease of reference. However, our present predicament probably started when there was "decentralization" or devolution of decision-making powers to the local RCIEs and PCIEs. It should be noted that Section 2(f) of E.O. No. 236 mandates the NCIE to "act on all recommendations and reports of the regional and provincial committees on all cases of illegal entry, smuggling, and illegal fishing involving foreign nationals and vessels" and Section 2(g) authorizes the body to "adopt its operational guidelines, rules of procedure, and regulations in order to effectively carry out its mandate including its supervision over the regional and provincial committees on illegal entrants."

In view of the above, ASPAC recommends a review of the operating guidelines for the RCIE and PCIE in order to: (1) limit the powers of local committees to merely coordinating all actions that need to be done by local authorities (e.g. investigation and custodial functions) and recommending to the NCIE the appropriate action to be taken in each particular case; and (2) clarify and streamline the rules of procedure for the proper disposition of cases involving illegal entrants. It is likewise suggested that the NCIE Secretariat be further strengthened, both in terms of staff complement and financial resources, to enable it to effectively and efficiently assist in coordinating the activities of the Committee and provide the latter with the necessary administrative support.

It is understood that the Undersecretary for Policy chairs the NCIE and that the Intelligence and Security Services of the Department serves as its Secretariat.

For the Secretary's information and consideration.

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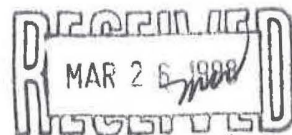
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- b. Unnecessary delays in the disposition of these cases, particularly the filing of appropriate charges, will make the government vulnerable to criticism and even to accusations of violation of the statutory rights of an accused person. Moreover, the authorities having custody of the illegal entrants (i.e. Philippine National Police or Philippine Navy) are susceptible to countercharges of illegal or arbitrary detention for failing to file the necessary charges within the reglementary period provided for by law. This procedural infirmity, in fact, could result in the dismissal of the cases by our courts.
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It is understood that the Undersecretary for Policy chairs the NCIE and that the Intelligence and Security Services of the Department serves as its Secretariat.

For the Secretary's information and consideration.



ASPAC - 3-26-98 - PL

Annex 30

People of the Philippines v. Shin Ye Fen, et al., Criminal Case No. RTC 2357-I, Decision, Regional Trial Court, Third Judicial Region, Branch 69, Iba, Zambales, Philippines (29 Apr. 1998)

100 - RSP - 11
RECEIVED JUN 1998
PER DELIVERY

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
THIRD JUDICIAL REGION
BRANCH 69
IBA, ZAMBALES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CREW. CASE NO. RIC 2557-1

- versus -

SHIN YE FAN, et al.,
Accused.

X - - - - - X

D E C I S I O N

In an Amended Information filed on 08 April 1998 by Provincial Prosecutor Dorentino Z. Floresta, accused Shin Ye Fen and Shin Chow Po stand charged of the crime of Violation of Section 3(a) of Presidential Decree No. 1599 in relation to Section 5(b) thereof, allegedly committed as follows:

"That on or about the 17th day of January, 1998 and within the jurisdiction of this Honorable Court, the above-named accused, who are both Chinese Nationals and ship captains of Fishing Boat No. 00372 and Fishing Boat No. 00473, conspiring, confederating and mutually helping one another, did then and there gather or cause to gather corals and catch and cause to catch marine turtles within the maritime area of Scarborough Shoal and exclusive Economic Zone of the Philippines, after the said accused had anchored their aforesaid fishing boats at the said Scarborough Shoal and without securing first a permit or authority from the Philippine government, thereby exploiting maritime resources within the exclusive zone of the Philippines in Violation of Section 3(a) of P.D. 1599 in relation to Section 5(b) thereof."

Accused Shin Ye Fen and Shin Chow Po, when arraigned in English and interpreted to them in

Crim. Case No. RTC 2357-I
Decision

p. 2

Mandarin language by the interpreter ex-officio William Gan, assisted by their counsel Atty. Segundo Mangohig, Sr., entered a plea of "guilty" to the offense charged.

WHEREFORE, premises considered, accused Shin Ye Pen and Shin Chow Po are found GUILTY of the crime of Violation of Section 3(a) of Presidential Decree No. 1599 in relation to Section 5(b) thereof and are sentenced to pay a fine of P10,000.00 each.

SO ORDERED.

Iba, Zambales, 29 April 1998.

ORIGINAL SIGNED
RODOLFO V. TOLEDANO
Judge

RVT/cdl

Annex 31

People of the Philippines v. Wuh Tsu Kai, et al, Criminal Case No. RTC 2362-I, Decision, Regional Trial Court, Third Judicial Region, Branch 69, Iba, Zambales, Philippines (29 Apr. 1998)

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
THIRD JUDICIAL REGION
BRANCH 09
IDA, ZAMBALES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

➔ versus ➔

CRIM. CASE No. RTC 2363-I

WUH YEN KAI, et al.,
Accused.

D E C I S I O N

In an Information filed on 23 March 1998 by Provincial Prosecutor Renato E. Floresta, accused Wuh Yen Kai stands charged of the crime of Violation of Section 33 of Presidential Decree No. 704 (Illegal Possession of Explosives Intended for Illegal Fishing), allegedly committed as follows:

"That on or about the 10th day of March 1998, at Scarborough Shoal, Philippine limits, and within the jurisdiction of this Honorable Court, the said accused, who are all aliens, conspiring, confederating together and mutually helping one another, did then and there wilfully, unlawfully, and feloniously have in their possession, custody and control one-half (½) and one-third (1/3) sacks of dynamite intended for illegal fishing and which were found in the fishing boat No. 315, without any authority to possess the said explosives."

Accused Wuh Yen Kai, when arraigned in English language and interpreted in Mandarin language by interpreter ex-officio William Gan who interpreted the Information in Mandarin language, which the accused

Crim. Case No. RTJ 2342-I
D e c i s i o n

P. 2

understands, assisted by his counsel, Atty. Segundo Mangochig, Sr., entered a plea of "not guilty" to the offense charged in the Information.

When this case was called for pre-trial, the prosecution and the defense entered into a plea bargaining. Counsel for the accused manifested that his client, the accused, is willing to enter a plea of guilty to the lesser offense of other violations under Section 37 in relation to Section 38(d) of Presidential Decree 704, to which the public prosecutor concurred.

Accused Wuh Tzu Kai, when re-arraigned in English language and interpreted in Mandarin language by interpreter ex-officio William Gan, with the assistance of his counsel, Atty. Segundo Mangochig, Sr., pleaded "guilty" to the lesser offense of Violation of Section 37 in relation to Section 38(d) of Presidential Decree 704.

WHEREFORE, premises considered, accused Wuh Tzu Kai is found GUILTY beyond reasonable doubt of the crime of Violation of Section 37 in relation to Section 38(d) of Presidential Decree 704 and is sentenced to pay a fine of P5,000.00.

SO ORDERED.
Iba, Zamboales, 29 April 1998.

ORIGINAL SIGNER
RODOLFO V. TOLEDANO
J u d g e

RTJ/PY1

Annex 32

People of the Philippines v. Zin Dao Guo, et al, Criminal Case No. RTC 2363-I, Decision, Regional Trial Court, Third Judicial Region, Branch 69, Iba, Zambales, Philippines (29 Apr. 1998)

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
THIRD JUDICIAL REGION
BRANCH 69
TBA, ZAMBALES

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- VERSUS -

CRIM. CASE No. RTC 2363-I

LIN DAO GUO, et al.,
Accused.
X - - - - - X

D E C I S I O N

In an Information filed on 25 March 1998 by Provincial Prosecutor Dorentino M. Floresta, accused Lin Dao Guo stands charged of the crime of Violation of Section 33 of Presidential Decree No. 704 (Illegal Possession of Explosives Intended for Illegal Fishing), allegedly committed as follows:

"That on or about the 10th day of March, 1998, at Scarborough Shoal, Philippine limits, and within the jurisdiction of this Honorable Court, the above-named accused, who are all aliens, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully and feloniously have in their possession, custody and control one hundred twenty (120) sticks of dynamite intended for illegal fishing and which were found in their fishing boat No. 311, without any authority to possess the said explosives."

Accused Lin Dao Guo, when arraigned in English language and interpreted in Mandarin language by interpreter ex-officio William Cen who interpreted the Information in Mandarin language, which the accused

Crim. Case No. RFO 2365-I
D e c i s i o n

p. 2

understands, assisted by his counsel, Atty. Segundo Mangochig, Sr., entered a plea of "not guilty" to the offense charged in the Information.

When this case was called for pre-trial, the prosecution and the defense entered into a plea bargaining. Counsel for the accused manifested that his client, the accused, is willing to enter a plea of guilty to the lesser offense of other violations under Section 37 in relation to Section 38(d) of Presidential Decree No. 704, to which the public prosecutor conformed.

Accused Lim Dao Guo, when re-arraigned in English language and interpreted in Mandarin language by interpreter ex-officio William Gam, with the assistance of his counsel, Atty. Segundo Mangochig, Sr. pleaded "guilty" to the lesser offense of Violation of Section 37 in relation to Section 38(d) of Presidential Decree 704.

WHEREFORE, premises considered, accused Lim Dao Guo is found GUILTY beyond reasonable doubt of the crime of Violation of Section 37 in relation to Section 38(d) of P.D. 704 and is sentenced to pay a fine of P5,000.00.

SO ORDERED.
Iba, Zamboales, 29 April 1998.

ORIGINAL SIGNEL
RODOLFO V. TOLEBANO
J u d g e

RVE/pyl

Annex 33

Memorandum from Ambassador of the Republic of Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-76-98-S (6 Nov. 1998)

CONFIDENTIAL

1998-37

ORIGINAL TO

LLB

OFFICE

VERY URGENT AND CONFIDENTIAL

To : SFA
 Fr : Beijing PE
 Dt : 6 November 1998
 Re : Renovation work on Mischief Reef
 Rt : UsecPolicy
 Cc : MOAU, ASPAC
 Zn : ZPE- 76 -98-S

Rec'd. By

MOAU

Date & Time

ASPAC

LTC

OIS

Reur PE-26-LLB-98-S, I was called to the Chinese MFA this afternoon by Asian Department DDG Hu Zhengyue wherein he made the following points:

1. The Chinese side expresses regret that the Philippine Government has lodged a protest against the repair and renovation work being undertaken by local Chinese fishing authorities on Chinese structures on Meiji Reef. The "irresponsible actuation" of the Philippine Government was also expressed through public channels.

2. The Chinese Government exercises sovereignty over the Nansha Islands and their surrounding waters and it is the sovereign prerogative of the Chinese Government to undertake repair and renovation works on the structures erected in 1995 which have exceeded their service life and have deteriorated through natural causes.

3. No PLA Navy vessels were dispatched to the area, much less one with a helipad.

4. The Chinese Government has strictly adhered to the joint understanding on the South China Sea reached between the two countries at their bilateral consultations in 1995 and the 1997 Joint Statement issued during the meeting between ASEAN and Chinese Heads of States. China has exercised great self-restraint in handling relevant issues on the issue and it was in this light that Assistant Foreign Minister Wang Yi gave me an advance briefing on the repair works which would be undertaken on the facilities in Meiji Reef.

5. These repair and renovation works are not new in the area but are in conformity with the spirit of understanding reached by the two sides. In contrast to the sincerity of the Chinese side, the Philippines, in recent times, even in recent weeks, has conducted reinforcement/repair/construction activities in areas which it illegally occupies.

6. However, the Chinese side takes note that the Philippines, through Undersecretary Caday in his meeting with the Chinese Ambassador in Manila, has expressed willingness to work with the Chinese side in implementing the understanding reached by the leaders of the two countries. The Chinese side will continue its efforts to further the consolidation of bilateral relations which will serve the fundamental interests of the two countries.

NOV 9 1998

7. The Chinese side is confident that the two countries will adhere to the understanding reached between their leaders and will properly handle this matter.

Mr. Hu requested me to convey the above views to the relevant Philippine Government authorities in Manila.

(SGD) ROMUALDO A. ONG
Ambassador

CONFIDENTIAL

ORIGINAL TO

LLB

OFFICE

VERY URGENT AND CONFIDENTIAL

To : SFA
 Fr : Beijing PE
 Dt : 6 November 1998
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3. No PLA Navy vessels were dispatched to the area, much less one with a helipad.

4. The Chinese Government has strictly adhered to the joint understanding on the South China Sea reached between the two countries at their bilateral consultations in 1995 and the 1997 Joint Statement issued during the meeting between ASEAN and Chinese Heads of States. China has exercised great self-restraint in handling relevant issues on the issue and it was in this light that Assistant Foreign Minister Wang Yi gave me an advance briefing on the repair works which would be undertaken on the facilities in Meiji Reef.

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CONFIDENTIAL
 NOV 08 1998

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(SGD) ROMUALDO A. ONG
Ambassador

Annex 34

Memorandum from Ambassador of the Republic of Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-77-98-S (9 Nov. 1998)

CONFIDENTIAL

1998-38

LILLB

VERY URGENT AND CONFIDENTIAL

To : SFA (DUTY OFFICER: For the immediate attention of Secretary Siazon)
 Fr : Beijing PE
 Dt : 9 November 1998
 Re : RP reconnaissance flights over Mischief Reef
 Cc : UsecPolicy, ASPAC, MOAU
 Cn : ZPE-77-98-S

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MGAU	

Our ZPE-69-98-S and ZPE-76-98-S dated 15 October 1998 and 6 November 1998, respectively, FYI, I was invited to a meeting this evening at the Chinese MFA with Asian Department DDG Hu Zhengyue wherein he stated the following:

1. Recently, the Philippine authorities have conducted reconnaissance and surveillance flights over Meiji Reef. Some of these flights were conducted at very low altitude, causing serious disturbance to the work of the local fishing authorities undertaking repair and renovation work on the structures on Meiji Reef. These flights also constitute a direct threat to the life and safety of those working on the structures.
2. The Chinese side expresses strong concern over this development and requests the Philippine side to respect China's territorial sovereignty and understand China's self-restraint and sincerity.
3. The Chinese side requests the Philippine authorities to halt the reconnaissance and surveillance flights.
4. The Chinese side requests the Philippine side to address this matter in a cool manner and not to intensify the conflict, and to refrain from creating man-made tensions so as not to cause disturbance and damage to the bilateral relations between the two countries.
5. Mr. Hu requested me to convey this request to the Philippine authorities.

In reply, I assured Mr. Hu that I would promptly and fully inform my authorities of the views he had expressed. I also took the opportunity to make the following comments:

- a. The Philippines desires the maintenance of peace and stability in the South China Sea and the good state of the bilateral relations between the two countries.
- b. The Philippine position on Panganiban Reef, referred to by the Chinese side as Meiji Reef, is well known to the Chinese side. It is clear that both sides lay claim to this part of the South China Sea and each side feels strongly about its respective claim.
- c. I recalled that on 15 October 1998 Assistant Foreign Minister Wang Yi requested me to inform Secretary Siazon on the views of the Chinese side on the planned repair and renovation work on the structures on Panganiban Reef, which views, I was also informed, were also the views of Foreign Minister Tang Jiaxuan.
- d. It was, therefore, the assumption of the Philippine side that the Chinese side would not make any move before Secretary Siazon had an opportunity to react to the views conveyed by Assistant Minister Wang. It was, therefore, a surprise

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to the Philippine side that while it was still considering the matter, the Chinese side proceeded with its activities on Panganiban Reef, causing understandable concern to the Philippine government and people.

e. If the Chinese side notes any Philippine aircraft flying over Panganiban Reef, such flights do not demonstrate any hostile conduct towards the Chinese side or any other party but would be merely conducted to see what is being done by the Chinese on a reef which is claimed by RP as part of its territory and which is only 120 nautical miles west of the Philippine province of Palawan.

f. I believe that both sides desire to resolve this matter, and similar other issues, in a manner befitting the historical friendship between the Filipino and Chinese peoples. I am certain that the friendship and good-neighborly relations between the two sides will prevail and allow both countries to resolve this matter in a peaceful way.

In rejoinder to my reply, DDG Hu said the following:

(1) He takes note of the willingness of the Philippine side to resolve this matter through peaceful means and in a friendly manner. This position is also shared by the Chinese side.

(2) He noted that the Philippine side was informed of the planned activities of the local Chinese fishing authorities as early as 15 October 1998. It is fair to say that the Chinese side, by giving this advance information, showed sincerity in its activities.

(3) He reiterated that the repair and reinforcement works on the structures on Meiji Reef are purely for peaceful ends.

(4) The advance notice given by the Chinese side was not meant to seek the recognition of the Philippine side to the planned activities of the local Chinese fishing authorities but was made to show China's sincerity and good intentions.

(5) The Chinese side cannot understand the need for the reconnaissance flights by the Philippine authorities since these are really dangerous actions. The low altitude flights, some of which were just 30 meters over the construction site, were repeated several times.

(6) The Chinese side takes note of statements made by several Philippine leaders wishing to discuss this matter through diplomatic channels. This position represents an action in the right direction. The creation of tension does not serve the interests of both sides.

(6) Mr. Hu concurred with my statement that the bilateral relations between the Philippines and China are friendly and expressed the hope that both sides will approach the matter in a cool manner and continue consultations through diplomatic channels.

(Signed)
ROMUALDO A. ONG
Ambassador

Annex 35

Memorandum from Lauro L. Baja, Jr., Undersecretary for Policy, Department of Foreign Affairs, Republic of the Philippines to all Philippine Embassies (11 Nov. 1998)

VERY URGENT AND CONFIDENTIAL

To: TO ALL PHILIPPINE EMBASSIES (cc: Beijing PE)
 Fr: Usec. for Policy
 Dt: 11 November 1998
 Re: Developments on Mischief Reef (MR)
 Cn: CIR-54-LLB-98-2

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998-12

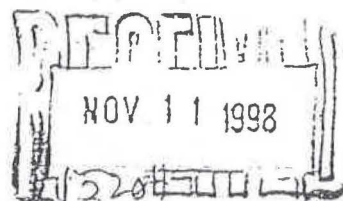
You are hereby instructed to inform host governments and discreetly obtain their reactions to the latest development regarding the issue of Mischief Reef, based on the following chronology:

1. 15 October 1998. Amb. Ong reported to the Department that, in a meeting sought by the Chinese MFA that day, he was forewarned of China's plans to renovate and reinforce the structures it constructed on Mischief Reef back in 1995. According to the MFA, Chinese local fishing authorities will undertake "soon" the renovation and reinforcement works which have become necessary because the structures have deteriorated over the years due to exposure to the elements. Furthermore, the Chinese said that they will give positive consideration to the use of the facilities by other countries, including the Philippines, after the renovation and reinforcement works have been completed and when the conditions are ripe.

2. The DFA formulated its position on this issue, which is to protest the Chinese plan, based on the following considerations:

--- MR is part of the Philippine territory and therefore China's occupation of the reef is illegal. In 1995, China surreptitiously occupied MR and built structures on it and the Philippines strongly protested the Chinese action.

--- RP has remained faithful to the codes of conduct it has forged with China, as embodied in the Joint Statement on the RP-PRC Consultations on the SCS and on Other Areas of Cooperation on 9-10 August 1995, and Vietnam; to the principles of the ASEAN Declaration on the South China Sea; and the agreement in the ASEAN-China Joint Statement of 1997. (Copies of these documents are enclosed.)



CORATEL

--- There is ~~an~~ understanding among ~~the~~ status quo in the SCS (post MR incident in 1995). Renovation of Chinese structures ~~is~~ a violation of this understand~~ing~~. 4/9

3. 28 October 1998. A report from the maritime patrol conducted by the AFP in the area stated that three (3) Chinese vessels, with following descriptions, were sighted anchored inside the reef: a PRC Navy vessel with bow number 936 colored gray with cargo hatch and installed helipad at the fantail; a PRC vessel with bow number 836 colored gray with cargo hatch at amidship and believed to be an auxiliary type vessel; and a PRC vessel with white hull and superstructures believed to be a survey type vessel.

The report further stated that activity was noted with the unloading of construction materials believed to be for the construction of a helipad and causeway at the reef.

A subsequent report confirmed the presence of said three ships with four (4) smaller ones.

4. 29 October 1998. Aerial reconnaissance reported that the three (3) Chinese vessels were still in the MR and that there were significant improvements made on the structures at the northernmost and southernmost ends of the reef.
5. 3 November 1998. DFA submitted to the Cabinet Cluster E, for approval, its recommended Philippine position and course of action on the issue.

Cluster E recommended to the President that the DFA file a diplomatic protest with the Chinese ambassador as soon as possible. The President approved the recommendation.

6. 5 November 1998. Usec. Caday summoned Chinese ambassador to DFA and handed him a note verbale protesting the actions of the Chinese government and demanding that it cease and desist from undertaking further activities, and dismantle any construction works made.

It is important for Posts to underscore that China clearly violated the agreements and understanding reached as embodied in the various aforecited documents, and

that by renovating the illegal structures it has put up in Mischief Reef, it has disturbed the status quo and has given rise to tensions in the area.

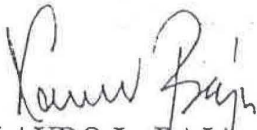
3/9

President Estrada has a scheduled bilateral meeting with Chinese President Jiang Zemin in Kuala Lumpur on the margins of the APEC Summit on 16-18 November 1998, during which occasion the President will raise the MR issue.

meeting
between

Sec. Gizon ~~and~~ also Chinese PM Tan Jiaxuan is also being arranged.

If queried by host government and other sectors in your post, please clarify that there is no "naval blockade" intended by the Philippines. The Philippine Government adheres to its position to deal with the MR issue through diplomatic means.


LAURO L. BAJA, JR.
Undersecretary for Policy

Enclosures: as stated.

Total no. of pages: Nine (9) including this cover.

Annex 36

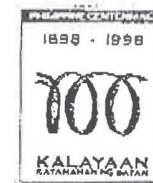
Memorandum from the Secretary of Foreign Affairs of the Republic of the Philippines to the President of the Republic of the Philippines (14 Nov. 1998)

ADVANCED COPY (ATTN. MR. MAJOU KURNIYU)

1998-15



REPUBLIKA NG PILIPINAS
KAGAWARAN NG UGNAYANG PANLABAS



MEMORANDUM FOR H.E. PRESIDENT JOSEPH E. ESTRADA

FROM : SECRETARY DOMINGO L. SIAZON, JR.
DATE : 14 November 1998
SUBJECT : Bilateral Meeting with China
Shangri-La , 14 November 1998

ORIGINAL TO ...

MUB

OFFICE

CC

Rec'd. By

Date & Time

Following are highlights of my bilateral meeting with the Foreign Minister Tang Jiaxuan of China on 14 November 1998, Shangri-La, Kuala Lumpur:

1. Secretary Siazon cited the stable relations between the Philippines and China. Trade volume has increased; investments have gone up; cultural relations have been enhanced. Generally bilateral relations are good except the issue of Mischief Reef.
2. Secretary Siazon said that the recent renovation works in Mischief Reef have disturbed certain sectors of Philippine society and have raised concern among Filipinos. Mischief Reef is only 130 nautical miles away from Palawan.
3. FM Tang shared the view that China-Philippine relations are developing in "good direction" and Mischief Reef should not distract normal development of these relations.
4. On Mischief Reef, FM Tang stressed that the structures are solely for shelter of fishermen. Repair works are needed because of deterioration due to climatic conditions. The scale of work is small and there is no change in the civilian nature of the facilities.

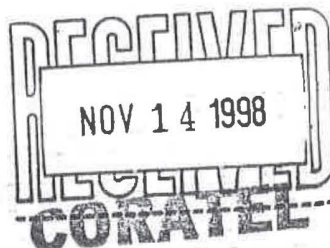
Even if China is not obliged to do so, their MFA notified Ambaphil Beijing of what and why their repair works should be done, as a friendly gesture. He said that China is the first country to give notice of such repair work; neighboring countries in Southeast Asia have likewise been notified.

China has acted with restraint in the South China Sea, promoted peace and stability in the area and has not reacted strongly to new facilities being constructed by other countries.

China is busy with its own economic development and with efforts to mitigate the effects of financial crisis in the region. It does not want to be occupied by other issues like the Mischief Reef.

To China, Mischief Reef is a "non-event" but the "dangerous remarks" of military authorities of the Philippines calling for military action to resolve the dispute coupled with the "dangerous actuations" of Philippine aircraft and vessels in the area may create an "event" in the MR.

5. Secretary Siazon informed FM Tang that he has advised Philippine military authorities to discontinue low-flying flights of military aircraft in the area and for vessels of the Philippines to refrain from sailing inside 5 miles of Mischief Reef. Secretary Siazon requested FM Tang to explore the possibility of transferring the structure to an area outside the Philippine EEZ. Secretary Siazon also inquired about the modalities of possible Philippine use of the Chinese facilities, particularly on the realization of such possibility "when conditions are ripe".
6. FM Tang informed Secretary Siazon that the joint use of the facilities will depend on the atmosphere prevailing in the region and the timing should also be dependent on when the facilities will be "good enough" for use of fishermen from other countries. He also mentioned the possible creation of an Experts Group on Confidence-Building Measures between the Philippines and China and the hope that it happens as soon as possible. He appreciated the efforts of DFA to "calm the situation on Mischief Reef."
7. Both agreed that present difficulties should be resolved through peaceful dialogue and through diplomatic channels. Both Ministers acknowledged the need for greater trust among the Filipinos and the Chinese, and agreed that the early establishment of the Experts Group is a step in the right direction.



Annex 37

Memorandum from the Embassy of the Republic of the Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-85-98-S (4 Dec. 1998)

DEC-05-'98 SAT 06:24 ID:

TEL NO: 000000000030000000 #087 P01

CONFIDENTIAL

ORIGINAL TO
ASPAC
DATE
TIME
D.O.
DATE & TIME

To : SEA (DUTY OFFICER: FOR THE IMMEDIATE ATTENTION OF
SEC. SIAZON)

Fr : Beijing PE

Dt : 4 December 1998

Re : Arrest of Chinese fishermen

Cc : ASPAC

Cn : ZPE- 35 -98-S

For the information of the Department, I was invited to the MFA this evening by Asian Department DDG Hu Zhengyue wherein he stated the following:

1. During the past two days, there were a lot of reports of Philippine leaders making statements against the Chinese side during public occasions and declaring the bringing of suits against the Chinese fishermen who were illegally seized and detained by the Philippine authorities. China is surprised and deeply concerned about this development.

2. With regard to the Meiji Reef issue, the heads of government and foreign ministers of the two sides have recently had full exchanges of views on this matter and have reached an understanding that appropriate settlement of the issue will be made through bilateral friendly negotiations.

3. The Philippines has played up the situation in the South China Sea and issued extremely unfriendly statements against the Chinese side which run counter to the understanding reached by the two sides and not conducive to a friendly atmosphere for negotiations between the two countries.

4. The Chinese side hopes that the Philippines will exert more effort to promote bilateral friendly relations and promote confidence instead of going the opposite way.

5. The Chinese side calls on the Philippines to release, as soon as possible, the boats and the fishermen who were seized and detained illegally. There were 20 fishermen who were arrested on 21 November 1998; 14 of them are minors with the youngest only 14 years old. More than 10 days have passed and their relatives are very worried about their health. As far as the Chinese side knows, the fishermen are in a difficult situation with the basic issues of food and water not properly settled.

6. The Chinese side hopes that the Philippines will proceed from a humanitarian point of view and address the basic living conditions of the fishermen.

7. The differences between the two sides on the South China issue are well known but the ordinary fishermen, especially the minors, are innocent. Their detention will harm the feelings of the Chinese people.

8. The South China Sea is an area where Chinese fishermen often go to fish. As far as the Chinese side knows, Philippine fishermen also go to that area to fish. In a situation where the Philippine fishermen may experience difficulty, the Chinese side always takes the approach of saving and helping them.

9. China hopes that the Philippines will hold a long-term view of the issue, especially considering the situation of the common people. More efforts to promote the friendly feelings between the two peoples should be made.

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10. The Chinese side hopes the Philippines will take a long-term view of the situation, especially as regards the common people. While differences between the two sides exist, the Chinese side hopes the Philippine side will exert more efforts to promote friendly feelings. The approach adopted by the Philippines in this matter can not raise feelings of sympathy among the Chinese people.

11. The Chinese side thinks that it is not necessary for high-ranking Philippine officials to play up the situation.

12. The Chinese side calls on the Philippines to proceed on the basis of the long-term friendly relations between the two peoples and let the innocent fishermen, especially the minors, return to reunite with their relatives as soon as possible. Indeed, their relatives are worried. This is a normal reaction, and the Chinese side hopes that the Philippine side will understand.

In reply, I made the following comments:

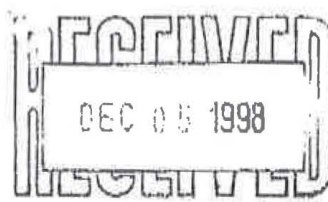
a. I inquired if DDG HU is aware that cyanide poison and two giant turtles which are protected species were found in the possession of the Chinese fishermen. Cyanide poison causes unnecessarily widespread harm to fishes and permanently destroys coral reefs. The giant turtles should not have been the object of fishing but should instead be protected.

b. The two sides recognize that there is a difference in views over Panganiban Reef, or Meiji Reef to the Chinese. Unfortunately, the reef lies very close to the Philippine province of Palawan and is very far from the shores of mainland China, and therefore incidents like this occur.

c. During the bilateral meeting on the South China Sea issue in 1995, both sides reached an understanding to exercise restraint and avoid doing anything that would cause complications. I recalled the recent agreement reached in KL by the leaders of the two sides to convene soon th working group on confidence-building-measures, and expressed the hope that the working group will agree on measures to prevent the recurrence of incidents like the present one.

In rejoinder, DDG HU said that it is important to maintain a friendly atmosphere for negotiations. But the two sides should deal with the territorial dispute and the fishermen separately. He requested me to convey his remarks to my authorities as soon as possible.

(Signed)
ROMUALDO A. ONG
Ambassador



RECEIVED
DECEMBER 1998

Annex 38

Memorandum from Ambassador of the Republic of Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-18-99-S (15 Mar. 1999)

URGENT AND CONFIDENTIAL

To : Sec Siazon
 Fr : BeijingPE
 Dt : 15 March 1999
 Re : Lunch Mtg with Asst FM Wang Yi
 Cc : UsecLLB, ASPAC
 Cn : ZPE- 18 -99-S

OSEC

1999-2

OFFICE

ULLB

ASPAC

FYI, I was invited today to lunch by Asst. Foreign Minister Wang Yi at the MFA for an informal discussion on the forthcoming CBM meeting in Manila. Following is a summary of our candid conversation:

A. Asst. Min. Wang stated the following:

1. The Chinese side believes that the meeting on confidence building measures will serve to reduce the tension between the two countries. The succeeding discussions on CBM may be held at the level of Director General. Mr. Wang Yi was tasked to head the Chinese side during the initial meeting in order to show the sincerity of the Chinese side in this joint undertaking.

2. President Jiang Zemin attaches great importance to China's relations with the Philippines. He and former President Ramos reached an understanding to shelve the current territorial disputes on the Nansha Islands and concentrate on forging joint cooperation in other fields. Bilateral relations have been proceeding forward very smoothly.

3. Chinese fishermen have treated the waters around Nansha Islands as their traditional fishing area since ancient times. Knowing that the Nansha belongs to China, it was natural for them to request the government authorities to construct shelters for their use during inclement weather in the area. The Chinese authorities acted favorably on their request and constructed the former structures on Meiji Reef.

4. The problem on Meiji Reef is not new. The old structures put up by China in the area had an expected lifespan of only three years. In order to guarantee the safety of Chinese fishermen, China repaired the structures. The new structures are "very simple" and "not very big."

5. If China had not repaired the old structures but simply allowed them to rot away, the world at large may have interpreted it as proof that China had indeed intended the structures on Meiji Reef for military use but had abandoned the project in the face of adverse foreign criticism. By repairing the structures, China's actual intention to use them as fishermen shelters will be supported.

6. The new facilities are meant for civilian use and not for military purposes. The so-called radar facilities are nothing but dish-type television satellite antennae to enable the personnel on the reef to watch ordinary TV programs.

7. The structures on Meiji Reef are not directed against the

MAR 15 1999

Philippines or any third country. They are for the use of Chinese fishermen fishing in the area.

8. Mr. Wang was worried that some sectors in the Philippines had taken a very strong posture on China's activities on Meiji Reef. Some officials in the military, legislative and media sectors had even suggested the use of force to resolve the dispute.

9. It is hoped that the CBM meeting can start in order to promote understanding, build mutual confidence, and alleviate the current man-made tension. It is hoped that the Philippine side will share the Chinese position to seek a common understanding on the issue.

10. The structures on Meiji Reef necessarily touch on the question of sovereignty over the Nansha Islands. The two sides have been exchanging views on this issue for a long time. The Chinese side is open to the possibility of discussing the issue of sovereignty during the CBM meeting. The Chinese side has maintained the position that the two sides can sit down and find a peaceful solution to the dispute.

11. While Meiji Reef is geographically close to the Philippines, if both sides develop mutual confidence and adhere to the eight principles governing bilateral relations which are set out in their joint statement of August 1995, the proximity of Meiji Reef can serve to promote bilateral exchanges rather than affect bilateral ties negatively.

B. I brought the following matters to Mr. Wang's attention:

1. Panganiban Reef (Mischief) is very close to the Philippine mainland province of Palawan and so far away from the Chinese mainland. It becomes difficult for the Filipino people to understand why China constructed facilities on Mischief Reef instead of finding another reef or atoll outside the area of dispute. China could have just allowed Mischief Reef to remain unoccupied if only out of consideration for the feelings of the Filipino people, who have always had warm and friendly ties with the Chinese people for many centuries.

2. The structures shown and described in CNN and Star World telecasts as the renovated structures on Mischief appear to the average person to be too sophisticated, expensive and high-tech to be built merely for the rescue of fishermen. In any case, the mere fact that there are Chinese personnel and structures on a reef very near the Philippines, regardless of their purpose, has raised concern and anxiety on the part of the Filipino people.

3. Filipino fishermen have also considered the waters near Mischief Reef as their traditional fishing area, considering their proximity to the Philippines. If Chinese fishermen had been fishing in the area since ancient times using slow, wind-driven fishing vessels, it can be assumed that a larger number of Filipino fishermen were fishing the area compared to Chinese fishermen, because of the comparative ease with which the Filipinos could go to the area from Palawan.

4. Because of the current tension between the two sides arising from the Chinese structures on Mischief Reef, it is indeed the proper time for both sides to convene the CBM meeting.

(Signed)
ROMUALDO A. ONG
Ambassador
□

Annex 39

Memorandum from Undersecretary of Foreign Affairs to the Republic of the Philippines to the Secretary of Foreign Affairs of the Republic of the Philippines (27 Oct. 1999)

CONFIDENTIAL

TO: Secforaf
 CC: ASPAC
 FR: UsecBaja c/o Beijing PE
 RE: Results of RP-China Foreign Ministry Consultations
 DT: 27 October 1999
 Pages:

I wish to report on the results of the Foreign Ministry Consultations and the Working Group Meeting on Confidence Building Measures between the Philippine and China held on 26 October and 27 October 1999, respectively in Beijing.

Foreign Ministry Consultations

In setting the tone for the bilateral consultations, Asst. Min. Wang Yi and myself agreed that the bilateral relations have been progressing well despite differences over the South China Sea. China gave assurances that no matter what happens China will remain committed to its long standing policy of good neighborliness with the Philippines. China also expressed its readiness to expand relations with the Philippines based on the five principles of peaceful co-existence. I welcomed Chinese assurance and commitment to its policy to work for a stable long-term partnership with the Philippines.

China proposed to draw up a common framework for the future direction of the bilateral relations for the 21st century. China will shortly submit a draft of this document. In general terms, the document will be similar to the agreements earlier concluded by China with Malaysia, Thailand, Vietnam and Brunei. The Philippine Embassy in Beijing has prepared a draft (copy enclosed) which could be used as the initial draft and discussion paper among the offices in the DFA and later with national agencies.

On specific bilateral concerns:

China indicated that it would continue to support the growing momentum of bilateral exchanges taking place between the Philippines and China, not only at the intergovernmental level, but also exchanges among the academic, non-governmental and media group to accelerate mutual understanding, goodwill and trust between the two countries.

The Philippines made an observation that RP-China trade is still one of the lowest in ASEAN, and the Philippines continue to incur a trade deficit with China. In order to address this chronic trade imbalance, the Philippines expressed the hope that China will source more of its import requirements from the Philippines, such as fresh bananas. In the area of investment, the Philippines noted that there is still more room

for growth, and invited China's participation through joint cooperative ventures especially in sectors which offer good investment prospects, namely: semi-conductor devices, construction, marine transportation, electric power and iron and steel.

On scientific and technical cooperation, the Philippines proposed an increase in the number of projects and looks forward to the signing of the Protocol early next year.

On cultural relations, the Philippines stated its assessment that the bilateral cultural relations achieved a much better position now more than ever before, which culminated last month, through the implementation of several programs under the Philippines-China cultural agreement.

China raised its concern regarding the detention of Chinese fishermen and sinking of fishing boats, reiterating that the South China Sea are historical waters and traditional fishing grounds of the Chinese people. China stated that it has been exercising self-restraint and hopes that no such incidents will happen again in the future. I stressed that while the Philippines regrets such incidents, it may be also useful for the Chinese side to inform their fishermen not to engage in illegal fishing in Philippine territory and exclusive economic zone, because such activities do not only damage the marine environment, but also affect the food security of the country.

✓ China requested a relaxation and simplification in processing visa applications for Chinese tourists and businessmen. The Philippines replied that it is already looking into the matter, and that the Joint Trade Committee will tackle this issue during its meeting scheduled next month.

Preparations for the ASEAN Informal Summit in Manila, 27-28 November 1999

On preparations for the bilateral visit of Premier Zhu Rongji, I briefed Asst. Secretary Wang Yi on the programme of activities for the visit. Mr. Wang Yi requested confirmation that the visit would be an official one, and is awaiting receipt of the letter of invitation from the Philippines. I stated that the visit would be an official one, and the invitation letter would be sent as soon as possible. China expressed hope that during the bilateral meeting between President Estrada and Premier Zhu, the South China Sea issue would not be a dominant theme of the discussions, in the interest of projecting a constructive and positive outcome of the visit. If so desired, the South China Sea discussions could be made in a smaller group meeting. I replied that the Philippines will endeavor to exert efforts to emphasize positive relations between the Philippines and China during the visit, and would attempt to veer discussions away from contentious issues. It would be a light yet substantive agenda. I also suggested that one positive issue for discussion would be a reference to both countries desire to draw up a framework agreement on the future thrust and direction of the bilateral relations in the next century, particularly in the areas of agriculture, science and technical cooperation, trade and investment, finance, culture and education, defense, health etc.. Asst. Min. Wang Yi suggested that guidelines for the press may be useful to ensure a successful visit. I told him that the press is less confrontational today than before, and the Philippines hopes to sustain this favorable atmosphere during the visit.

On the ASEAN + 3 Meetings, China reiterated its support for the theme of the Informal Summit in Manila on East Asia cooperation. China suggested that discussions should focus on "across the board" 21st century relations, highlighting trade and economic cooperation and good neighborliness for the new century. China promised to send its concrete amendments to the Joint Statement on East Asia Cooperation early next week.

On the Regional Code of Conduct on the South China Sea, I briefed Asst. Min. Wang Yi that at the meeting in Bangkok, ASEAN agreed on two points, i.e. the need for a code of conduct and the principle of no new occupation in presently unoccupied islands, reefs, shoals, cays and other features in the area. I posed the question to China that in case ASEAN countries are willing to make a political commitment on the principle of no new occupation, will China be willing to make the same political commitment. China replied that it continues to adopt a positive attitude on a Code of Conduct, and for this reason, it has submitted a counter draft to all ASEAN capitals (copy enclosed). China however candidly remarked it may not be adopted at the ASEAN + 1 summit in Manila, if the phrase "no new occupation" is retained. Asst. Min. Wang Yi explained that such phrase implies some illegal connotation. I clarified that physical presence is what many ASEAN countries have in mind on the observance of this principle. Over lunch, Asst. Min. Wang Yi however hastily suggested to use the word "action" instead of occupation. We are still studying the implications of this amendment for the Philippines.

China hopes that the Philippines can give a clear indication on whether the President would pursue his trip to China and his preferred period. Asst. Min. Wang Yi recalled that the President desired April or May next year. Both sides agreed on the need to prepare for the visit, not only because the timing falls on the start of the millennium, but also because we are celebrating the 25th anniversary of our bilateral relations. Both sides also agreed that the framework agreement for RP-China relations for the 21st century could be concluded on the occasion of the President's visit to China.

Calls on the Minister for Agriculture Chen Yaobang and Vice Minister for Foreign Affairs Yang Wenchang

At the invitation of Minister Chen, I paid a courtesy call on him on 26 October. During the call, he briefed me on the results of the visit of Secretary Angara. He showed enthusiasm and keen interest in enhancing agricultural cooperation between the two countries, and proposed two areas where both sides can cooperate immediately, i.e. high-breed rice extension, and farm machinery, which he thinks would help immensely in increasing the output of agricultural production in the Philippines. On the other hand, I called on Foreign Affairs Vice Minister Yang Wenchang on 27 October, prior to my departure. The Vice Minister reaffirmed China's support for the Manila summit and its theme on East Asia cooperation, and echoed Chinese sentiment manifested during our foreign ministry consultations that the visit of Premier Zhu Rongji would be a positive and productive one.

Working Group on Confidence Building Measures

Shortly before my departure, the Philippine delegation to the Working Group Meeting briefed me on the results of the Meeting, as follows:

The Philippines recalled that during the first CBM talks, the Philippines proposed the removal of the facilities in Panganiban reef or turn them over to the Philippines under mutually acceptable arrangements. China has yet to respond to these proposals. As an interim CBM, the Philippines then proposed a joint continuing civilian presence and unrestricted access by Filipinos in the structures at any time. China then indicated that sheltering facilities would be open to foreign fishermen, including those from the Philippines when conditions are right. At this meeting, the Philippines would like to be guided on when this right condition is likely to happen.

China responded that for conditions to be ripe, three aspects need consideration, i.e. (1) the improvement in the facilities, better management and capacities of the structures, which to date is still being undertaken; (2) the overall state of the bilateral relations; and (3) the status of fisheries cooperation between the Philippines and China.

China reiterated its concern about actions in the area, the arrests of fishermen, the sinking of the Chinese boats, and lately the surveillance and reconnaissance by Philippine air force in the area. The Philippines stated its view that the reconnaissance activities is part of national defense and is not directed against any third party.

Both sides agreed on the following as confidence-building measures:

- to refrain from provocative statements or actions in the Kalayaan Island Group;
- to inform concerned parties of military exercises that would take place in the area;
- to exchange military experience and consider technology products related to disaster relief operations;
- to exchange military visits;
- to jointly undertake exercises on search and rescue operations;

- to undertake consultations on navigation, exchanges in naval information bulletins and early warning systems;

- to extend appropriate assistance to vessels and civilians in distress in the area;
- to consider language training for military personnel

Both sides agreed to coordinate with their respective relevant national agencies to draw up the specific elements of these CBM measures. END

FRAMEWORK GOVERNING THE CONDUCT OF BILATERAL RELATIONS
BETWEEN
THE REPUBLIC OF THE PHILIPPINES
AND
THE PEOPLE'S REPUBLIC OF CHINA
IN THE TWENTY-FIRST CENTURY

The Government of the Republic of the Philippines and the Government of the People's Republic of China (hereinafter referred to as The Parties):

RECALLING the long and historical friendship between their peoples dating back to ancient times, and the establishment of diplomatic relations between them in 9 June 1975;

CONSCIOUS of their desire to continue their close and friendly relations into the next century;

NOTING their geographical proximity and their desire to maintain good neighborly relations on the basis of equality, mutual trust and mutual benefit;

DESIRING to contribute to the achievement and maintenance of peace and security in the Asia-Pacific region and in the world;

REAFFIRMING their commitment to the United Nations Charter, the Treaty of Amity and Cooperation in Southeast Asia, the Five Principles of Peaceful Coexistence, the 1995 Joint Statement on the Philippines-China Consultations on the South China Sea and on Other Areas of Cooperation, the 1997 ASEAN-China Joint Statement, and the general principles of international law as basic norms underlying their bilateral relations;

ACKNOWLEDGING the similarities in their respective national development goals as developing countries in an environment of rapid liberalization, industrialization and increasing inter-action and inter-dependence among sovereign states;

REITERATING their intention to pursue active exchanges and cooperation in all fields, including agriculture, science and technology, trade and investments, finance, culture, transportation, tourism, health, and national defense;

FULLY AWARE of their duties to provide the basic needs of their peoples while cognizant of the basic standards needed to maintain a healthy and progressive ecological environment, which will ensure the survivability of the human race; and

Have agreed as follows:

1. The Parties shall strive to maintain and promote mutual trust, cooperation on matters of common concern, and good and neighborly relations anchored on respect for each other's territorial integrity, sovereignty, and non-interference in each other's internal affairs.
2. The Parties shall persevere in their joint efforts to search for a mutually acceptable and beneficial solution to their overlapping territorial and maritime claims in the South China Sea on the basis of the general principles and norms of international law, and reiterate their desire to seek areas for cooperation while shelving the dispute.
3. In matters of mutual interest, the Parties shall endeavor to provide mutual support and achieve consensus in regional and international fora, including ASEM, ARF, APEC, the United Nations, WTO and other UN agencies.
4. To enhance better understanding and awareness of each other's situation, the Parties shall encourage close and frequent contacts and exchanges of visits at all levels between their government leaders and officials, and their private citizens. To this end, the Parties shall lay the appropriate infrastructure in the fields of tourism, civil aviation, and communications.
5. In light of the transboundary migration of increasing numbers of their nationals, the Parties shall guarantee minimum international standards of protection and due process to the nationals of one Party who may be travelling, residing, or working in the territory of the other Party, including consular access by appropriate consular officials of the other Party to its nationals who may be in distress.
6. The Parties shall continue their efforts to achieve a mutually beneficial level of trade and shall explore all possible measures to effect increases in trade volumes and product choices. An environment of fairness, transparency, non-discrimination and liberalization on the basis of reciprocity shall be created to boost the volume of their bilateral trade. The Parties acknowledge the importance of the role played by the private business and banking sectors in this matter and shall ensure that outstanding issues which hamper the full realization of the active participation of these factors shall be accordingly resolved.
7. The utilization of existing frameworks for cooperation in the fields of education and culture, science and

8. The Parties shall continue to explore new avenues for cooperation among their police, security and defense agencies in order to address the growing threat posed by transboundary organized crime, piracy, movements of pedophiles and those engaged in white slavery, and other offenses repugnant to the norms of decency and morals of society.
9. The Parties shall remain conscious of the need to make their relationship responsive to rapid changes in the international environment and shall take appropriate measures to ensure that their close and friendly relations shall at all times benefit positively from these external changes.
10. Each Party shall strive to maintain a close and friendly relationship between the Association of Southeast Asian Nations (ASEAN) and the People's Republic of China, to adhere to their respective commitments taken under the ASEAN framework, and promote existing ASEAN mechanisms for the maintenance of peace and security in the East Asian region.
11. The Parties shall take active positions in promoting and protecting the interests of developing countries in regional and international fora, especially in the fields of finance and trade, and human resources development, including upholding the rights of labor, women, children and farmers.
12. The Parties shall support efforts to achieve a higher standard of living for all peoples, regardless of race, sex, religion and ideology, and the creation of an environment where there will be an absence of violence, and people are given the opportunity to exploit their fullest potentials without detriment to the natural environment.
13. The Parties shall endeavor to resolve all matters which may remain outstanding between them, whether at present or in the future, through amicable and peaceful consultations or negotiations in the spirit of mutual trust, regional solidarity and good neighborly relations.

In witness hereof, both Parties have set their hands this
day of _____, 1999 in Manila, Philippines.

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

(Translation)

CODE OF CONDUCT IN THE SOUTH CHINA SEA

(Draft of the Chinese side)

The Government of the People's Republic of China and the Governments of the member states of ASEAN,

REAFFIRMING their determination to consolidate and develop the friendship and cooperation among Asian people, who have a similar tradition, and to establish a 21st century-oriented partnership of good-neighborliness and mutual trust;

RECOGNIZING that permanent peace, stability and prosperity in the Southeast Asian Region serve the fundamental and long-term interests of their countries;

CONSCIOUS of their common responsibility for and firm commitment to peace, stability and prosperity in Southeast Asia;

WISHING to promote the region's economic growth and prosperity, enhance mutual friendship and cooperation among people in the region, and establish a peaceful, friendly and harmonious environment in the South China Sea;

DESIRING to create favorable conditions for final resolution of differences and disputes between the countries concerned; and

PROCEEDING from the objectives and principles set forth in *The 1997 Joint Statement of the Meeting of the President of the People's Republic of China and the Heads of State/Government of the Member States of ASEAN*,

HAVE AGREED

To adopt and abide by the following Code of Conduct in the South China Sea:

1. The purposes and principles of *The Charter of the United Nations*, the Five Principles of Peaceful Coexistence and other universally

1. recognized principles of international law shall serve as the basic norms governing state-to-state relations;
2. Explore ways for building trust and confidence and for resolving differences or disputes by peaceful means in accordance with the above principles and on the basis of equality and mutual respect;
3. Refrain from use or threat of force, or other action that may affect the good-neighborly and friendly relations among countries, and regional stability;
4. Disputes relating to the Nansha Islands shall be resolved by the sovereign states directly concerned through bilateral friendly consultations and negotiations, and in accordance with universally recognized international law, including *The 1982 UN Convention on the Law of the Sea*;
5. In order to maintain peace and stability in the region, the parties concerned shall, pending the settlement of disputes, continue to exercise self-restraint and handle their disputes and differences in a cool and constructive manner and through diplomatic channels, and refrain from taking actions that will complicate or magnify the disputes;
6. The countries concerned shall, in a spirit of "putting aside disputes and engaging in joint development", explore or carry out cooperation in areas such as marine environmental protection, marine scientific research, safety of navigation and communication at sea, exploration and exploitation of resources, search and rescue operations, and combating transnational crimes (including but not limited to, trafficking in illicit drugs, piracy and armed robbery at sea, and illegal traffic in arms);
7. The countries concerned shall be encouraged to develop bilateral fishery cooperation, establish channels of consultation and dialogue over issues that may arise in fishing operation, and manage and resolve fishing disputes through consultation.

Refrain from use or threat of force, or taking coercive measures, such as seizure, detention or arrest, against fishing boats or other civilian vessels engaged in normal operation in the disputed areas, nor against nationals of other countries thereon. Just and humane treatment shall be guaranteed to these nationals;

8. The countries concerned shall hold dialogues and exchanges of views between or among their high level defense and military officials;
9. Refrain from conducting any military exercises directed against other countries in the Nansha Islands and their adjacent waters, and from carrying out any dangerous and close-in military reconnaissance. Military patrol activities in the area shall be restricted;
10. Maintain safety of international navigation in the South China Sea and ensure freedom of navigation of ships and aircraft in normal passage in accordance with universally recognized international law and the relevant principles and provisions of *The UN Convention on the Law of the Sea*;
11. China and ASEAN member states are ready to continue their dialogues on the relevant issues, including this Code of Conduct, so as to enhance transparency and promote harmony, mutual understanding and cooperation; and
12. The Parties undertake to abide by provisions of this Code of Conduct and take actions consistent therewith.

Annex 40

Memorandum from the Embassy of the Republic of the Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-24-2000-S (14 Mar. 2000)

CONFIDENTIAL

2000-10

URGENT AND CONFIDENTIAL

To : SFA
 Rt : OSEC (For the immediate attention of Sec. Siazon)
 Fr : Beijing PE
 Dt : 14 March 2000
 Re : Shoal situation
 Cc : Usec Policy, ASPAC
 Fn : Shoal
 Cn : ZPE-24-2000-S

ORIGINAL TO

OSEC

CS LLB

COPY FOR ASPAC

Date & Time

Our ZPE- 22-2000-S dtd 10 March 2000, according to Amb. Fu Ying , with whom I spoke again Monday evening, 13 March 2000:

1. She has spoken to the Ministry of Agriculture and other authorities to request them to do something about the situation. She expressed particular concern about the practice of dynamite fishing.
2. Amb. Fu Ying commented to me that in her view, it is not necessary for the Philippine Navy to be chasing away Chinese fishermen when the fact is that when left to themselves, Chinese and Filipino fishermen seem to get along quite well fishing in the same area, even helping one another occasionally.
3. It is hard for the Chinese authorities to tell their own fishermen to keep away from fishing grounds where Chinese fishermen have been fishing for a long time; the Chinese public would not understand if such a directive were to be issued.
4. Amb. Fu Ying would like to assure Sec. Siazon that she is trying her best, and agrees that a good atmosphere should be preserved particularly in view of the coming Philippine high-level visits to China. She hopes the matter will be handled quietly without the Philippine side resorting to press publicity, because if that happens the Chinese side will feel obliged again to take a tougher line. She added that as diplomats we should work together to find a peaceful and amicable solution to the situation.

I pointed out to Amb. Fu Ying that the conflicting claims over the area notwithstanding, the reality is that for as long as Chinese fishermen are fishing so close to our mainland shores and a great distance from China's own mainland shores, it will be very hard for the Filipino public to accept the situation and not to feel that their country's territory is being intruded on.

(Signed)
 ROMUALDO A. ONG
 Ambassador

CONFIDENTIAL

Annex 41

Situation Report from Col. Rodrigo C. Maclang, Philippine Navy, to Chief of Staff, Armed Forces of the Philippines, No. 004-18074 (18 Apr. 2000)

CONFIDENTIAL

GENERAL HEADQUARTERS
ARMED FORCES OF THE PHILIPPINES
JOINT OPERATIONS CENTER
Camp General Emilio Aguinaldo, Quezon City

**SITREP NR 004-18074****SCARBOROUGH SITREP TO THE CHIEF OF STAFF, AFP**


(As of 181030 Apr 2000)

REGION 3

Reference: Fax msg fm FOIC, PN to CSAFP. NOCB-0400-216.

On 170900 Apr 2000, joint teams from Naval Task Grp 21.1 Units composed of PS 22, LT 504 and PG 399 on board two (2) rubber boats conducted board and search on Chinese F/Vs inside the Scarborough Shoal. Three (3) Chinese fishing vessels with bow nrs 09055, 03017 and 03052 were found loaded with corals and fishing gears. Out of the three (3), the team was able to apprehend only one (1) fishing vessel (F/V 09055) at about 1400H same day. Said F/V was towed and brought alongside LT 504 outside of the shoal and will subsequently tow to Subic, Zambales today, 18 Apr 2000, for turn over to BFAR for filing of appropriate charges.

Progress report to follow.


RODRIGO F. MACIANG
Colonel, MAJ (GSC) PA
Chief

Distributions:

PAMA	CSAFP	J3
SND	VCSAFP	C, BSO
SFA	TDCSAFP	File
SMA	J2	
NSA	J7	

CONFIDENTIAL

Annex 42

Letter from Vice Admiral, Armed Forces of the Philippines, to Secretary of National Defense of the Republic of the Philippines (27 May 2000)

2000-15



FLAG OFFICER IN COMMAND
PHILIPPINE NAVY
Roxas Boulevard, Manila

MAY 27 2000

Honorable Orlando S. Mercado
Secretary, Department of National Defense
Camp General Emilio Aguinaldo
Quezon City

Thru: Channel

Dear Secretary Mercado:

This is to inform the Honorable Secretary of the final result of the operation conducted at Scarborough Shoal by Naval Task Group (NTG) 21.1 composed of BRP RAJAH HUMABON (PF-11), BRP SULTAN KUDARAT (PS-22), BRP LANA O DEL NORTE (LT-504) and BRP JOSE LOOR (PG-390) from April 16 to April 19, 2000.

At around 9:00 A. M. of April 17, 2000, elements of NTG 21.1 boarded and searched three (3) Chinese fishing vessels (bow numbers: 09055, 03017 and 03052) loaded with corals. Aside from corals, F/V 03017 yielded the following items: one half (1/2) liter of cyanide, twenty one (21) blasting caps (non-electric), eight (8) feet detonating cord and seven (7) sticks of dynamite which were confiscated by PG-390.

Meanwhile, F/V 09055 was towed outside the shoal and tied alongside LT-504. Towing lasted the whole afternoon of April 17, 2000 due to rough sea condition prevailing in the area.

The next morning, it was discovered that F/V 03017 and 03052 which were anchored inside the shoal were able to escape along with four (4) other Chinese vessels under cover of darkness.

The total illegal items confiscated from Chinese fishing vessels 09055 and 03017 were as follows:

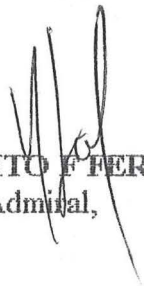
1. Approximately four (4) tons of corals
2. One hundred ninety three (193) sticks of dynamite
3. Eighteen (18) bottles (1/2 liter) cyanide
4. Fifty four (54) pieces blasting caps (non-electric)
5. Thirty two (32) feet detonating cord

At around 6:40 P. M. of April 19, 2000, after transferring the corals to LT-504, the apprehended fishing vessel 09055 was allowed to sail back to her port of origin. PG-390 escorted the vessel up to vicinity 12 NM northwest of Scarborough Shoal.

Prior to the release, the vessel was issued Inspection and Apprehension Report (IAR). Further, the vessel captain signed a waiver stating that they were not harmed and no personal effects were taken while they were under the custody of LT-504.

Attached are pictures taken during the transfer of confiscated items from fishing vessel 09055 to LT-504.

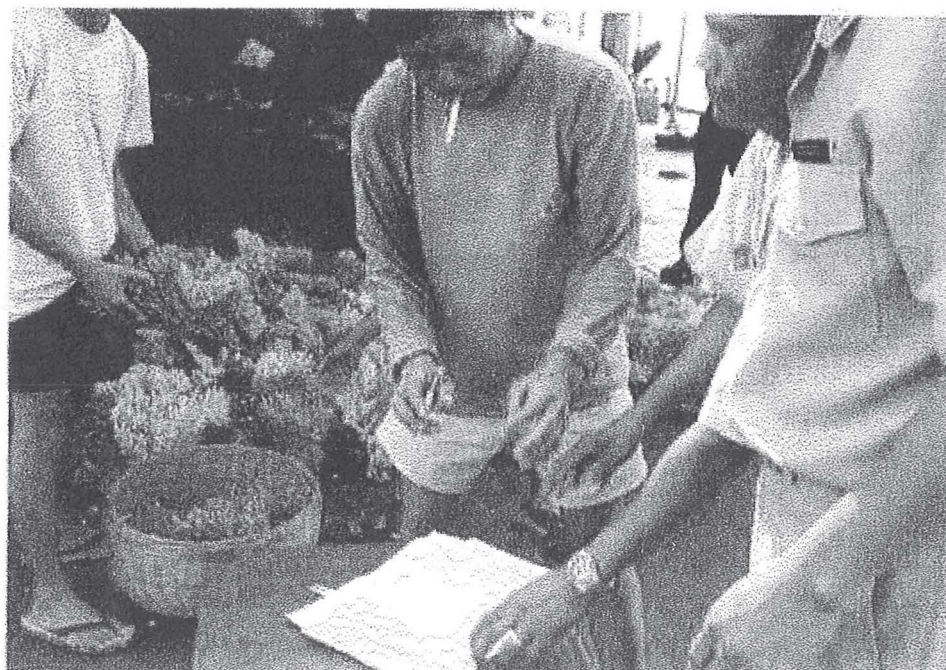
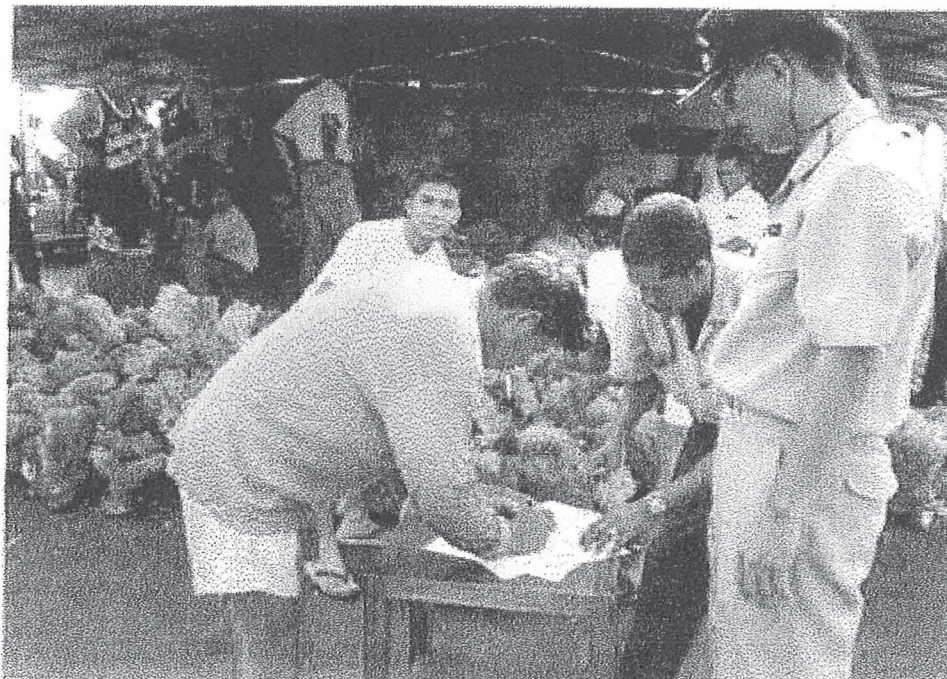
Respectfully yours,


LUISITO F. FERNANDEZ
Vice Admiral, AFP

Cc: Secretary of Foreign Affairs

No: 3165	OSEC, D. F. A.
MAY 31 2000	
Time:	Received By: RICHARD
Tel. No. 934-4000 Loc. 3135	

VESSEL CAPTAIN SIGNING THE WAIVER



STICKS OF DYNAMITE AND CORALS ARE TRANSFERRED TO LT-504



Annex 43

Memorandum from the Embassy of the Republic of the Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-06-2001-S (13 Feb. 2001)

CONFIDENTIAL

To : SFA
Fr : Beijing PE
Dt : 13 February 2001
Re : Chinese fishermen
Rt : ASPAC
Cc : MOAC
Cn : ZPE-06-2001-S

Further to our ZPE-02-2001-S, Minister Elizabeth P. Buensuceso was invited to a meeting this afternoon by MFA Consular Department Deputy Director-General Mme. Chen Xiaoling. DDG Chen raised the following points:

1. On 29 January 2001, the Philippine side sent its military vessel with bow number 74 to Huangyan Island (Scarborough Shoal) where four Chinese fishing vessels from Hainan (Nos. 03011, 03016, 03017, 03018) were seeking shelter from a typhoon.
2. On 30 January 2001, the Philippine naval vessels dispatched a speed boat with armed personnel on board to board the Chinese fishing vessels, seize their catch and equipment and expel the Chinese vessels from the area regardless of the prevailing bad weather.
3. The Chinese Embassy in Manila and the Foreign Ministry in Beijing have made representations with the Philippine side regarding this incident. China reiterates that it exercises indisputable sovereignty over Scarborough Shoal and its adjacent waters and the Chinese fishermen were conducting "normal operations" in Chinese traditional fishing grounds.
4. The Philippine side not only violated the territorial sovereignty of China but also caused economic losses and psychological harm to the Chinese fishermen. This has caused "great indignation" to a great number of Chinese fishermen which is "detrimental to bilateral relations."
5. The Chinese Government is "deeply concerned" and hope that the Philippine side will "treasure the existing bilateral relations above anything else" and return the confiscated catch and equipment to the fishermen and prevent a recurrence of a similar event in the future.

17534 14 FEB

In reply, Minister Buensuceso told DDG Chen the following:

a. The Philippines shares China's wish to maintain the good bilateral relations between the two countries.

b. Scarborough Shoal forms an integral part of Philippine territory and the Chinese fishermen were caught poaching on endangered sea turtles in Philippine territorial waters. The Philippine authorities seized the endangered sea turtles.

c. The Philippine military exercised restraint and waited for the weather to improve before asking the Chinese fishermen to leave Scarborough Shoal. The Chinese side is requested to remind Chinese fishermen to respect Philippine sovereignty over its territorial waters and prevent the destruction of the marine environment.

Minister Buensuceso promised to convey to Manila the points raised by DDG Chen.

In rejoinder, DDG Chen reiterated that China cannot accept the statement that Huangyan Island belongs to the Philippines. China exercises territorial sovereignty over Huangyan Island and its adjacent waters, and China's ownership of Huangyan Island has long been accepted by the international community. DDG Chen said that the Chinese Government attaches great importance to environmental protection and violators are dealt with in accordance with Chinese laws and regulations. DDG Chen expressed her personal suggestion that the Philippine side return the confiscated equipment and catch.


Both sides expressed the hope that this issue could be solved through friendly consultations using existing channels.

Comments:

1. Deforaf may wish to provide the Chinese Embassy in Manila with evidence showing that the Chinese fishermen were catching endangered marine animals. The Chinese side has consistently stated that they would investigate and punish their fishermen who engage in illegal fishing activities. It will be recalled that local fishing authorities imposed a penalty on the fishermen caught blasting coral reefs near Scarborough Shoal in early 2000

2. That the MFA Consular Department is making representations on this matter in addition to those made by the MFA Asian Department indicates that pressure from the expelled fishermen or at least from Hainan authorities is being exerted. In the informal conversation that ensued after both sides exchanged their formal statements, DDG Chen said that the fishermen wanted to get back their equipment because "the Philippine authorities had no use for them anyway." Moreover, Post believes that MFA wishes to smooth some ruffled feelings among their local population because of the manner the issue was played out in the local press, i.e., depicting Philippine authorities "harassing" innocent fishermen during a storm.

It is suggested that some kind of a reply be made addressing the issue of the equipment allegedly confiscated by Philippine authorities. As for the request to return the catch, Minister Buensuceso indicated that this was precisely the endangered marine species that were confiscated.


JOSUE L. VILLA
Ambassador

Annex 44

Memorandum from Acting Secretary of Foreign Affairs of the Republic of the Philippines to the President of the Republic of the Philippines (5 Feb. 2001)


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Kagawaran ng Ugnayang Panlabas



Department of Foreign Affairs

LLB-118-01
MEMORANDUM FOR H.E. THE PRESIDENT

FROM : 
LAURO L. BAJA, JR.
Acting Secretary of Foreign Affairs

SUBJECT : Apprehension of Four Chinese Fishing Vessels in Scarborough Shoal

DATE : 5 February 2001

I HAVE THE HONOR TO INFORM H.E. THE PRESIDENT THAT FOUR CHINESE FISHING VESSELS WERE APPREHENDED BY THE PHILIPPINE NAVY IN SCARBOROUGH SHOAL ON 29 JANUARY 2001.

PHILIPPINE NAVY VESSEL PS 22 (SULTAN KUDARAT), WHICH WAS THEN ENGAGED IN A REGULAR MARITIME SOVEREIGNTY PATROL, HAD BOARDED THE FISHING BOATS AND FOUND THEM TO BE ENGAGED IN ILLEGAL FISHING OF SHARKS, EELS, TURTLES, AND CORALS.

PS 22 RELEASED THE LIVE CATCH AND ASKED THE CREW OF THE CHINESE FISHING VESSELS TO IMMEDIATELY LEAVE THE AREA. ON 31 JANUARY 2001, UPON SUCCESSFUL COMPLETION OF ITS MISSION, PS 22 RETURNED TO PORT.

THE PHILIPPINE NAVY HAS REPORTED THAT THE CHINESE FISHING VESSELS HAVE LEFT SCARBOROUGH SHOAL.

THE CHINESE EMBASSY, WHICH HAD CALLED THE DEPARTMENT'S ATTENTION TO THE INCIDENT, HAS BEEN INFORMED THAT THE ACTION TAKEN BY THE PHILIPPINE NAVY WAS CONSISTENT WITH THE CLAIM OF THE PHILIPPINES THAT SCARBOROUGH SHOAL IS AN INTEGRAL PART OF PHILIPPINE TERRITORY. IT WAS ALSO STRESSED TO THE EMBASSY THAT ANY FOREIGN VESSEL FOUND IN THE AREA WILL BE INTERCEPTED AND THAT IT IS THE INDELIBLE RIGHT OF THE PHILIPPINES TO EXERCISE SOVEREIGNTY OVER THE AREA.

FOR H.E. THE PRESIDENT'S INFORMATION.

**APPREHENSION OF FOUR CHINESE FISHING VESSELS
IN THE SCARBOROUGH SHOAL**

CHRONOLOGY OF EVENTS FROM 27 – 31 JANUARY 2001

1. On Saturday, 27 January 2001, the Political Counsellor of the Chinese Embassy, Mr. Liu Jian, called Ms. Hellen Barber of the Office of the Undersecretary for Policy and relayed the following information:
 - a. That on an undetermined date this month, the Philippine Air Force sent a plane over to Scarborough Shoal for a reconnaissance mission. This PAF plane reportedly saw four Chinese fishing vessels in the vicinity of the shoal and immediately radioed for a Philippine Naval "fleet" to intercept them.
 - b. The Chinese side requested the Philippine government to confirm this report and if this was true, to inform the Philippine Navy that the vessels were simply fishing vessels so that no untoward incident will occur.
2. Ms. Barber, upon guidance from the Acting Secretary, informed the Chinese that the shoal is an integral part of Philippine territory and that the Chinese side should make sure that the Chinese fishing vessels leave the shoal immediately.
3. On the same day, the DFA Duty Officer sent a letter to Philippine Navy Flag-Officer-in-Command Admiral Guillermo Wong requesting for confirmation of the information received from the Chinese Embassy official.
4. On 30 January 2001, Mr. Liu requested for an urgent meeting with ASPAC and OUP and relayed that following the call he made on 27 January 2001, the Chinese Embassy has received confirmation from China that the four Chinese Fishing Vessels have indeed been "captured" by the Philippine Navy. Mr. Liu emphasized that these vessels were seeking shelter due to the inclement weather in the area.

Mr. Liu stated that the Chinese government wished that this issue will not complicate bilateral relations especially since the new administration of President Gloria Macapagal-Arroyo has indicated in her foreign policy speech that China is important to the Philippines.

Mr. Liu then requested that the vessels not be towed to Manila and for the Philippine Navy to release the fishing vessels. He also requested that

these vessels and their crew not be harmed in any way. Mr. Liu also stated the Chinese government's desire for the issue to be resolved peacefully.

When queried by ASPAC/OUP on the names of the fishing vessels and the number of crew members, Mr. Liu was unable to provide the information.

5. ASPAC/OUP informed Mr. Liu that there is no shift in its policy towards the Scarborough Shoal and that in fact, the Philippine Navy conducts regular maritime sovereignty patrols in the area. As such, if any foreign fishing vessel is found within the area claimed by the Philippines, it will be intercepted but due process will be followed.
6. In the evening of the same day, Mr. Liu called to clarify his previous statement. He said that the fishing vessels were not captured but were asked by the Philippine Navy to leave the shoal. However, due to inclement weather and for humanitarian reasons, the Chinese are asking that they be allowed to stay until the weather clears up.
7. Aside from the letter addressed to Admiral Wong, the Department got in touch with representatives of the Philippine Navy and the AFP for spot information on the incident.

Through informal sources, the Department was informed that from 19-23 January 2001, the Philippine Navy conducted a maritime sovereignty patrol in the area of the Scarborough Shoal. This patrol was initially planned as a bilateral exercise with the United States. However, the United States backed out at the last minute and since preparations have already been made, the Philippines decided to push through with the mission on a unilateral level. A Philippine Navy Islander flew over the area and sighted the four Chinese fishing vessels.

The Philippine Navy dispatched PS 22 (Sultan Kudarat) on a regular maritime patrol of the shoal on 28 January 2001. On 29 January, the fishing vessels were intercepted, boarded, and told to leave the area.

The investigation of the Philippine Navy yielded the following information:

- a. All of the fishing vessels had Chinese markings and did not possess pertinent documents on board relating to their activities;
- b. Three of the fishing vessels were anchored and were sighted engaged in seaweed gathering using a compressor;
- c. One vessel was seen engaged in shark and eel fishing;
- d. There were eight crewmen for each of the four boats;

- e. The inspection of the boats yielded four live sharks, corals, and turtles; and
- f. The vessels did not have explosives or firearms of any kind on board.

The PS 22 (Sultan Kudarat) returned to post on 31 January 2001 upon the departure of the four Chinese fishing vessels from the shoal.

The Department is currently waiting for a formal report of the incident as well as documentary evidence of the marine resources found on board the fishing vessels.

ASPAC as of 6:07 p.m., 31 January 2001

Annex 45

Memorandum from Willy C. Gaa, Assistant Secretary of Foreign Affairs, Republic of the Philippines to Secretary of Foreign Affairs, Republic of the Philippines (14 Feb. 2001)

Kagawaran ng Ugnayang Panlabas



Department of Foreign Affairs

OFFICE OF ASIAN AND PACIFIC AFFAIRS

SECRET

MEMORANDUM FOR THE SECRETARY

THROUGH UNDERSECRETARY LAURO L. BAJA

FROM


 WILLY C. GAA
 Assistant Secretary

SUBJECT : Meeting with Chinese Embassy Official

DATE : 14 February 2001

Pursuant to the Acting Secretary's approval of ASPAC's recommendation that Chinese Embassy officials be summoned to the Department to convey the Philippines' concern on reports that four Chinese fishing vessels previously intercepted, boarded and told to leave the Scarborough Shoal were still sighted in the area as of 4 February, ASPAC summoned Mr. Liu Jian, political counsellor of the Chinese Embassy, on 9 February 2001.

I conveyed to him the following:

1. Philippine concern that as of 4 February, the 4 Chinese fishing vessels were still anchored in Scarborough Shoal despite the understanding that they would leave once the weather cleared up;
2. That the vessels were found to have engaged in illegal fishing of corals, and turtles which is a violation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora of which China is a signatory;
3. The Philippines claims the Scarborough Shoal as its territory, hence sovereign patrols are conducted in the area from time to time, and which will continue in the years ahead;
4. That it will be good for the two countries' relations if the incident doesn't happen again; and
5. The two countries should settle disputes peacefully and that such incidents should not get in the way of better relations between the Philippines and China.

Mr. Liu Jian responded that China had already made its position clear and reiterated that the Scarborough Shoal is part of Chinese territory and that Chinese fishermen have been fishing in the area since ancient times. Mr. Liu further mentioned that the Philippines' claim on the basis of the 200-mile EEZ

zone would not hold, saying that territorial sovereignty is the basis of maritime jurisdiction. With regard to the illegal catching of turtles and corals, Mr. Liu said that China has a law on this and that those who violate the law will be punished. He expressed hope that the differences over the issue would not lead to a deterioration of peace and stability, and will not come in the way of sound and healthy relations between the Philippines and China.

After Mr. Liu's response, I clarified to him that I did not cite the EEZ as basis of our claim, pointing out that the Philippine claim over the Scarborough Shoal is territorial and not maritime, and that the shoal has always been a part of Philippine territory. I informed him also that Filipino fishermen have used the area as their fishing ground since ancient times, and that the Philippines is concerned on the preservation of resources in the area. I emphasized that the activities of a few fishermen should not get in the way of the good relations between our two countries. I suggested that the Chinese side should advise their fishermen to refrain from going into the area to avoid tension and complicating the situation.

After the meeting, ASPAC received the attached photographs taken by PS 22 (Sultan Kudarat) during their interception and boarding of the four Chinese fishing vessels. The photographs clearly show that the four Chinese fishing vessels were engaged in illegal fishing of endangered marine life and thus, a clear violation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora of which China is a signatory.

Recommendation:

1. In view of the photographic evidence that the four Chinese fishing vessels are engaged in illegal fishing, it is recommended that the Philippine government file a diplomatic protest to the Chinese government over the illegal activities of its fishermen in Scarborough Shoal.

Attached, for consideration is a draft protest note. Also attached is a communication addressed to Beijing PE on the results of the meeting with the Chinese Embassy representative as well as instructions to file the diplomatic protest.

2. ASPAC has noted that the tit-for-tat between the Philippines and China is no longer limited to the diplomatic exchanges between the two sides. The Spokesman of the Chinese Ministry of Foreign Affairs has been quoted at making statements on the issue to the media. At this point, there might be a need to use the "*back-door channel*" in order to stave off a further deterioration of the issue. A telephone call to Assistant Minister Wang Yi or Ambassador Fu Ying, director general of Asian Affairs, could be made to impress on the Chinese our position on the issue.
3. It has been noted that a "*gag order*" has been imposed on ASPAC's contacts in the Philippine Navy by the leadership of the Philippine

Navy. As such, timely information is hard to come by. It is recommended that a Quick Response Team "QRT" composed of representatives from the DFA, DND, AFP, Philippine Navy, Philippine Coast Guard be formed and that a "hot line" or a channel of communication be established on the working level. The QRT will be tasked with monitoring and exchanging information on incidents involving claimants in the Kalayaan Island Group and the Scarborough Shoal.

Enclosure: As stated.

Annex 46

Office of Asian and Pacific Affairs, Department of Foreign Affairs, Republic of the Philippines, *Apprehension of Four Chinese Fishing Vessels in the Scarborough Shoal* (23 Feb. 2001)

SECRET: ASPAC as of 23 February 2001

**APPREHENSION OF FOUR CHINESE FISHING VESSELS
IN THE SCARBOROUGH SHOAL**

CHRONOLOGY OF EVENTS FROM 27 JANUARY – 23 FEBRUARY 2001

1. On Saturday, 27 January 2001, the Political Counsellor of the Chinese Embassy, Mr. Liu Jian called Ms. Hellen Barber of the Office of the Undersecretary of Policy relayed the following information:
 - a. That on an undetermined date this month, the Philippine Air Force sent a plane over to Scarborough Shoal for a reconnaissance mission. This PAF plane reportedly saw four Chinese fishing vessels in the vicinity of the shoal and immediately radioed for a Philippine Naval "fleet" to intercept them.
 - b. The Chinese side requested the Philippine government to confirm this report and if this was true, to inform the Philippine Navy that the vessels were simply fishing vessels so that no untoward incident will occur.
2. Ms. Barber upon guidance from the Acting Secretary, informed the Chinese that the shoal is an integral part of Philippine territory and that the Chinese side should make sure that the Chinese fishing vessels leave the shoal immediately.
3. On the same day, the DFA Duty Officer sent a letter to Philippine Navy Flag-Officer-in-Command Admiral Guillermo Wong requesting for confirmation
4. On 30 January 2001, Mr. Liu requested for an urgent meeting with ASPAC and OUP and relayed that following the call he made on 27 January 2001, the Chinese Embassy has received confirmation from China that the four Chinese Fishing Vessels have indeed been captured by the Philippine Navy. Mr. Liu emphasized that these vessels were in seeking shelter due to the inclement weather in the area.

Mr. Liu stated that the Chinese government wished that this issue will not complicate bilateral relations especially since the new administration of President Gloria Macapagal-Arroyo has indicated in her foreign policy speech that China is important to the Philippines.

Mr. Liu then requested that the vessels not be towed back to Manila and for the Philippine Navy to release the fishing vessels. He also requested

SECRET: ASPAC as of 23 February 2001

that these vessels and their crew not be harmed in any way. Mr. Liu also stated the Chinese government's desire for the issue to be resolved peacefully.

When queried by ASPAC/OUP on the names of the fishing vessels and the number of crew members, Mr. Liu was unable to provide the information.

5. ASPAC/OUP replied that there is no shift in its policy towards the Scarborough Shoal and that in fact, the Philippine Navy conducts regular maritime sovereignty patrols in the area. As such, if any foreign fishing vessel is found within the area claimed by the Philippines, it will be intercepted but due process will be followed.
6. In the evening of the same day, Mr. Liu called to clarify his previous statement that the fishing vessels were not captured by were asked by the Philippine Navy to leave the shoal. But that due to inclement weather and for humanitarian reasons, the Chinese are asking that they be allowed to stay until the weather clears up.
7. Aside from the letter addressed to Admiral Wong, the Department got in touch with representatives of the Philippine Navy and the AFP for spot information on the incident.

Through informal sources, the Department was informed that from 19-23 January 2001, the Philippine Navy conducted a maritime sovereignty patrol in the area of the Scarborough Shoal. This patrol was initially planned as a bilateral exercise with the United States. However, the United States backed out at the last minute and since preparations have already been made, the Philippines decided to push through with the mission on a unilateral level. A Philippine Navy Islander flew over the area and sighted the four Chinese fishing vessels.

The Philippine Navy dispatched PS 22 (Sultan Kudarat) on a regular maritime patrol of the shoal on 28 January 2001. On 29 January, the fishing vessels were intercepted, boarded, and told to leave the area.

The investigation of the Philippine Navy yielded the following information:

- a. All of the fishing vessels had Chinese markings and did not possess pertinent documents on board relating to their activities;
- b. Three of the fishing vessels were anchored and were sighted engaged in seaweed gathering using a compressor;
- c. One vessel was seen engaged in shark and eel fishing;
- d. There were eight crewmen for each of the four boats;

SECRET: ASPAC as of 23 February 2001

- e. The inspection of the boats yielded four live sharks, corals, and turtles; and
- f. The vessels did not have explosives or firearms of any kind on board.

The PS 22 (Sultan Kudarat) returned to post on 31 January 2001 upon the departure of the four Chinese fishing vessels from the shoal.

The Department is currently waiting for a formal report of the incident as well as documentary evidence of the marine resources found on board the fishing vessels.

- 8. On 2 February, Ms. Elizabeth Buensuceso, minister counsellor of the Philippine Embassy in Beijing, was invited to the Chinese Foreign Ministry. The Chinese MFA pointed out that the sending of military planes and vessels to the shoal as an infringement of Chinese sovereignty and territorial integrity and the rights of its fishermen.
- 9. On 4 February 2001, the PN Islander 310 reported the sighting of the four Chinese fishing vessels in the area as well as the presence of a red cylindrical body sighted at the northern part of the shoal.
- 10. On 7 and 9 February, communications were sent out to the Philippine Navy and the Chief of Staff of the AFP to request for information on the four fishing vessels.
- 11. On 9 February, ASPAC was informed by its contacts from the Philippine Navy that a "gag order" has been issued to them in light of the continued "leakage" of sensitive information to the media.
- 12. On 9 February, the Department of Foreign Affairs summoned Mr. Liu Jian, minister counsellor of the Chinese Embassy, to protest the continued presence of the four Chinese fishing vessels in Scarborough Shoal and to call on China to remove the vessels.
- 13. In the afternoon of 9 February, the Department received copies of the photographs taken by PS 22 (Sultan Kudarat). The photos yielded evidences that the four Chinese fishing vessels were involved in illegal fishing activities.
- 14. On 12 February, ASPAC received a communication from the National Security Council recommending that the issue be tabled as an agenda of the Cluster "E" meeting.

SECRET: ASPAC as of 23 February 2001

15. On 13 February, ASPAC prepared a draft protest note enclosing the photographs received from the Philippine Navy.
16. On 13 February, Ms. Elizabeth Buensuceso, minister counsellor of the Philippine Embassy in Beijing, was called to the Foreign Ministry and told that the Philippines violated the territorial sovereignty of China and caused economic losses to the Chinese fishermen. The Chinese MFA also stated that this incident is detrimental to bilateral relations.
17. On 21 February, a briefing on the Scarborough Shoal incident was presented to the Vice President and Secretary of Foreign Affairs. During the briefing, ASPAC recommended the following:
 - ◆ Filing of a diplomatic protest
 - ◆ Formation of a "Quick Response Team"
 - ◆ Convening of the Cluster "E" of the National Security Council to discuss the Scarborough Shoal

The Vice President and Secretary of Foreign Affairs approved all three recommendations.

Annex 47

Memorandum from the Embassy of the Republic of the Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-09-2001-S (17 Mar. 2001)

DUTY OFFICER: For the immediate attention of
VP and Sec. Guingona

URGENT AND CONFIDENTIAL

To : SFA
Fr : Beijing PE
Dt : 17 March 2001
Re : Chinese fishermen
Cc : UsecPolicy, ASPAC, MOAC
Cn : ZPE-09-2001-S

I was invited to the Foreign Ministry this morning by Asian Department Deputy Director-General Mme. Yang Yanyi. She conveyed to me Note (2001) Bu Ya Zi No. 13 from the Chinese Foreign Ministry which is in reply to the Note dated 15 March 2001 sent by Deforaf to the Chinese Embassy in Manila. A copy of the MFA note is enclosed.

DDG Yang then gave the following statements:

1. China will continue to abide by the consensus reached with the Philippines on the South China Sea. It is not the policy or desire of China to take action which may complicate the situation.
2. The presence of Chinese fishermen in Huangyan Island should not be misinterpreted. Chinese fishermen have been fishing in the area for centuries and their activities, therefore, are normal and do not contravene the consensus reached by the two sides. It is hoped that the Philippine side will fully appreciate this fact and not misunderstand it.
3. In the interest of the friendly bilateral relations between the two sides and the overall peace and stability in the South China Sea, it is hoped that the two sides could settle their differences in a peaceful and quiet manner through diplomatic channels. China does not wish to see the matter played up.
4. Huanguan Island is under the sovereignty of China.

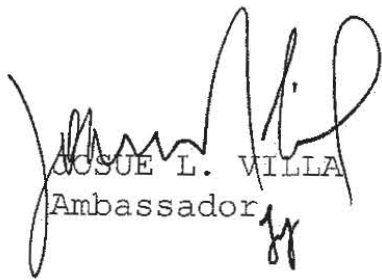
In reply, I conveyed the following points:

- a. Filipino fishermen have been fishing in Scarborough Shoal for centuries. The proximity of the shoal makes it a natural fishing ground for Filipinos.

- b. The Philippine side has observed that Chinese fishing vessels have been going to the area in greater numbers.
- c. The Philippine side discovered that the Chinese fishermen now in Scarborough Shoal were in possession of items enumerated in urPE-15-ASPAC-2001-S.
- d. The Philippines agrees that both sides should look into this matter through diplomatic channels. It is hoped that the forthcoming RP-PRC CMB meeting in Manila will see ways to maintain peace and stability in the area and sustain the high-level relations between the two sides.

In rejoinder, DDG Yang said that the Chinese Government is always against illegal fishing. She expressed concern that the presence of Philippine military vessels confronting Chinese civilian vessels will strike the nerve and sentiments of the Chinese fishermen.

I reiterated to DDG Yang that the Philippine naval vessels have been conducting routine maritime patrol in the area for a long time.



JOSUE L. WILLA
Ambassador

Enclosure

Annex 48

Memorandum from Josue L. Villa, Embassy of the Republic of the Philippines in Beijing, to the Secretary of Foreign Affairs of the Republic of the Philippines (21 May 2001)

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PHILIPPINE AIR BEIJING

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ORIGINAL TO	
ASPAC ✓	
ACTION OFFICE	
CC OEA	Rec'd. By
OUP	Date & Time

VERY URGENT

To : SFA
 Fr : Beijing PE
 Dt : 21 May 2001
 Re : Suggested talking points for the meeting of the VP/SFA with Chinese Vice President Hu Jintao
 Rt : ASPAC
 Cc : OUP, OEA
 Cn : ZPE - 332 - 2001

Please find enclosed, a copy of the suggested talking points for the meeting of the VP/SFA with Chinese Vice President Hu Jintao on 24 May 2001.

Also attached is a copy of the bio-data of Vice President Hu Jintao.


 JOSUE L. VILLA
 Ambassador

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SUGGESTED TALKING POINTS

**MEETING OF VICE PRESIDENT AND SECRETARY OF
FOREIGN AFFAIRS TEOFISTO T. GUINGONA, JR.
WITH CHINESE VICE PRESIDENT HU JINTAO
24 May 2001, Beijing, China**

I. EXCHANGE OF PLEASANTRIES

- CONVEY THE WARM GREETINGS OF H.E. PRESIDENT GLORIA MACAPAGAL-ARROYO AND EXPRESS APPRECIATION FOR CHINA'S SUPPORT TO THE GOVERNMENT OF THE PHILIPPINES.
- EXPRESS GRATITUDE FOR THE HOSPITALITY EXTENDED AND ARRANGEMENTS MADE BY THE CHINESE GOVERNMENT TO MAKE THIS BILATERAL MEETING POSSIBLE, INCLUDING THE ARRANGEMENTS MADE FOR THE ASEM FOREIGN MINISTERS' MEETING.
- CONGRATULATE THE CHINESE LEADERSHIP FOR THE SUCCESSFUL HOLDING OF THE FOURTH SESSION OF THE NINTH NATIONAL PEOPLE'S CONGRESS AND THE THIRD SESSION OF THE NINTH NATIONAL COMMITTEE OF THE CHINESE PEOPLE'S POLITICAL CONSULTATIVE CONFERENCE HELD IN MARCH 2001.
- COMMEND CHINA'S FRUITFUL COMPLETION OF THE NINTH FIVE-YEAR DEVELOPMENT PLAN AND EXPRESS THE HOPE THAT THE TENTH FIVE-YEAR PLAN WHICH COMMENCED THIS YEAR WILL CONTINUE TO PUSH CHINA TOWARDS GREATER HEIGHTS OF ACCOMPLISHMENTS IN THE NEW MILLENIUM.

Background:*China's support to the new Philippine Government*

The Chinese Government is one of the countries which had immediately extended recognition to the new government under President Gloria Macapagal-Arroyo in January 2001. In turn, President Macapagal-Arroyo sent a Special Envoy, Amb. Alfonso Yuchengco, to China in March 2001 to reaffirm the new government's commitment to strengthen bilateral ties and to seek the goodwill and cooperation of the Chinese Government in the new Administration's program of government.

During his visit, Amb. Yuchengco met with the following Chinese Government officials: Premier Zhu Rongji, Information Industry Minister Wu Jichuan, Vice

Suggested Talking Points

2

Foreign Minister Wang Yi, Agriculture Vice Minister Liu Jian, and MOFTEC Assistant Minister Cao Huchong.

Ninth National People's Congress

The Fourth Session of the Ninth National People's Congress (NPC) and the Third Session of the Ninth National Committee of the Chinese People's Political Consultative Conference (CPPCC) were held in March 2001, focusing on the reform and opening up policies of China.

The NPC approved China's five-year economic blueprint – the 10th Five-Year Plan – that calls for rapid economic growth and greater competitiveness as the nation prepares to join the World Trade Organization (WTO).

2. OVERVIEW OF BILATERAL RELATIONS

- * GIVE ASSURANCE THAT THE NEW GOVERNMENT UNDER PRESIDENT GLORIA MACAPAGAL-ARROYO REMAINS COMMITTED TO STRENGTHENING BILATERAL RELATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA.
- * REITERATE THE PHILIPPINE GOVERNMENT'S COMMITMENT TO THE ONE-CHINA POLICY AND GIVE ASSURANCE THAT THE COUNTRY'S RELATIONS WITH TAIWAN WILL BE STRICTLY ON A NON-OFFICIAL AND NON-GOVERNMENT BASIS.
- * NOTE THAT THE PHILIPPINES AND CHINA ARE ENJOYING A HIGHER LEVEL OF FRIENDSHIP AFTER THE RECENT SERIES OF EXCHANGE OF VISITS BETWEEN THEIR TWO LEADERS. EXPRESS THE HOPE THAT THE TWO SIDES WILL MAINTAIN THE MOMENTUM IN THE EXCHANGE OF VISITS AMONG THEIR GOVERNMENT OFFICIALS AT VARIOUS LEVELS WHICH CONTRIBUTE TO GREATER UNDERSTANDING BETWEEN THE TWO COUNTRIES.
- * NOTE THAT THE TWO COUNTRIES SUCCESSFULLY COMMEMORATED THE 25th ANNIVERSARY OF THE ESTABLISHMENT OF THEIR DIPLOMATIC RELATIONS. THE SERIES OF ACTIVITIES HELD BY THE TWO COUNTRIES ON THIS OCCASION HAS SERVED TO STRENGTHEN GOVERNMENT-TO-GOVERNMENT AND PEOPLE-TO-PEOPLE RELATIONS.
- * NOTE THAT THE TWO SIDES HAVE RECENTLY SIGNED A JOINT STATEMENT GOVERNING THE DIRECTION OF THEIR BILATERAL RELATIONS IN THE 21ST CENTURY AND OTHER COOPERATIVE ARRANGEMENTS. EXPRESS THE HOPE THAT THE TWO SIDES

Suggested Talking Points

3

WILL ADHERE TO THE COMMITMENTS EMBODIED IN THEIR JOINT DECLARATION AND IMPLEMENT SPECIFIC COOPERATION PROJECTS THEY HAVE AGREED.

- **EXPRESS THE HOPE THAT THE CHINESE SIDE WOULD AGREE TO THE PHILIPPINE PROPOSAL TO COMMENCE NEGOTIATIONS ON AGREEMENTS GOVERNING COOPERATION IN COMBATING TRANSNATIONAL CRIMES AND NARCOTICS.**

(Only if Asked)

- **STATE THAT THE SUPREME COURT OF THE PHILIPPINES HAS AFFIRMED THE LEGITIMACY OF THE ASSUMPTION INTO OFFICE OF PRESIDENT GLORIA MACAPAGAL-ARROYO. UNDERSCORE THE THRUST OF THE GOVERNMENT TO FORGE NATIONAL UNITY AND RECONCILIATION.**
- **GIVE AN OVERVIEW OF THE RESULTS OF THE RECENT NATIONAL AND LOCAL ELECTIONS IN THE PHILIPPINES.**

Background:

The Philippines and China celebrated the 25th anniversary of the establishment of their diplomatic relations in June 2000. Former President Joseph Ejercito Estrada and then Vice President Gloria Macapagal-Arroyo undertook separate visits to China in 2000 while Premier Zhu Rongji visited Manila in November 1999.

The Philippines and China have hoped to sign bilateral agreements on cooperation in combating transnational crimes and narcotics during the state visit of former President Estrada to China in May 2000. Time constraint, however, prevented the two sides from finalizing the text of the agreement. The Philippines has invited China to Manila to continue negotiations on the text of the agreements with the hope of signing them soon. The Chinese side, at present, is studying the draft documents given by the Philippine side and has yet to reply to the Philippine invitation to resume negotiations.

3. ECONOMIC RELATIONS

Trade

- **EXPRESS SATISFACTION AT THE RAPID GROWTH OF TWO-WAY TRADE BETWEEN THE PHILIPPINES AND CHINA. CHINESE STATISTICS INDICATE THAT TRADE BETWEEN THE PHILIPPINES AND CHINA IN THE PERIOD COVERING JANUARY TO DECEMBER 2000 AMOUNTED TO US\$3.14 BILLION REPRESENTING A 37 PERCENT GROWTH FROM THE PREVIOUS YEAR. STATISTICS FOR THE FIRST QUARTER OF THIS YEAR SHOW THAT THIS IS BEING**

Suggested Talking Points

SUSTAINED – FROM JANUARY-MARCH 2001, BILATERAL TRADE REACHED US\$815 MILLION, POSTING A 43 PERCENT YEAR-ON-YEAR GROWTH.

- **EXPRESS GRATITUDE TO CHINESE LEADERS FOR THEIR POSITIVE CONTRIBUTION TO THE INCREASE IN BILATERAL TRADE BETWEEN THE PHILIPPINES AND CHINA.**

Background:

Trade balance has historically been always in China's favor, becoming in earlier years a major issue in Philippines-China relations. As a result of representations made by the Philippines, Chinese leaders, particularly Premier Zhu Rongji, have encouraged favorable policies to correct the trade deficit which in earlier years have been heavily in China's favor. China imported US\$1.68 billion worth of goods from the Philippines and exported a total of US\$1.46 billion worth of products. This trade surplus is a historic development, being the first for the Philippines in many years. According to some Chinese officials, Premier Zhu Rongji gave express instructions to correct the imbalance, including subsidized imports of bananas.

Finance

- **EXPRESS APPRECIATION FOR THE US\$100 MILLION CREDIT FACILITY AGREEMENT SIGNED BY THE DEPARTMENT OF FINANCE AND THE CHINA NATIONAL CONSTRUCTION AND AGRICULTURAL MACHINERY IMPORT AND EXPORT CORPORATION (known as CAMC), WHICH IS THE BIGGEST SUCH CREDIT FACILITY COMMITTED BY CHINA TO A FOREIGN GOVERNMENT. NOTE THAT THIS FACILITY WILL HELP ENHANCE THE COUNTRY'S EFFORTS TO MODERNIZE AGRICULTURE AND INCREASE FARMERS' INCOMES.**
- **ASSURE THE CHINESE SIDE THAT THE PHILIPPINE GOVERNMENT LOOKS FORWARD TO JOINT UNDERTAKINGS FALLING UNDER THIS CREDIT FACILITY. NOTE THAT PRESIDENT GLORIA MACAPAGAL-ARROYO PAYS SIGNIFICANT ATTENTION TO THE DYNAMIC BILATERAL COOPERATION IN THE AREA OF AGRICULTURE.**

Background:

CAMC, a state-owned company, was tasked by the Chinese Government to assist the Philippines in carrying out agricultural projects in various parts of the country under a US\$100-million credit facility agreement which it signed with the Department of Finance on 20 December 2000 in Manila.

Initial projects lined up for financing by this facility include the Banaoang irrigation project in Ilocos Sur; expansion of fish pens in General Santos City and Comarines

Norte; building farmer extension service centers in Oriental Mindoro, Batangas, Isabela and Cagayan De Oro; and fishport development in Catbalogan, Samar.

During a recent call made by Ambassador Josue L. Villa on Asian Affairs Director General Fu Ying, the latter expressed the concern of the Chinese Government on the continuity of this project in view of the change in the administration in the Philippines. The same concern was echoed by Mr. Ren Hongbin, President of CAMC when he called on Ambassador Villa on 9 February 2001.

Agriculture

- **AFFIRM THE COMMITMENT OF THE PHILIPPINES IN THE ESTABLISHMENT OF A PHILIPPINES-CHINA CENTER FOR AGRICULTURAL TECHNOLOGY. EXPRESS CONFIDENCE THAT THE PROJECT WILL BE OF GREAT BENEFIT TO FILIPINO FARMERS BY BOOSTING THEIR RICE PRODUCTION.**

Background:

During the visit of Premier Zhu Rongji to the Philippines in November 1999, he initiated a project to set up a China-Philippines Center for Agricultural Technology aimed at providing technology for the cultivation of Chinese hybrid rice to help boost rice production in the Philippines. The project is also expected to earn foreign exchange for China through the purchase of machinery specifically designed for this technology. During the state visit of former President Estrada to China in 2000, then Secretary Angara signed the Agreement establishing such a Center. In December 2000, a team of experts from the Philippines arrived in Beijing and finalized with their Chinese counterparts the design for the Center.

Science and Technology

- **EXPRESS SATISFACTION OVER THE SMOOTH AND CONTINUOUS EXCHANGES BETWEEN THE PHILIPPINES AND CHINA IN THE FIELD OF SCIENCE AND TECHNOLOGY. REASSURE CHINESE LEADERS THAT THE PHILIPPINES LOOKS FORWARD TO THE IMPLEMENTATION OF THE PROJECT PROPOSALS CONTAINED IN THE PROTOCOL OF THE 12TH SESSION OF THE JOINT COMMITTEE ON SCIENTIFIC AND TECHNOLOGICAL COOPERATION SIGNED BY BOTH SIDES IN MAY 2000.**
- **EXPRESS PLEASURE THAT BOTH SIDES ARE EXPANDING COOPERATION IN THE AREA OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT). NOTE THAT CHINA'S MINISTRY OF INFORMATION INDUSTRY AND THE PHILIPPINES' DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS ARE JOINTLY WORKING ON A MEMORANDUM OF UNDERSTANDING ON BILATERAL COOPERATION IN ICT.**

Suggested Talking Points

6

- **EXPRESS THE HOPE THAT COOPERATION IN ICT SECTOR DRAWS ITS STRENGTH AND PROMISE FROM THE COMPLEMENTARITIES BETWEEN THE TWO COUNTRIES. POINT OUT THAT THE SIGNING OF THE PROPOSED MOU IS A GOOD STEP IN ENHANCING THE BILATERAL ECONOMIC RELATIONSHIP IN THE CONTEXT OF THE NEW GLOBAL ECONOMY.**

Background:

The Protocol of the 12th Session of the Joint Committee on Scientific and Technological Cooperation Between the Philippines and China was signed in May 2000 in Beijing during a meeting held to commemorate the 25th anniversary of bilateral relations. During this meeting, both sides exchanged project proposals and agreed on a system of direct communication which allows implementing agencies from both sides to act in a timely manner on matters of mutual concern.

Proposed MOU on Information and Communications Technology (ICT)

The Department of Transportation and Communications (DOTC) and China's Ministry of Information Industry (MII) are undertaking consultations on a draft Memorandum of Understanding (MOU) between the Government of the Philippines and the Government of the People's Republic of China on ICT. This was a key result of the bilateral meeting on 10 April 2001 between MII Minister Wu Jichuan and DOTC Undersecretary Agustin Bengzon at the sidelines of the ASEAN-China ICT Seminar in Shenzhen.

The MOU aims to provide a framework that will define directions for technical cooperation and includes key provisions for the establishment of exchange programs on ICT training and education.

Central East Asian Growth Circle (Only if Asked)

- **EXPRESS SATISFACTION ON THE EFFORTS OF THE MINISTRY OF FOREIGN TRADE AND ECONOMIC COOPERATION (MOFTEC) TO EXPLORE JOINT COOPERATION PROJECTS IN NORTHERN LUZON UNDER THE PHILIPPINES' CENTRAL EAST ASIAN GROWTH CIRCLE PROGRAM.**

Background:

Former President Estrada and then Vice President Gloria Macapagal-Arroyo, during their respective visits to China in 2000, raised in their meetings with Chinese officials the possibility of enhancing economic ties between China and the Philippines through the Central East Asian Growth Circle (CEAGC) Program. During the 21st Philippines-China Joint Trade Commission (JTC) Meeting held in August 2000, then Presidential Assistant Junie Cua made a presentation on the CEAGC Program. The JTC agreed to pursue this program and the Chinese side agreed to send a delegation of officials and Chinese businessmen to the Philippines.

Suggested Talking Points

On 8-11 December 2000, then Vice Minister Chen Xinhua led a 26-member delegation of officials and businessmen who were given familiarization tours and briefings by officials of Philippine agencies responsible for economic development such as DTI, DA, DOTC, DPWH, CDA and SBMA. At the end of the visit, both sides identified the following areas of cooperation: agriculture and agro-industry, fishery and aquaculture, tourism, IT, engineering and construction, energy, transport services, manufacturing, and telecommunications. Both sides agreed to undertake more focused follow-up activities.

Aware that the CEAGC Program was closely associated with former President Estrada, the Chinese side is currently awaiting confirmation from the Philippine side that it is ready to proceed with the agreed activities. Responsible officials of the CEAGC Program in the Philippines are still reviewing these activities.

4. POLITICAL RELATIONSSouth China Sea

- **STATE THAT THE PHILIPPINES ATTACHES IMPORTANCE TO THE MAINTENANCE OF PEACE AND STABILITY IN THE SOUTH CHINA SEA AREA.**
- **NOTE THAT THE PHILIPPINES IS READY TO EXPLORE WITH CHINA AREAS FOR COOPERATION IN THE SOUTH CHINA SEA, AND TO DISCUSS COOPERATION ON MARITIME AND OCEAN ISSUES IN GENERAL.**
- **NOTE THAT IN THE RECENT PHILIPPINES-CHINA EXPERTS' GROUP MEETING ON CONFIDENCE-BUILDING MEASURES IN MANILA, BOTH SIDES HAD CONSENSUS ON SEVERAL COOPERATIVE PROJECTS/MEASURES IN THE SOUTH CHINA SEA.**
- **STATE THAT THE PHILIPPINES HAS TAKEN A CONSISTENT POSITION OF EXERCISING RESTRAINT AND AVOIDING ACTIONS WHICH MAY AGGRAVATE THE SITUATION IN THE SOUTH CHINA SEA AREA. EMPHASIZE THE COMMITMENT OF THE PHILIPPINES TO SETTLE THE SOUTH CHINA SEA DISPUTES THROUGH PEACEFUL CONSULTATIONS AND NEGOTIATIONS.**
- **UNDERScore THE COMMITMENT OF THE PHILIPPINES TO THE ADVANCEMENT OF PHILIPPINES-CHINA RELATIONS AND NOT TO ALLOW DIFFERENCES TO AFFECT THE OVERALL DEVELOPMENT OF BILATERAL RELATIONS.**

Suggested Talking Points

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Background:

The Third Philippines-China Experts' Group Meeting on Confidence-Building Measures was held in Manila on 3-4 April 2001. At this meeting, the two sides confirmed the following understanding and consensus:

1. The two sides stated the importance of the preservation of the marine species and habitats and exchanged views on such measures including moratorium on fishing;
2. The two sides agreed to discuss and prepare for joint search and rescue table-top exercises;
3. China will consider positively the Philippine proposal of holding a Philippines-China symposium/workshop;
4. The two sides agreed, in principle, to set-up a direct line of communication between the fisheries departments of both countries, the modalities of which shall be discussed at the Working Group on Fisheries Cooperation;
5. The two sides agreed to study a mechanism for settling fishery disputes under the framework of the Experts' Group Meeting on Confidence Building Measures;
6. The two sides agreed to look into the possibility of convening soon the Philippines-China Working Group on Fisheries Cooperation and on Marine Environmental Protection. The Philippine side expressed appreciation of China's offer to host both meetings in the near future, the dates of which shall be mutually agreed upon through diplomatic channels;
7. The two sides agreed to discuss the three Chinese proposed projects: "Comparative Studies on Red Tide", "Marine Environment Protection Capacity", and "Analysis and Prediction of Surge Affecting the South China Sea" under the framework of the Working Group on Marine Environment Protection;
8. The two sides will expand bilateral military dialogue and cooperation, including more exchanges of visits by senior defense and military officials and active exploration of reciprocal cooperation in language training;
9. China welcomes the proposed port call of a Philippine naval vessel to reciprocate previous visits of Chinese naval vessels to the Philippines at a time convenient to both sides; and
10. The two sides agreed to refrain from making any actions or provocative statements that might complicate or escalate the situation in the interest of maintaining regional peace and stability.

Regional Code of Conduct in the South China Sea

- EXPRESS THE HOPE THAT ASEAN AND CHINA WOULD SOON COME TO AN AGREEMENT ON THE REGIONAL CODE OF CONDUCT IN THE SOUTH CHINA SEA, WHICH COULD CONTRIBUTE TOWARDS BUILDING CONFIDENCE AND PEACEFULLY RESOLVING THE DISPUTES IN THE SOUTH CHINA SEA.

Suggested Talking Points

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Background:

The Regional Code of Conduct is proposed to be a political document which will guide the activities of the claimant countries in the South China Sea area. ASEAN and China are harmonizing their respective versions of the Code. Earlier, Chinese Foreign Minister Tang Jiaxuan had announced that China hopes that the Code could be signed at the ASEAN + 3 Meeting held in Singapore in November last year. This was not realized in view of the failure of the claimants to agree on vital points in the text, i.e., the geographical scope of the Code and the matter of future occupation in the area. The Philippines has been playing a major role in the preparation and negotiation of this document.

Scarborough Shoal

- **EMPHASIZE THAT SCARBOROUGH SHOAL IS AN INTEGRAL PART OF PHILIPPINE TERRITORY OVER WHICH THE PHILIPPINE GOVERNMENT EXERCISES SOVEREIGNTY AND JURISDICTION.**
- **EXPRESS THE HOPE THAT CHINA SHARES THE CONCERN OF THE PHILIPPINE GOVERNMENT TO PROTECT AND MAINTAIN THE MARINE ENVIRONMENT IN THE SCARBOROUGH SHOAL AREA.**
- **NOTE THAT THE PHILIPPINE GOVERNMENT HAS BEEN EXERCISING RESTRAINT AND HAS OPTED NOT TO DETAIN CHINESE FISHERMEN CAUGHT ILLEGALLY FISHING IN SCARBOROUGH SHOAL AREA. HOWEVER, THE PHIL. GOVERNMENT HAD TO CONFISCATE ILLEGAL FISHING EQUIPMENT, SUCH AS BLASTING CAPS, DYNAMITES AND CYANIDE, INCLUDING ENDANGERED MARINE SPECIES ILLEGALLY CAUGHT, IN ORDER TO PROTECT THE MARINE ENVIRONMENT.**
- **EXPRESS THE HOPE THAT THE ISSUE OF SCARBOROUGH SHOAL BE RESOLVED BY BOTH SIDES IN A PEACEFUL AND FRIENDLY MANNER.**

Background:

On 15 March 2001, Philippine authorities discovered the presence of eight Chinese fishing vessels and two sampans in Scarborough Shoal. The Chinese fishing vessels were requested to leave the area by the Philippine Navy after the latter confiscated endangered marine resources (giant oysters), cyanide and blasting caps from the Chinese fishermen.

The Vice President and Secretary of Foreign Affairs summoned the Chinese Ambassador in Manila to express the Philippine Government's concern on the latest intrusion of Chinese fishermen in Philippine territory. Beijing PF was instructed to

Suggested Talking Points

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assure the Chinese side that the Philippines wishes to settle this issue through diplomatic channels.

5. CULTURAL RELATIONS

- **EXPRESS SATISFACTION AT THE VIGOROUS CONDUCT OF BILATERAL CULTURAL EXCHANGES UNDER THE UMBRELLA OF THE PHILIPPINES-CHINA CULTURAL AGREEMENT SIGNED ON 8 JULY 1979. REASSURE THE CHINESE SIDE OF THE COMMITMENT OF THE PHILIPPINES TO PURSUE PROJECTS IDENTIFIED IN THE CURRENT EXECUTIVE PROGRAM OF THE CULTURAL AGREEMENT.**

Background:

Under the 1979 Cultural Agreement, successive two-year Executive Agreements identifying specific cultural activities and projects to be implemented, are entered into by the two sides. The 2000-2001 Program is the 11th such Executive Program signed on 16 May 2000 by Former Secretary of Foreign Affairs Domingo L. Siazon, Jr. and Chinese Minister of Culture Sun Jiazhong.

6. COOPERATION IN REGIONAL AND INTERNATIONAL FORA**ASEAN + 3**

- **EXPRESS APPRECIATION FOR CHINA'S MEANINGFUL PARTICIPATION AND INITIATIVES IN THE ASEAN + 3 FORUM. RECALL PREMIER ZHU RONGJI'S POSITIVE ROLE IN SETTING THE PACE AND DIRECTION OF THE FIRST ASEAN + 3 SUMMIT HELD IN MANILA IN 1999 AND THE RECENT MEETING HELD IN SINGAPORE IN 2000.**

Background:

The participation of China, Japan and South Korea in the ASEAN + 3 meeting has given this forum prestige and importance among regional organizations in the Asia Pacific region. While originally an ASEAN initiative, China has introduced a number of innovative items in the economic agenda, particularly mechanisms to prevent another financial crisis. It will be noted that China would want the ASEAN + 3 Forum to evolve as an economic group rather than a political one but has accommodated ASEAN's request to put political discussions in the agenda.

Suggested Talking Points

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World Trade Organization (WTO)

- CONGRATULATE CHINA'S LEADERS FOR THE SUBSTANTIVE REFORMS THEY HAVE UNDERTAKEN TO PREPARE CHINA'S MEMBERSHIP IN THE WTO. EXPRESS THE HOPE THAT CHINA WILL REALIZE ITS GOAL TO JOIN THE WORLD TRADE ORGANIZATION SOON.
- STATE THAT THE PHILIPPINES HAS BEEN SUPPORTING CHINA'S ENTRY INTO THE WTO.

Background:

Chinese leaders have shown political decisiveness in carrying out reforms needed in preparing for the country's future membership in the WTO. Measures underpinning China's commitment to become a responsible member of the WTO were prioritized by the National People's Congress. Among them were key amendments of laws on foreign investments, the Trademark Law, the Patent Law and other existing legislation incongruent with the principles of WTO. Officials acknowledge that re-orienting business legislation is not an easy task.

Asia Pacific Economic Cooperation (APEC)

- CONGRATULATE CHINA FOR THE EXCELLENT PREPARATIONS BEING MADE IN PREPARATION FOR THE APEC ECONOMIC LEADERS' MEETING TO BE HELD IN OCTOBER 2001 IN SHANGHAI.
- STATE THAT H.E. PRESIDENT GLORIA MACAPAGAL-ARROYO IS LOOKING FORWARD TO ATTEND THIS MEETING.
- EXPRESS CONFIDENCE THAT UNDER CHINA'S CHAIRMANSHIP, APEC WILL CONTINUE TO ATTAIN FRESH IMPETUS AND EXPAND ITS SPHERE OF COOPERATION SO THAT IT WOULD BENEFIT MORE PEOPLE IN THE REGION.

Background:

This year's annual APEC Economic Leaders' Meeting will be held on 20-21 October 2001 in Shanghai. It was held in Brunei last year, while the Philippines hosted the 1996 Meeting. China has hosted recently a successful meeting of APEC Senior Officials in preparation for the Leaders' Meeting. Other forthcoming high level preparatory meetings in China are the following: APEC SOM II and Related Meetings (26 May-3 June, Shenzhen), Meeting of APEC Trade Ministers (6-7 June, Shanghai), APEC SOM III and Related Meetings (16-24 August, Dalian), APEC SMEs Ministers' Meeting (26-31 August, Shanghai), and APEC Finance Ministers' Meeting (6-9 September, Suzhou).

BIOGRAPHIC PROFILE

HU JINTAO

Vice President of the People's Republic of China

Hu Jintao, a top official of the Communist Party of China (CPC), was elected Vice President of the People's Republic of China (PRC) at the First Session of the Ninth National People's Congress in Beijing on 16 March 1998. In 1999 he became the Vice Chairman of the PRC Central Military Commission. Since 1993 Hu has also served as President of the Party School of the CPC Central Committee.

It has been observed that no Chinese communist since the earliest days of the Party has risen so far, so fast, and stayed there despite the lack of a strong power base as Hu. His impressive string of promotions has moved him from local communist functionary in 1980 to the pinnacle of power in 1998. He has been viewed by party elders as intelligent, dynamic, articulate, genial, and loyal. One noticeable gap in his portfolio, however, is economic affairs. In general, owing to his meteoric rise to power, Hu has had little chance to acquire useful experience and prove his mettle.

Born in December 1942 in Jixi, Anhui Province, Hu studied hydroelectric engineering at Qinghua University in Beijing, where he joined the CPC in April 1964. After his graduation in July 1965, Hu remained at Qinghua University as a researcher and political instructor until the start of the "Cultural Revolution" in 1966. In 1968, he was assigned to work in Gansu, one of China's least developed provinces in the northwest.

After a year of manual labor in Gansu, Hu joined an engineering bureau of the Ministry of Water Resources and Electric Power, serving successively as technician, office secretary and deputy Party secretary, a post in which he developed a taste for Party affairs work. In 1974 he was transferred to the Gansu Provincial Construction Commission to be its secretary and became deputy head of the Commission's Project Design Management Division. During his tenure there from 1975 to 1980, he developed ties with Song Ping, an influential party elder. In 1980 he was promoted to deputy director of the Commission.

In 1982, at the age of 39, Hu became an alternate member to the 12th CPC Central Committee, the youngest of that body. That year, he was also elected to the Secretariat of the Gansu Provincial Committee of the Chinese Communist Youth League (CCYL). He was soon transferred to Beijing, where he joined the Secretariat of the Central Committee of the CCYL and became president of the All-China Youth Federation, ascending in November 1984 to the head of the CCYL Secretariat, the top post of China's largest youth organization.

In 1985, at the age of 42, Hu again left Beijing to become China's youngest provincial party boss, earning a reputation as a compassionate reformer in Guizhou Province. Hu was also made political commissar of the Guizhou military region. In 1987 he became a full member of the 13th CPC Central Committee.

In late 1988 Hu became Tibet's first non-military party head. At first, he tolerated the flying of a Tibetan independence flag and other minor political displays. But in less than a month, pro-independence rallies in Lhasa spread and grew violent. In March 1989 at least 40 Tibetans were killed by police in bloody rioting. Hu then coordinated the movement of more than 100,000 Chinese troops into Tibet, keeping the region quiet through the rest of that spring and summer, including through June's Tiananmen Square tragedy. Hu was the first provincial leader to announce support for the Central Party immediately after the Tiananmen Square incident.

After 18 months in Tibet, Hu developed "altitude sickness" and returned to Beijing to recuperate. While in the capital, he served on key party organization boards, pulled rank to take over these panels, organize them, write reports, brief party elders and basically make himself indispensable to Beijing's embattled hierarchy in the wake of Tiananmen.

Although Hu remained on the books as Tibet party chief, he spent most of the next two years in Beijing as de facto executive director of the Communist Party's all-powerful Organization Department. In the spring of 1992, Deng Xiaoping trusted Hu enough to designate him point man to organize preparations for the 14th Communist Party Congress.

Hu drafted the paperwork for the elevation of Jiang Zemin to the Presidency, and penciled in several of Jiang's allies for the Politburo while bargaining with Jiang's main rival, Qiao Shi, over which Qiao supporters got jobs. Later, Hu was named, over scores of party heavyweights, to the seven-man Politburo Standing Committee in charge of party affairs to replace Song who retired.

Hu has since risen quietly from seventh to fifth-most powerful man in China as he was elected Vice President in March 1998.

Hu is married and has a son and a daughter. He loves literature, art, and ping pong.

Annex 49

Memorandum from Perfecto C. Pascual, Director, Naval Operation Center, Philippine Navy, to The Flag Officer in Command, Philippine Navy (11 Feb. 2002)

W/ all assets were released items were confiscated.

FROM : N3,HPN

FAX NO. : 046 970 4524

Feb. 11 2002 04:00PM



PUNONGHIMPILAN HUKBONG DAGAT NG PILIPINAS
(Headquarters Philippine Navy)
2335 Roxas Boulevard, Manila

O/NOC

11 February 2002

MEMORANDUM for:

The Flag Officer in Command, PN

Subject: Update in Scarborough Shoal

1. Refs: a. NFN Rad Msg Cite NFOC-0202-054
b. Rad Msg Cite PS35-0202-041
c. Feedback from Director, NFOC o/a 110900H Feb 02

2. PS35 arrived at vicinity 900 yards off the SE entrance of Scarborough Shoal on or about 100539H February 2002 and noticed three (3) Hainan type vessel anchored inside the shoal. Shortly thereafter, PS35 launched two (2) boarding teams aboard two (2) RHIBs to conduct board and search. Findings of the board and search teams are as follows:

Bow Nr	Nr of Crew	Cargoes/Fishing Paraphernalias on board
05060	23	1 box blasting cap 2 meters detonating cord 1 plastic explosives
030990	19	Approx 4 tons of seaweeds and corals 1 live pawikan
030690	14	2 bottles cyanide 20 pcs cyanide tube pumps 4 tons seaweeds 4 sea clams

3. Fishing vessel with bow number 05060 was released on or about 101800H after confiscation of the illegal fishing paraphernalia. The FV headed toward the general direction of mainland China. The two (2) other FV's, after transferring the confiscated items to PS35 on or about 2000H, were escorted by the PCPV up to vicinity 10 NM west of the Shoal.

4. Meanwhile, NFN was advised to direct PS35 to proceed HPN with the confiscated marine products and illegal paraphernalia for evidence purposes.

5. Updates for SND, National Security Adviser and CSAFP will be prepared for FOIC, PN signature as soon as the official report and complete information are received from CNFN.

6. For the information of the Flag Officer In Command, PN.

pmal
PERFECTO C PASCUAL
CAPT PN(GSC)
Director, Naval Operation Center

Cc: V/COM / CNS / N3

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Annex 50

Letter from Victorino S. Hingco, Vice Admiral, Philippine Navy, to Antonio V. Rodriguez, Assistant Secretary, Office of Asia and Pacific Affairs, Department of Foreign Affairs, Republic of the Philippines (26 Mar. 2002)

SECRET

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**FLAG OFFICER IN COMMAND
PHILIPPINE NAVY
Roxas Boulevard, Manila**

MAR 26 2002

Honorable ANTONIO V RODRIGUEZ
Assistant Secretary
Office of Asia and Pacific Affairs
8th Floor, DFA Building
2330 Pasay City

Dear Secretary Rodriguez:

This pertains to the result of the maritime patrol conducted by BRP ARTEMIO RICARTE (PS37) at Scarborough Shoal on March 19, 2002 to verify the presence of the two (2) foreign fishing vessels as reported by the PN Islander 320 on March 17, 2002.


The two (2) fishing vessels with bow numbers 03016 and 03017 were identified as PROC vessels with thirty (30) crewmembers carrying approximately three (3) tons of corals, one (1) sack of sea shells and twenty-five (25) pieces of cyanide tube pumps.

The items were confiscated and transferred to the PN vessel. Attached photographs were taken to document the seizure. Thereafter, the PROC fishing vessels were escorted up to 12 nautical miles northwest of the Shoal where they headed toward mainland China.

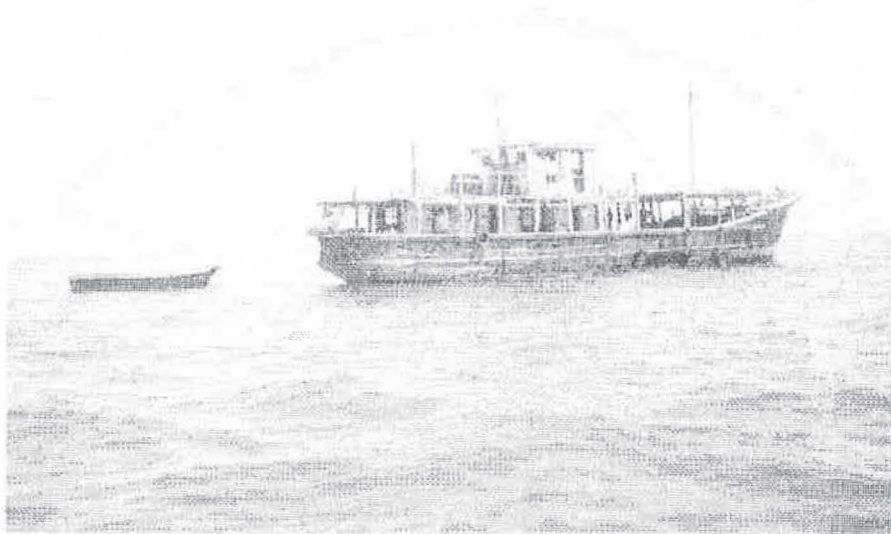
PS37 left Scarborough Shoal for Manila on March 21, 2002 at around 7:00 PM and arrived at HPN Pier the following day at around 8:00 AM.

For the information of the Honorable Secretary.

Respectfully yours,


VICTORINO SUIINGCO
Vice Admiral, AFP

SECRET



PROC F/B Anchored inside the Shoal



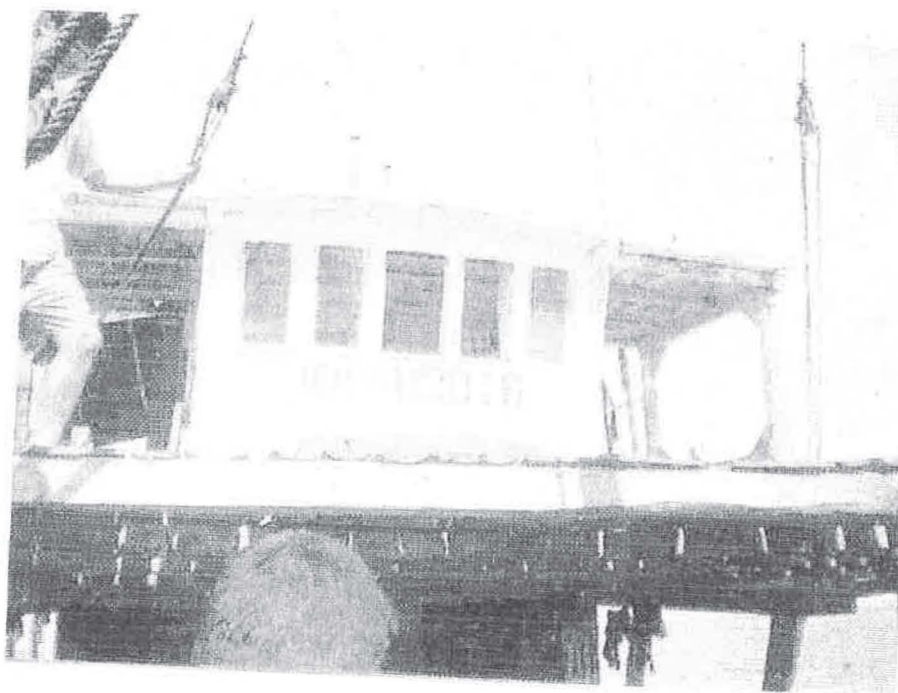
Board and Search of PROC F/B



Corals inside a cargo hold of PROC F/B



Cyanide Tube pumps



F/B 03016



F/B 03017

Annex 51

Memorandum from Josue L. Villa, Embassy of the Republic of the Philippines in Beijing, to the Secretary of Foreign Affairs of the Republic of the Philippines (19 Aug. 2002)



CONFIDENTIAL

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Pasuguan ng Pilipinas Embassy of the Philippines
BEIJING

JLV-~~724~~-2002

MEMORANDUM TO THE HONORABLE SECRETARY OF FOREIGN AFFAIRS

Attn. : ASPAC

From : JOSUE L. VILLA

Subject : Talking Points for the Visit of NPC Chairman Li Peng

Date : 19August 2002

I have the honor to submit the attached suggested talking points for President Gloria Macapagal Arroyo, Vice President Teofisto Guingona, Speaker Jose de Venecia and other officials in connection with the visit to the Philippines of Chairman Li Peng, scheduled on 12-15 September 2002.

In view of the numerous issues straddling the bilateral and multilateral areas of cooperation between China and the Philippines, Post included only matters of urgent and significant concern in the talking points for PGMA. For the talking points of Speaker De Venecia, Post concentrated on the topics he specified as indicated in UR PE-488-ASPAC-2002.

Post also suggests, as it has done here, that the list of issues which the Chinese side is likely to raise during the course of the meetings, be made as a separate document to differentiate that these are their concerns, not ours, and that they should be addressed only if raised.

CONFIDENTIAL

Bureau of Immigration, on 6 and 7 June 2002. Their release by the Court was based on the motion of exclusion made by their defense counsel.

3. SCARBOROUGH SHOAL

- EXPRESS CONCERN OVER THE CONTINUED INTRUSION AND ILLEGAL FISHING OF CHINESE VESSELS IN SCARBOROUGH SHOAL.
- MENTION THAT THE PHILIPPINES HAS EXERCISED RESTRAINT IN THE AREA AND THAT PHILIPPINE NAVY VESSELS IN THE AREA ARE ON ROUTINE MARITIME PATROL.
- NOTE THAT SOME OF THE CHINESE FISHERMEN WHO WERE CAUGHT ARE CARRYING ENDANGERED MARINE SPECIES AND PARAPHERNALIA USED FOR ILLEGAL FISHING PRACTICES.
- UNDERSCORE THE IMPORTANCE OF PROTECTING AND PRESERVING THE MARINE ENVIRONMENT AROUND SCARBOROUGH SHOAL AREA.

Background:

There has been continued intrusion and illegal fishing of Chinese vessels in Scarborough Shoal.

In February 2002, the Philippine Navy apprehended three Chinese vessels in Scarborough Shoal. The vessels have 56 crewmembers with approximately eight tons of corals and seaweeds, four sea clams, one live sea turtle, two meters detonating cord, 20 pieces cyanide tube pumps, one box blasting cap, one plastic explosives, and 20 bottles of cyanide. According to the Navy, the live sea turtle was thrown back to the sea, while the rest of the items were confiscated and transferred to the PN vessel. Photographs were taken to document the seizure. The Chinese vessels and crew were escorted up to 10 nautical miles westward of the Shoal where they headed towards mainland China.

In March 2002, the Navy apprehended another two Chinese vessels in the area. The vessels have 30 crewmembers and were carrying approximately three tons of corals, one sack of sea shells, and 25 pieces of cyanide tube pumps. The items were confiscated and transferred to the PN vessels. Photographs were taken to document the seizure, and the fishing vessels were escorted up to 12 nautical miles northwest of the shoal where they headed towards mainland China.

During the Philippine Navy's regular maritime patrol, they have sighted and intercepted other Chinese fishing vessels heading towards Scarborough Shoal.

The Chinese government has protested the apprehension of Chinese fishing vessels in Scarborough Shoal, contending that these are "normally working" in the area which is within China's territory. Chinese officials have also expressed concern and dissatisfaction over what they see as RP's continued sending of military vessels/planes in the Scarborough Shoal area.

4. REGIONAL CODE OF CONDUCT IN THE SOUTH CHINA SEA

- **STATE THAT THE PHILIPPINES HAS BEEN WORKING HARD TO BRING CONCERNED ASEAN COUNTRIES TO A CONSENSUS ON THE FORMULATION OF THE "GEOGRAPHIC SCOPE" OF THE PROPOSED REGIONAL CODE OF CONDUCT IN THE SOUTH CHINA SEA.**

Background:

To date, concerned ASEAN countries have not yet reached an agreement on the formulation of the "geographic scope" of the proposed Regional Code of Conduct in the South China Sea.

NOTE:

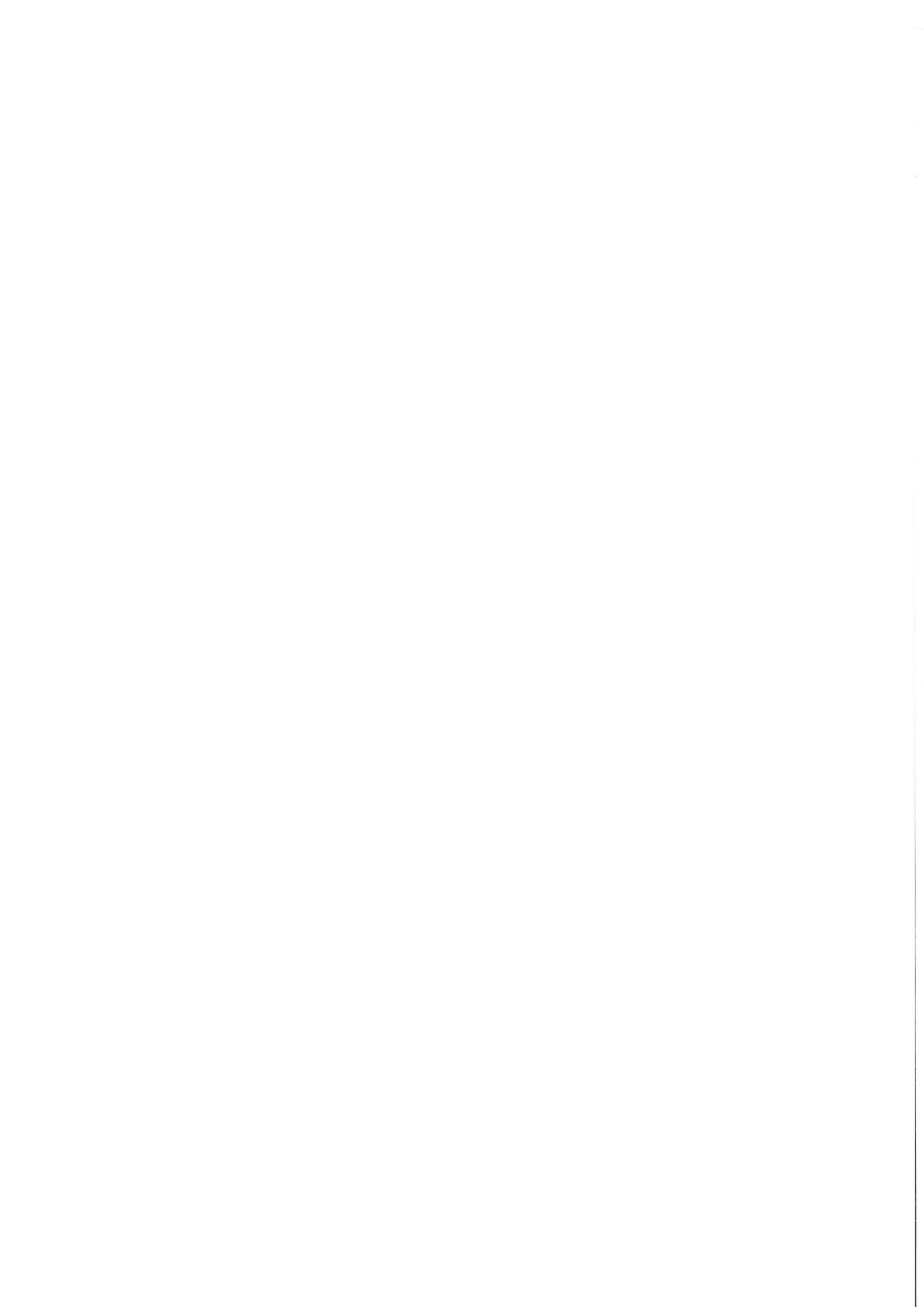
The Chinese side normally does not comment on the issue of Mischief Reef unless it is raised by the Philippine side. For this meeting, Post does not recommend raising the issue of Mischief Reef as the matter was discussed only recently at the 13th RP-PRC Foreign Ministry Consultations held in July 2002 in Beijing. Post believes that the next RP-PRC Experts' Group Meeting on CBMs scheduled to be held in Beijing in the 2nd half of the year would be the more auspicious forum to discuss the matter.

5. CASE AGAINST CHINESE EXPORTS OF MOTORCYCLES

STATE THAT A CASE OF UNFAIR TRADE PRACTICE UNDER THE INTELLECTUAL PROPERTY RIGHTS LAW OF THE PHILIPPINES HAS BEEN FILED BY THE NBI IN PHILIPPINE COURTS AGAINST CHINA-MADE MOTORCYCLES. CLARIFY THAT UNDER THE PRINCIPLE OF SEPARATION OF POWERS, THE EXECUTIVE (OR LEGISLATIVE)

Annex 52

Report from CNS to Flag Officer in Command, Philippine Navy, File No. N2D-0802-401 (1 Sept. 2002)



"Guided by the Wisdom of Yesterday and the daring Dreams of Today,
We Set Sail for the Visions of Tomorrow"

DISPOSITION FORM		Security Classification (if any) SECRET
File Nr: N2D-0802-401	SUBJECT: Special Report on the Rescued Chinese Fishermen	
To: FOIC, PN Via: VCOM	From: CNS	Date: LTJG RAZON: aas/8192780 Comment Nr :

Signature N-2 01 Sept 02

SUMMARY:

1. Ref: C, NISF Ltr dtd 01 Sep 02 re: Special Report on the Rescue of 14 Chinese Fishermen
2. Anent above ref (Encl), **BRP RIZAL (PS-74)** rescued 14 Chinese fishermen off Scarborough Shoal on or about 311500H August 2002 on board four (4) dinghies. Found in their possession were cyanide, sea clams and other marine products. Upon arrival of PS-74 at Sangley Pt., Cavite City, two (2) officers assigned O/N2 who are knowledgeable in Chinese language conducted interviews to elicit information regarding their true identities while a medical team from Cavite Naval Station Hospital conducted medical check-up to the fishermen with satisfactory results.
3. Major observations gathered by N2 interviewers revealed the following:
 - a) The rescued fishermen have complete diving gears used for gathering marine products aboard the fiberglass dinghies.
 - b) The group uses cyanide cakes to catch fish.
 - c) The Chinese Defense Attaché is still not convinced as regards the nationalities of the fishermen.
 - d) The fishermen carry no identification papers.
4. On the other hand, COL ZHANG YU HE, China's Defense Attaché, and party, arrived Sangley Pt on or about 011230H September 2002 and was able to have audience with the rescued Chinese fishermen aboard PS-74 after due clearance from O/J2. The Attache and party returned to Manila a couple of hours after.
5. Meanwhile, Undersecretary ANTONIO RODRIGUEZ of the Asian and Pacific Affairs, Department of Foreign Affairs, was updated of the actions taken by the PN regarding the rescued fishermen status when he called up HNISF on 011330H Sep 02.

6. N2 is tasked to coordinate with cognizant government agencies for the proper turn-over of the rescued fishermen to the PRC embassy.

NECESITO

Encl:

C, NISF Ltr dtd 01 Sep 02 re: Special Report on the rescue of 14 Chinese Fishermen

Annex 53

Armed Forces of the Philippines, *Chronology of Events in the Kalayaan Island Group* (2004)

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**CHRONOLOGY OF EVENTS IN THE KALAYAAN ISLAND GROUP
1995 to 2004**

1995

January

- Chinese Navy personnel on 17 Jan 95 detained for six hours a Filipino fishing boat with 10 fishermen on board led by Josef ALIPUSTAIN after they drifted towards Mischief Reef. He sighted four (4) well-built structures in the reef with small nipa huts on their sides and about eleven (11) vessels anchored thereat. He also noted the presence of an estimated 1,000 uniformed men all aboard the 11 Chinese vessels anchored in the reef and in the structures.
- Joint elements from NDIV, WESCOM and PCG aboard BN Islander PN 311 on 25 Jan 95 conducted verification flight over Mischief Reef. The team sighted vessels believed to be two (2) destroyer escorts, a supply ship and five (5) small craft.
- China on 30 Jan 95 denied the apprehension of ALIPUSTAIN and company and the existence of a naval base in Mischief Reef. On the same day, the Philippine government lodged a protest with Beijing over the reported Chinese intrusion at the KIG. It also demanded the withdrawal of Chinese troops in the reef.

February

- On 05 Feb 95, WESCOM discovered two (2) 7-foot high markers at the center of the two (2) of the five (5) shoals of Jackson Atoll. PN SWAG team demolished the two (2) markers on 06 Apr 95.
- On 28 Feb, a PN SWAG team demolished a cylindrical marker – 2.5 in diameter and 4 ft. in height with concrete reinforcement and steel casing in the northern part of Hasa-Hasa (Halfmoon Shoal). The marker has Chinese inscriptions.
- In Mischief Reef, the team reported the presence of four (4) structures made of aluminum or fiberglass materials supported by steel bars with cemented bases. Each structure has a guardhouse resembling a nipa hut. The Chinese flag is flown on top of every structure where a communication device similar to a radar or antennae is installed.
- An Air Force plane on 05 Feb 95 flew to the Kalayaan Island Group where it sighted Chinese vessels believed to be a YUKAN-class LST, a YANNAN

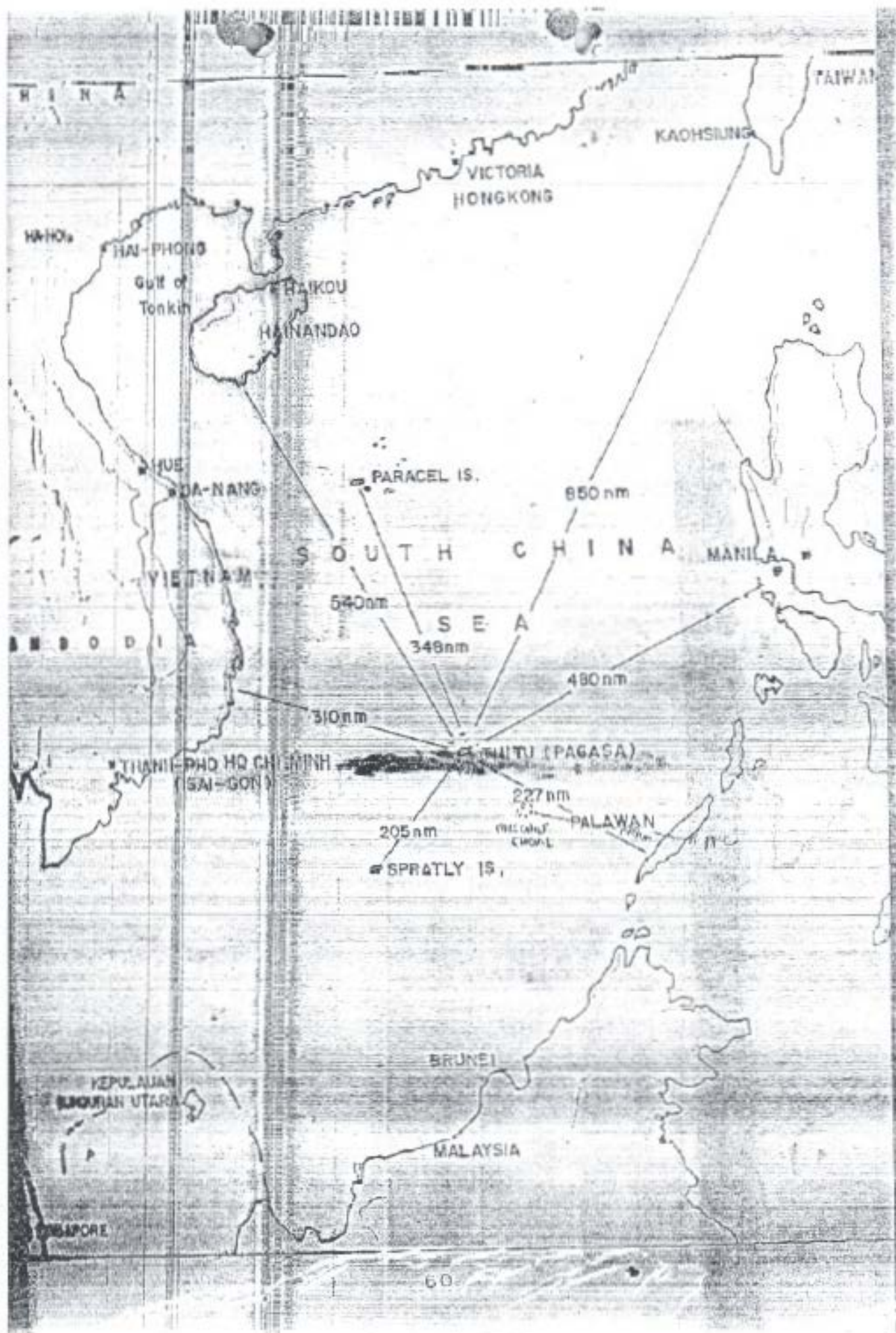
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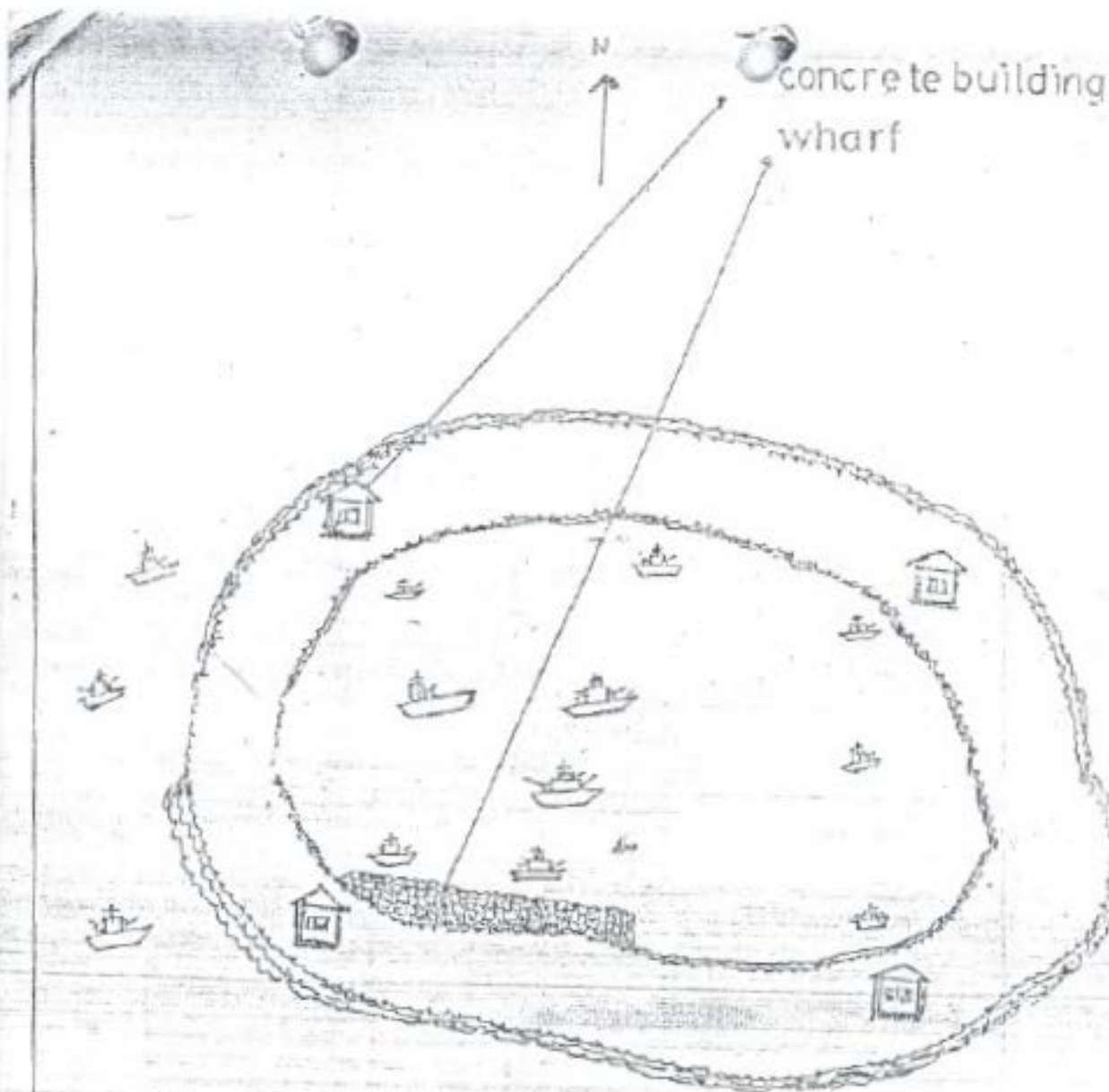
SECRET

class survey ship and some unidentified Chinese boats believed to be fishing vessels.

- The Department of Foreign Affairs (DFA) on 08 Feb 95 sent a strongly-worded aide memoir to Chinese ambassador to Manila, Huang CUIFANG, protesting the Chinese intrusion into RP's territorial waters.
- The Chinese ambassador to Manila on 09 Feb 95 has confirmed the presence of structures/facilities at Mischief Reef but reiterated that these were meant to protect Chinese fishermen in the area. As this developed, China has withdrawn seven (7) of its nine (9) vessels at Mischief Reef to ease tension in the area. On the same day, Vietnam, another claimant country, reiterated its claim to sovereignty over the Spratlys and the nearby Paracel Islands.
- Indonesia urged China and the Philippines to resolve their dispute peacefully. Taiwan also called for a peaceful resolution of the matter.
- US ambassador to the Philippines, John NEGROPONTE on 10 Feb 95 expressed full support to RP's position based on the 1992 Manila
- Pres RAMOS on 16 Feb 95 ordered the deployment of more troops to the KIG and the intensification of aerial surveillance over Mischief Reef. RAMOS also ordered the fortification of naval and air detachments in the area.
- Australia and Malaysia on 17 joined the mounting call for an amicable settlement of diplomatic row between RP and China.
- Senate Bill 1867, otherwise known as the Armed Forces of the Philippines Modernization Bill on 20 Feb 95 was finally approved by the Senate. The bill aims to strengthen the capabilities of the armed forces, especially the navy and air force in the wake of serious challenges to RP's territorial sovereignty and the recent enforcement of UNCLOS.

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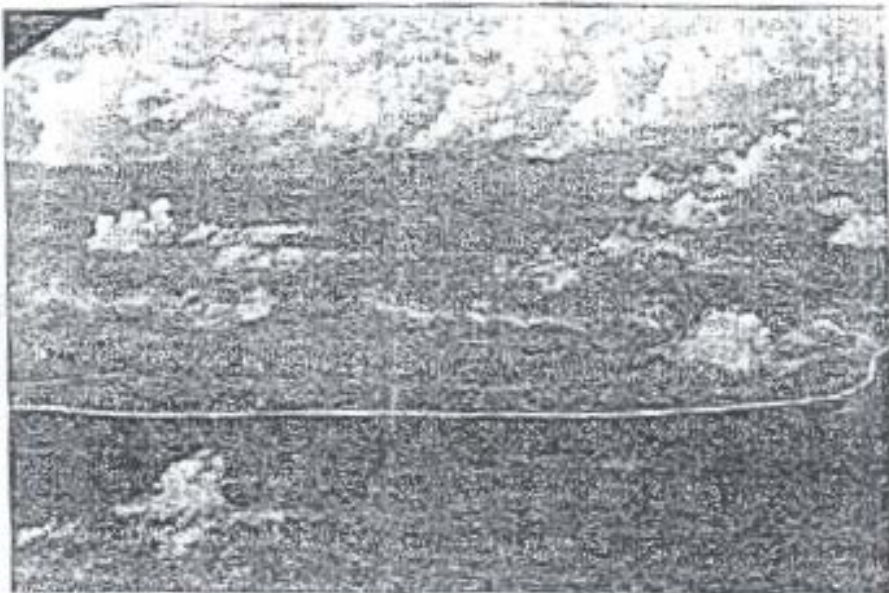




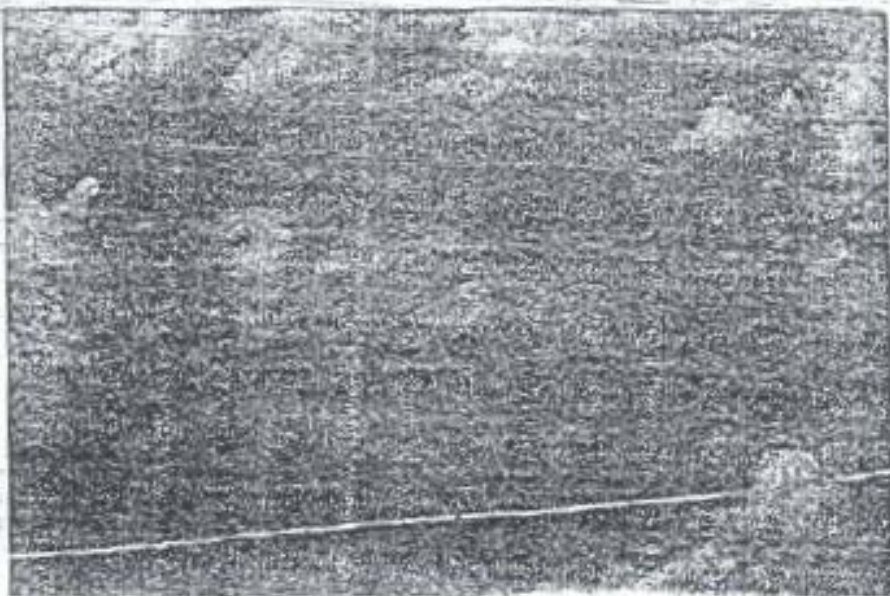
Sketch of naval constructions
as related by Mr J. Alipustain by
PROC Navy at Mischief Shoal

MISCHIEF SHOAL LOCATION AT GPS is at
 $L 09^{\circ} 55' N$ $\lambda 115^{\circ} 44' 00'' E$, which on
 chart 4200A is at $L 09^{\circ} 53' N$ $\lambda 115^{\circ} 40' E$
 or 133 nautical miles from Robert Pt., Palawan
 MISCHIEF REEF is at $L 10^{\circ} 30' N$ $\lambda 116^{\circ} 07' E$
 or 176 nm. W. of Robert Pt., Palawan

CONFIDENTIAL

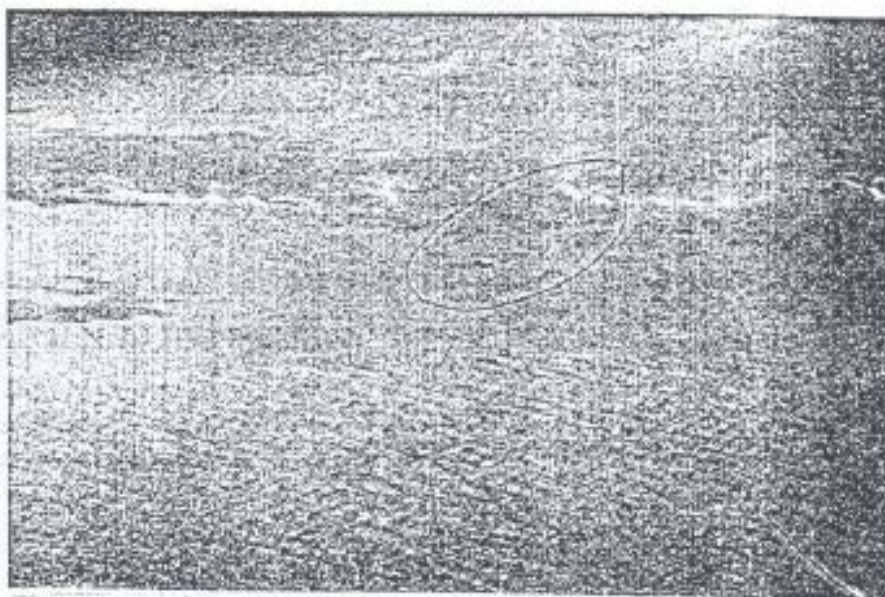


Aerial photo of Hsieh-tai Sheal (marked x's)
Taken by P10, NDIV, on 250900H Jan 93
Aboard PN BN1-311



Chinese gunboats (encircled) positioned
in the vicinity of Hsieh-tai Sheal

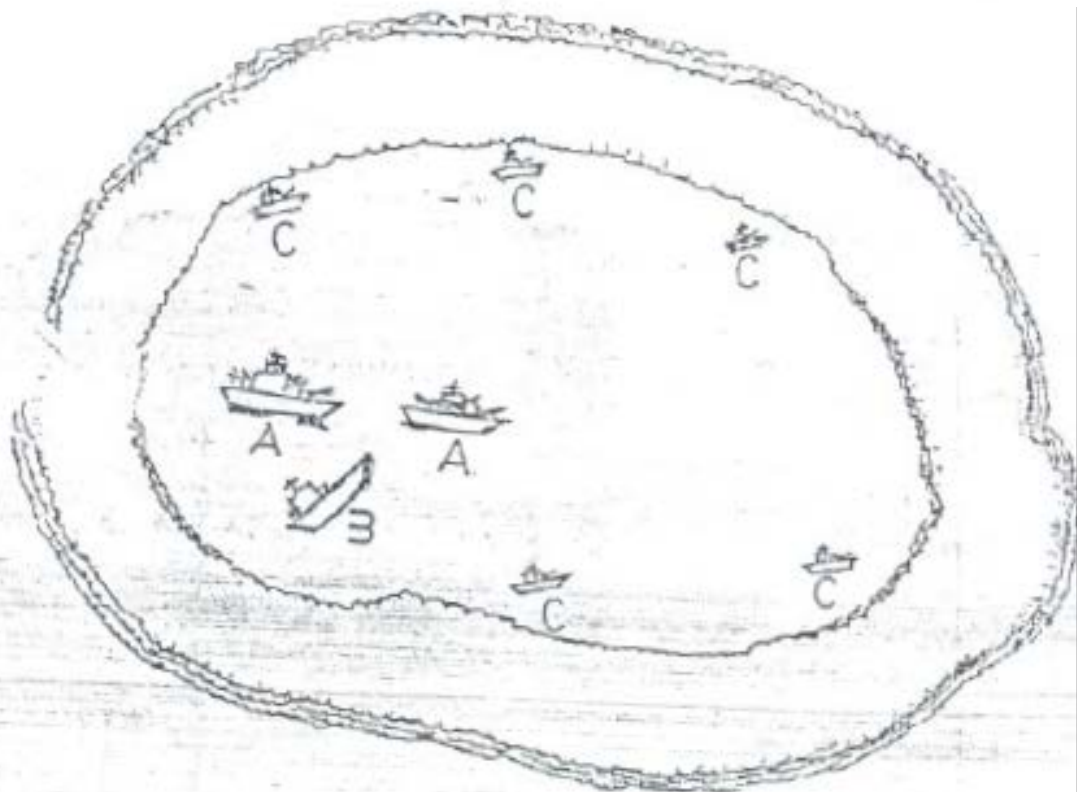
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A larger aerial photo of two (2) of the Chinese gunboats in the vicinity of Mischief Shoal.

CONFIDENTIAL - MORE OR LESS THE RIVER

N
↑
A - 2 = DE
B - 1 = Supply ship
C - 5 = Small crafts



SKETCH OF MISCHIEF SHOAL
& POSITIONS OF PROC SHIPS
TAKEN 250840H JAN 95
A30ARD PN ISLANDER
MORE OR LESS 6 MILES

Annex 54

Letter from Alexander P. Pama, Captain, Philippine Navy, to Alicia C. Ramos, Assistant Secretary for Asian and Pacific Affairs, Department of Foreign Affairs, Republic of the Philippines (13 Nov. 2004)



SECRET
PUNONGHIMPILAN HUKBONG DAGAT NG PILIPINAS
(Headquarters Philippine Navy)
2335 Pres. M. Roxas Boulevard, Manila

13 NOV 2004

Ms. ALICIA C. RAMOS
Assistant Secretary for Asian and Pacific Affairs
Department of Foreign Affairs
2330 Roxas Boulevard, Pasay City

2004-19

Dear Ms. Ramos:

This is in reference to your letter dated 02 November 2004 requesting for updates on Chinese-built facilities on Mischief Reef and other related activities of other claimant parties in the Kalayaan Island Group (KIG).

Attached is a summary of the requested data for your reference.

Very truly yours,

FOR THE FLAG OFFICER IN COMMAND, PN:

A handwritten signature in black ink, appearing to read "A. Pama".

ALEXANDER P PAMA
Captain, PN(GSC)
AC of NS for Intelligence, N2

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DEVELOPMENTS IN MISCHIEF REEF

- CHINA OCCUPIED MISCHIEF REEF AND CONSTRUCTED FOUR SEPARATE SITES OF CLUSTERED STRUCTURES WITH A CHINESE FLAG HOISTED ATOP EACH OF THE SITE IN JAN 1995.
- FROM MERE HUTS OF OCTAGONAL SHAPE, ON 28 OCT 1998, CHINA BEGAN FORTIFYING THE STRUCTURES AT MISCHIEF REEF. AT THE NORTHERN (SITE 3) STRUCTURE, A THREE-STOREY MAIN BUILDING WAS ERECTED, WHILE SMALLER THREE-STOREY EDIFICE WAS BUILT AT THE SOUTHERN (SITE 2) STRUCTURE. THE OTHER TWO STRUCTURES WERE DISMANTLED.
- IN FEB 1999, CHINA'S CONSTRUCTION OF NEW STRUCTURES ON MISCHIEF REEF WAS COMPLETED. THE PREVIOUSLY CONSTRUCTED FOUR STRUCTURES WERE CONSOLIDATED INTO TWO LARGER ONES. AT SITE 2, THREE-STOREY MAIN BUILDING WAS ERECTED WHILE A SMALLER THREE-STOREY BUILDING WAS AT SITE 3. BOTH FACILITIES WERE EQUIPPED WITH COMMUNICATION EQUIPMENT AND WHARVES. THE MAIN BUILDING AT SITE 3 ALSO HAD WHAT APPEARED TO BE A HELICOPTER LANDING PAD. THE OCTAGONAL STRUCTURES PREVIOUSLY CONSTRUCTED ON SITES 1 AND 4 WERE DISMANTLED.
- IN MARCH 1999, THE BUILDINGS WERE BELIEVED TO HAVE BEEN INAUGURATED WHEN PHILIPPINE RECONNAISSANCE PERSONNEL NOTICED A STREAMER DISPLAYED AT ONE SITE THAT READ "A WARM WELCOME TO THE LEADERS ON THEIR ARRIVAL FOR INSPECTIONS AND GUIDANCE."

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- IN APRIL 2001, CHINA HAD MINIMAL CONSTRUCTION ACTIVITY BUT INSTALLED A CROSS-SLOT RADAR ON TOP OF THE CONCRETE BUILDINGS.
- THE FACILITIES AND STRUCTURES REMAIN UNCHANGED DURING THE OCTOBER 2004 AERIAL SURVEY.

OTHER RELEVANT ACTIVITIES OF OTHER CLAIMANT COUNTRIES IN THE KIG:

- IN JULY 03, VIETNAM DISCLOSED ITS AIM OF EXPANDING ITS DEEP-SEA FISHING IN THE KIG WITH A PLAN TO INSTALL A \$1.29 MILLION FISHERIES /LOGISTICS CENTER IN THE AREA.
- IN SEPTEMBER 03, VIETNAM ASSERTED ITS CLAIM OVER THE SPRATLYS BY APPREHENDING A CHINESE FISHING VESSEL AND ITS CREW FOR ILLEGALLY OPERATING NEAR VIETNAMESE-OCCUPIED ISLANDS. THE VESSELS AND ITS CREW WERE FREED AFTER 5 DAYS.
- IN OCTOBER 03, THE VIETNAMESE GOVERNMENT DECLARED ITS INTENTION TO ORGANIZE ITS FIRST EVER TOURIST TOURS TO THE SPRATLYS AND DEVELOP THE AREA AS A TOURIST SPOT. IT HAS ASSIGNED THE DEFENSE AND TOURISM MINISTRIES TO DRAFT THE PROJECT ON A TRIAL BASIS.
- IN NOVEMBER 2003, TAIWAN DROVE AWAY VIETNAMESE FISHING BOATS IN THE SPRATLYS. THIS ACT WAS IMMEDIATELY DENOUNCED BY VIETNAM AS A VIOLATION OF ITS SOVEREIGNTY

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AND THAT SUCH ACT WAS IN CONTRADICTION TO THE COMMON TREND OF PEACE, STABILITY AND DEVELOPMENT IN THE REGION.

- ON 19 APRIL 2004, VIETNAM SUCCESSFULLY LAUNCHED ITS FIRST OFFICIALLY-ORGANIZED TOURIST TOURS TO THE SPRATLYS AS SIXTY (60) VIETNAMESE TOURISTS FROM HO CHI MINH WENT ON A 7-DAY ROUND TRIP TO SRV-OCCUPIED TRUONG SA (LAGOS) ISLAND AND THEN TO THE NEARBY REEFS WHERE THEY WENT SCUBA DIVING. CHINA STRONGLY PROTESTED SRV'S MOVE WHILE THE PHILIPPINES SUGGESTED THE NEED FOR A NEW CODE OF CONDUCT IN THE WEST PHILIPPINE SEA.
- ON 14 MAY 2004, VIETNAM BEGAN RENOVATING AN UNUSED 600-METER-LONG AIRPORT RUNWAY IN SPRATLY ISLAND PURPORTEDLY FOR TOURISM PURPOSES. UPON ITS COMPLETION BY THE END OF THE YEAR, SMALL AIRCRAFT WILL BE ABLE TO LAND IN THE ISLAND.
- ON 22 MAY 2004, THE CLAIMANT-COUNTRIES TO THE SPRATLY ISLANDS AGREED TO MEET IN JUNE 2004 TO DISCUSS VIETNAM'S RECENT MOVES WHICH ARE CONSIDERED TO BE IN VIOLATION OF THE 2002 CODE OF CONDUCT IN THE SOUTH CHINA SEA.
- TAIWAN EXPRESSED DISAPPOINTMENT OVER ITS EXCLUSION FROM THE PLANNED MEETING.
- ON 08 JULY 2004, CHINA HAS PERMITTED ITS TOP OIL PRODUCER, PETRO-CHINA TO EXPLORE FOR OIL AND GAS IN THE SOUTHERN PART OF THE SOUTH CHINA SEA NEAR THE SPRATLYS IN VIOLATION TO THE 2002 CODE OF CONDUCT IN THE SOUTH CHINA SEA.

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- ON 08 JULY 2004, THE PHILIPPINE MILITARY HAS INTENSIFIED INTELLIGENCE MONITORING TO PINPOINT WHERE CHINA WILL CONDUCT ITS PLANNED PETROLEUM EXPLORATION IN THE SOUTHERN PART OF SOUTH CHINA SEA. IF IT IS DETERMINED THAT THE EXPLORATION WILL TAKE PLACE IN THE SPRATLYS, THE GOVERNMENT WILL FILE A CASE WITH THE INTERNATIONAL COURT OF JUSTICE AGAINST CHINA. CHINESE PETROLEUM COMPANY PETROCHINA HAS ADMITTED BEING GRANTED A LICENSE BY THE CHINESE MINISTRY OF LAND RESOURCES TO SEARCH FOR OIL IN THE SOUTH CHINA SEA, BUT HAS SAID THE DRILL SITE IS OUTSIDE THE SPRATLYS. THE MILITARY WILL VERIFY THE LOCATION OF THE EXPLORATION SITE. THE PHILIPPINES, WHICH HAS BEEN ADVOCATING JOINT DEVELOPMENT OF THE DISPUTED AREA BY CLAIMANTS, HAS SIGNED, THROUGH PNOC EXPLORATION CORPORATION (PNOC-EC), A LETTER OF INTENT WITH THE STATE-OWNED CHINA NATIONAL OFFSHORE OIL CORPORATION (CNOOC) FOR JOINT OIL EXPLORATION BUT NOT IN THE SPRATLY ISLANDS. THE CNOOC AND PNOC-EC HAVE FORMED A JOINT WORKING COMMITTEE TO SELECT POSSIBLE AREAS IN THE SOUTH CHINA SEA SUITABLE FOR OIL SEARCH AND DEVELOPMENT.
- ON 01 SEPTEMBER 2004, THE PHILIPPINES AND CHINA SIGNED FIVE BILATERAL AGREEMENTS THAT INCLUDED JOINT OIL EXPLORATIONS IN THE SPRATLYS. THE FIRST MEMORANDUM OF AGREEMENT (MOU) WAS ON A THREE-YEAR JOINT MARINE SEISMIC UNDERTAKING BETWEEN THE STATE-OWNED PHILIPPINE NATIONAL OIL COMPANY (PNOC) AND CHINA NATIONAL OFFSHORE OIL COMPANY (CNOOC), WHICH WOULD FOCUS ON PRE-EXPLORATION RESEARCH STUDY ON THE SPRATLYS. THE TWO

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COUNTRIES ALSO SIGNED AN AGREEMENT ON FISHERY COOPERATION TO PREVENT POACHING INCIDENTS AMONG CHINESE AND FILIPINO FISHERMEN IN THE AREA. THE PHILIPPINES, HOWEVER, REITERATED THAT THE AGREEMENT ON JOINT EXPLORATION DID NOT MEAN THAT BOTH COUNTRIES WOULD GIVE UP THEIR RESPECTIVE TERRITORIAL CLAIMS IN THE AREA, AS THE AGREEMENT WAS MERELY AN UNDERTAKING TO STUDY, RESEARCH AND FIND OUT PETROLEUM POTENTIAL, WHICH THE TWO OIL COMPANIES AGREED TO SHARE DATA AND COSTS OF OPERATION. THE OTHER BILATERAL AGREEMENTS INCLUDED THE FISHERIES COOPERATION AGREEMENT, THE MEMORANDUM OF UNDERSTANDING ON THE NORTH RAILWAY PROJECT, THE TOURISM AGREEMENT AND ACCORD GRANTING VISA EXEMPTIONS FOR OFFICIALS AND DIPLOMATIC PASSPORT HOLDER

- THE PHILIPPINE GOVERNMENT CLARIFIED ON 02 SEP 04 THAT THE AGREEMENT ENTERED INTO BY THE PHILIPPINES AND CHINA ON THE JOINT MARINE SEISMIC UNDERTAKING IN THE SOUTH CHINA SEA WAS NOT AN INDICATION THAT THE PHILIPPINES WAS GIVING UP ITS CLAIM OVER THE DISPUTED AREA. IT ADDED THAT THE AGREEMENT WAS NOT FOR AN OIL EXPLORATION VENTURE BUT A PRE-EXPLORATION RESEARCH STUDY THAT WAS ALLOWED BY THE 2002 DECLARATION OF CONDUCT OF PARTIES IN THE SOUTH CHINA SEA. A BRIEFING DOCUMENT ON THE AGREEMENT PROVIDED BY MALACANANG MAINTAINED THAT THE VENTURE WOULD NOT DIMINISH THE PHILIPPINE CLAIM TO THE SPRATLYS.
- ON 10 SEPTEMBER 2004, VIETNAM CRITICIZED PLANS BY CHINA AND THE PHILIPPINES TO TAP POTENTIAL OIL DEPOSITS AROUND THE SPRATLY ISLANDS AND REAFFIRMED ITS SOVEREIGNTY

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OVER THE DISPUTED ISLANDS. VIETNAM ACCUSED THE TWO COUNTRIES OF DEVIATING FROM THE 2002 CODE OF CONDUCT WHICH STIPULATED THAT PARTIES SHOULD AVOID ANY ACTIONS WHICH MIGHT HEIGHTEN TENSIONS IN THE AREA. MOREOVER, VIETNAM EXPRESSED DISAPPOINTMENT OVER THE SIGNING OF BILATERAL AGREEMENTS BY THE PHILIPPINES AND CHINA WITHOUT ANY CONSULTATION FROM OTHER PARTIES INVOLVED AND ASKED CHINA AND THE PHILIPPINES TO PROVIDE INFORMATION ON THIS AGREEMENT.

- ON 13 SEPTEMBER 2004, TAIWAN CALLED ON ALL CLAIMANT-COUNTRIES TO THE SPATLYS TO ADDRESS THE ISSUE OF THE JOINT EXPLORATION AGREEMENT BETWEEN THE PHILIPPINES AND CHINA THROUGH PEACEFUL NEGOTIATIONS. THE ISLAND-STATE ISSUED THE CALL AFTER VIETNAM PROTESTED AN AGREEMENT BETWEEN THE PHILIPPINES AND CHINA TO CONDUCT A SEISMIC SURVEY AROUND THE DISPUTED ISLAND GROUP TO IDENTIFY POTENTIAL OIL AND GAS RESERVES.
- ON 21 OCTOBER 2004, VIETNAM DISMISSED CHINA'S PROTESTS OVER ITS INVITATION FOR OIL AND GAS COMPANIES TO SUBMIT BIDS FOR EXPLORATION RIGHTS NEAR THE DISPUTED SPATLYS ISLANDS IN THE SOUTH CHINA SEA. STATE-OWNED PETRO-VIETNAM OPENED THE TENDER PROCESS ON 01 OCT 04 FOR BLOCKS 122 - 130 IN THE PHU KHAN BASIN OFF VIETNAM'S SOUTH-CENTRAL COAST AND SET A DEADLINE ON 31 MAR 05 FOR BID SUBMISSIONS. VIETNAM AFFIRMED THAT THESE NINE (9) BLOCKS ARE ENTIRELY SITUATED ON ITS CONTINENTAL SHELF AND ITS ENTIRETY BELONGS SOLELY TO SAID COUNTRY.

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- ON 28 OCTOBER 2004, THE PHILIPPINE GOVERNMENT IS SERIOUSLY STUDYING VIETNAM'S ANNOUNCEMENT THAT PETRO VIETNAM, ITS NATIONAL OIL COMPANY, HAS PLANS TO BEGIN DRILLING FOR OIL IN THE SPRATLY ISLANDS BUT HAS NOT SPECIFIED WHAT MOVES THE DEPARTMENT WILL TAKE TO PREVENT THE OIL EXPLORATION. HOWEVER, THE GOVERNMENT HAS SAID THAT IT WILL CONTINUOUSLY HOLD DIALOGUES NOT ONLY WITH VIETNAM BUT WITH OTHER CLAIMANT COUNTRIES ON THE NEED TO MAINTAIN THE STATUS QUO IN THE SPRATLYS.

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Annex 55

Report from Lt. Commander Angeles, Philippine Navy, to Flag Officer in Command, Philippine Navy, No. N2E-F-1104-012 (18 Nov. 2004)

"Mula sa Karagatan... Kapayapaan, Kaunlaran, Magandang Kinabukasan"

DISPOSITION FORM		Security Classification: SECRET
File Reference: N2E-F-1104-012	Subject: Foreign Vessel Intrusion in Scarborough Shoal for the Month of October 2004	

To: FOIC, PN From: CNS Date: 26/11/2004 Comment No:
Via: V/COM, PN LCDR ANGELES/ALPJR/vec/cgm8434754

[Signature] N2 18 Nov 04

SUMMARY:

1. During the period, two (2) *People's Republic of China* (PROC) fishing vessels operated in Scarborough Shoal.
2. On 31 October 2004, one (1) PROC vessel manned by five (5) crew members was intercepted by PN vessel, BRP EMILIO JACINTO (PS-35), at around 1215H while operating along the waters off Scarborough Shoal. The other vessel manned by three (3) crew members was intercepted an hour later. Both vessels were loaded with giant clams, and one with scraps from a shipwrecked vessel which had been in the shoal for a considerable period of time. The PN ship ordered the ships' captains of the two (2) vessels to throw the giant clams and scrap materials overboard. They were later advised to leave the shoal. The Chinese vessels subsequently headed for Hainan Island.
3. During the same period last year, seven (7) foreign vessels were monitored in Scarborough Shoal. Of these, four (4) were PROC fishing vessels, while the rest were unidentified.
4. This is the first interception effected in Scarborough Shoal for 2004. The last incident occurred on 23 February 2003 involving five (5) PROC fishing boats. Three (3) of these vessels were released while the other two (2) escaped.
5. Anent the foregoing, attached are the proposed letters to CSAFP (Attn: J2), DFA and NSC.

RECOMMENDATION:

6. Approval of para 5 and FOIC, PN signature on the letter to Sec. Ebdane.

11/11/04
DATE

CONCUR/NOT CONCUR

[Signature]

VICE COMMANDER, PN

[Signature]
U. Y. ANZALAN

[Signature]

<DATE>

APPROVED/DISAPPROVED

FOIC, PN

Encls:

- a) Vessel sightings in Scarborough Shoal
- b) Vessel sightings per Nationality at Scarborough Shoal
- c) Comparative Chart on Monthly Vessel sightings at Scarborough Shoal
- d) Trend in Vessel Sighting at Scarborough Shoal from 1999 to October 2004

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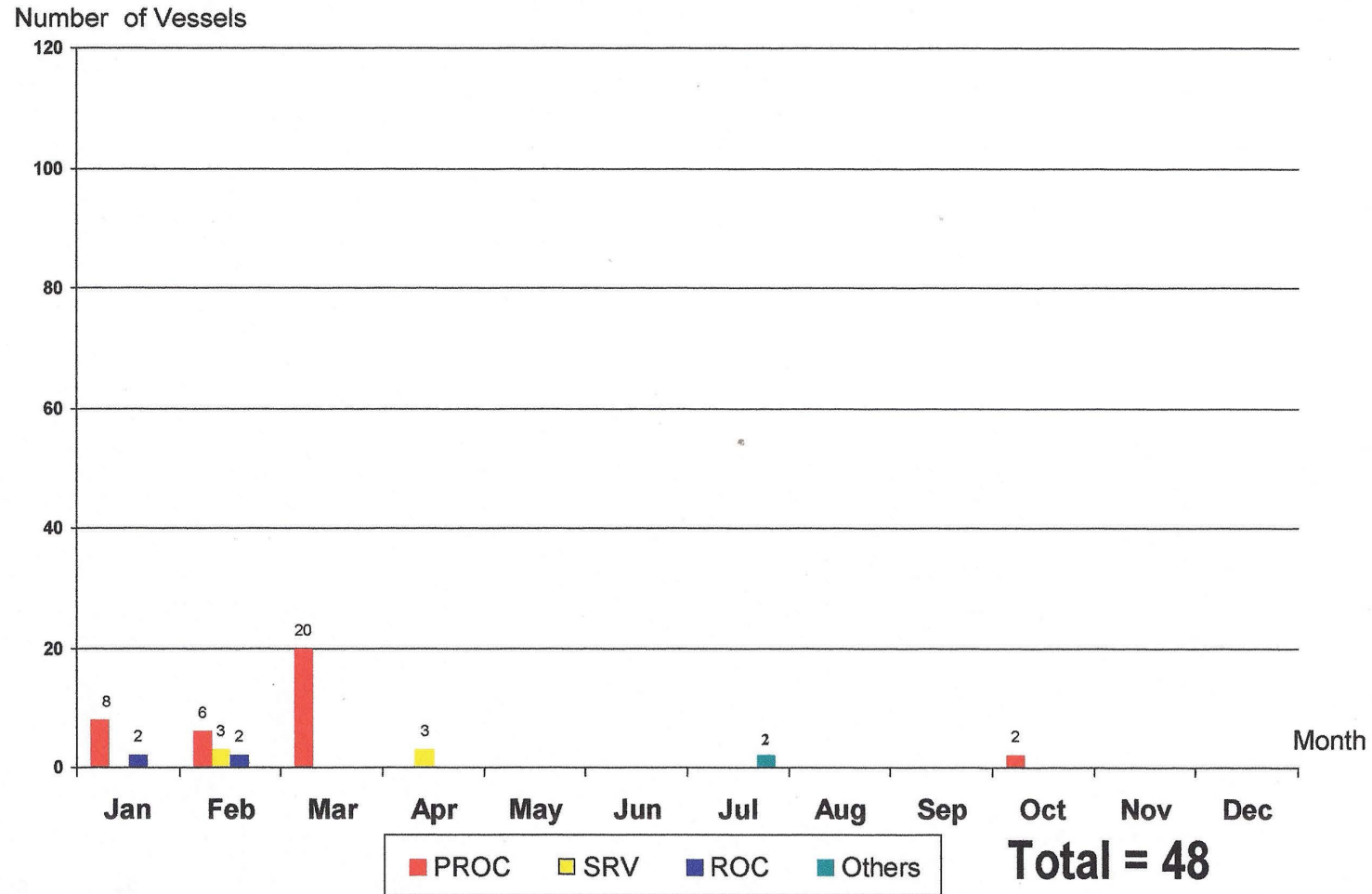
**VESSEL SIGHTINGS IN SCARBOROUGH SHOAL
2004**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	TOTAL
Number of Naval Air/Maritime Surveillance Sorties	2	3	1	1	1	0	2	1	0	1	12
NATIONALITY											
PROC	8	6	20							2	36
SRV		3		3							6
ROC	2	2									4
Others							2				2
Total Number of Vessels Sighted	10	11	20	3	0	0	2	0	0	2	48

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Vessel Sightings per nationality in Scarborough Shoal January to October 2004

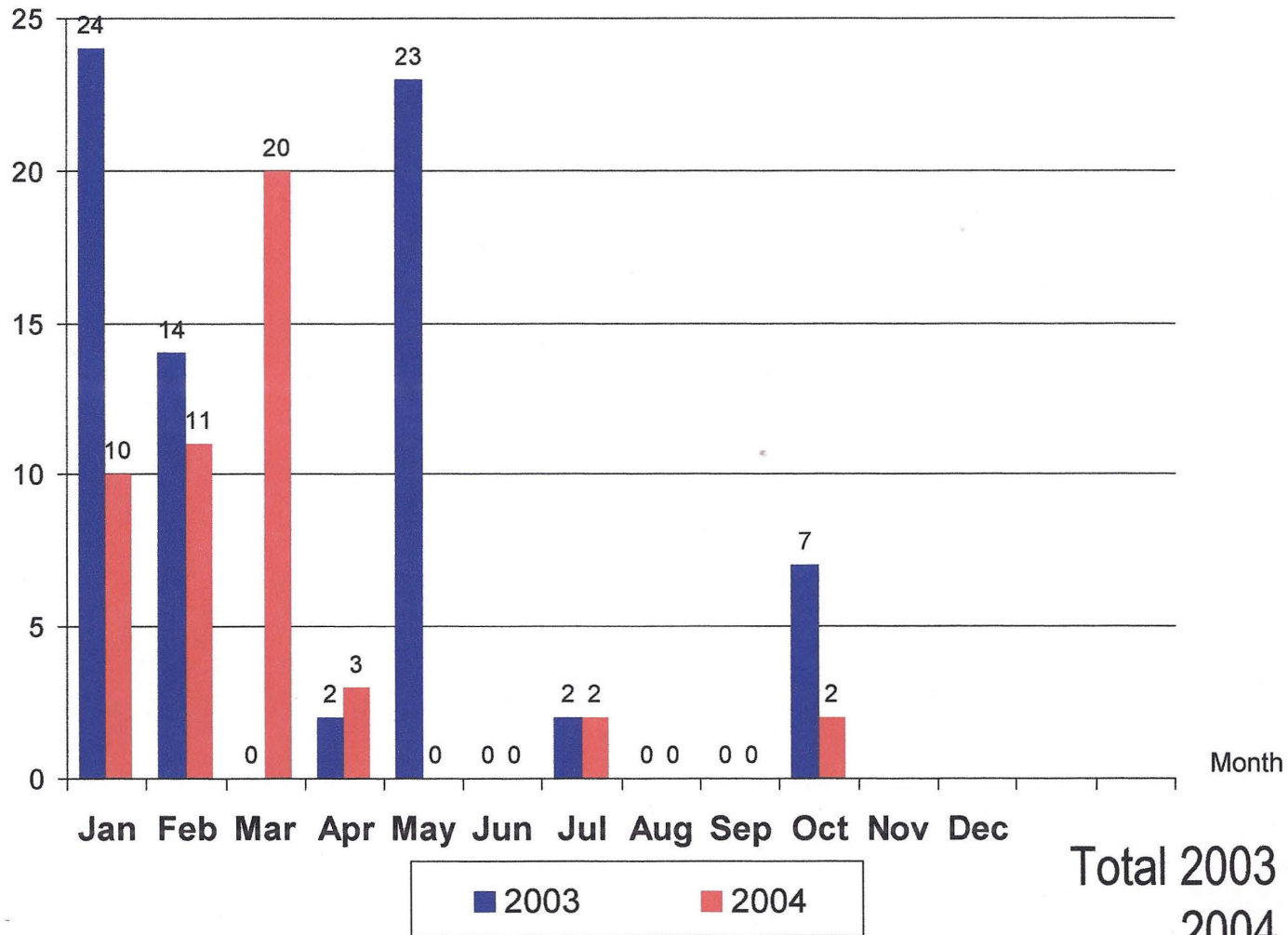


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**Comparative Chart on Monthly Vessel Sightings at Scarborough Shoal
(Jan – Oct 03 and Jan – Oct 04)**

Number of Vessels

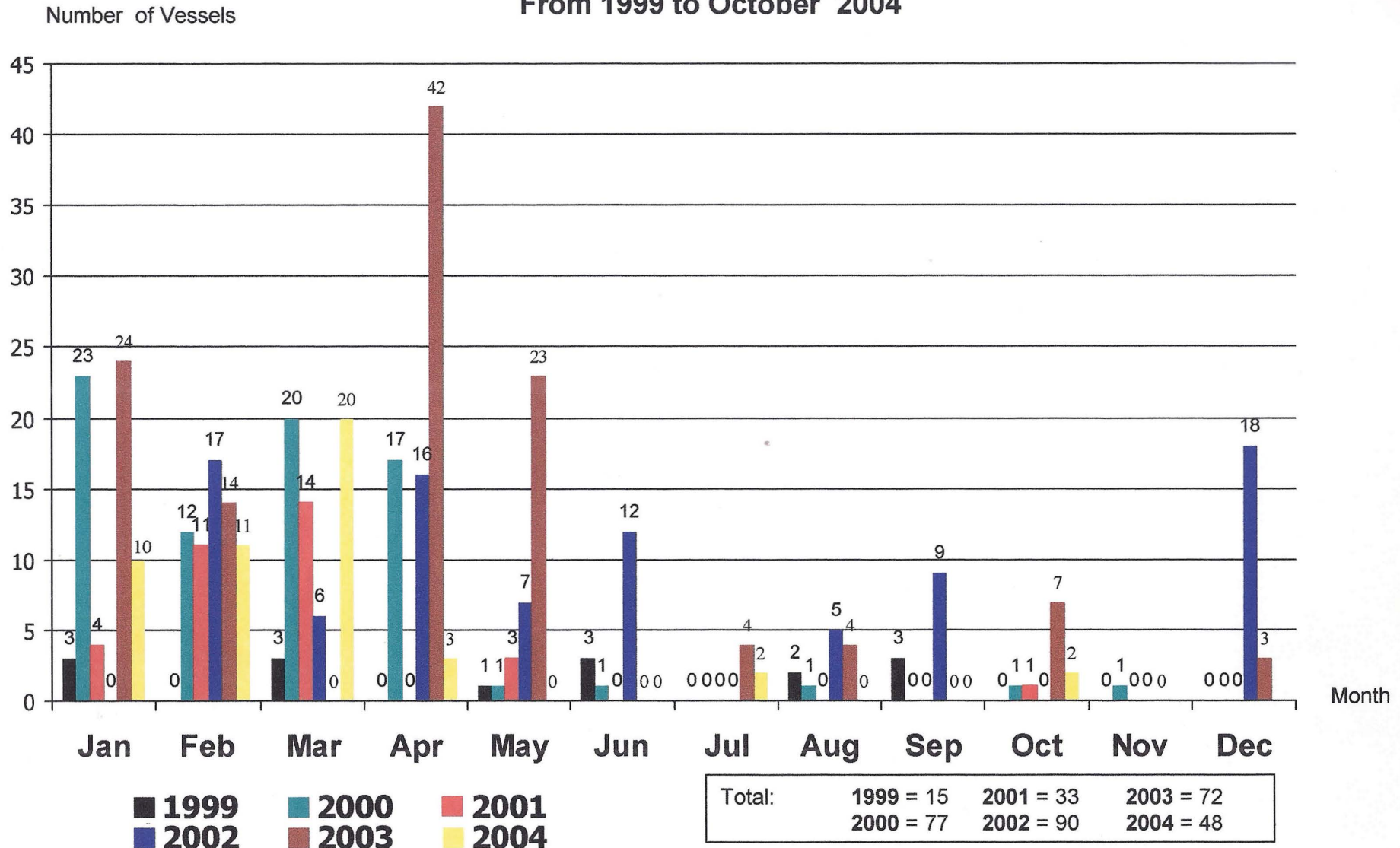


Total 2003 = 72
2004 = 48

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**Trend in Vessel Sightings at Scarborough Shoal
From 1999 to October 2004**



SECRET




SECRET
PUNONGHIMPILAN HUKBONG DAGAT NG PILIPINAS
(Headquarters Philippine Navy)
 2335 Pres. M. Roxas Boulevard, Manila

SUBJECT: Foreign Vessel Intrusions in Scarborough Shoal

TO: **Chief of Staff, AFP**
 General Headquarters
 Camp General Emilio Aguinaldo
 Quezon City
 (Attn: DCS for Intelligence, J2)

1. For the month of October 2004, two (2) *People's Republic of China* (PROC) fishing vessels operated in Scarborough Shoal.
2. On 31 October 2004, one (1) PROC vessel manned by five (5) crew members was intercepted by BRP EMILIO JACINTO (PS-35) at around 1215H while operating along the waters off Scarborough Shoal. The other vessel manned by three (3) crew members was intercepted an hour later. Both vessels were loaded with giant clams, and one with scraps from a shipwrecked vessel which has been in the shoal for a considerable period of time. The PN ship ordered the captains of the two (2) vessels to throw the giant clams and scrap materials overboard and later advised them to leave the shoal. The Chinese vessels subsequently headed for Hainan Island.
3. During the same period last year, seven (7) foreign vessels were monitored in Scarborough Shoal. Of these, four (4) were PROC fishing vessels, while the rest were unidentified.
4. This is the first interception effected in Scarborough Shoal for 2004. The last incident occurred on 23 February 2003 involving five (5) PROC fishing boats. Three (3) of these vessels were released while the other two (2) escaped.
5. For information.

FOR THE FLAG OFFICER IN COMMAND, PN:


ALEXANDER P PAMA
 Captain, PN(GSC)
 AC of NS for Intelligence, N2

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**PUNONGHIMPILAN HUKBONG DAGAT NG PILIPINAS
(Headquarters Philippine Navy)
2335 Pres. M. Roxas Boulevard, Manila**

Ms. ALICIA C. RAMOS

Assistant Secretary for Asian and Pacific Affairs
Department of Foreign Affairs
2330 Roxas Boulevard, Pasay City

Dear Ms. Ramos:

For the month of October 2004, two (2) *People's Republic of China* (PROC) fishing vessels operated in Scarborough Shoal.


On October 31, 2004, one (1) PROC vessel manned by five (5) crew members was intercepted by BRP EMILIO JACINTO (PS-35) at around 12:15 PM while operating along the waters off Scarborough Shoal. The other vessel manned by three (3) crew members was intercepted an hour later. Both vessels were loaded with giant clams, and one with scraps from a shipwrecked vessel which has been in the shoal for a considerable period of time. The PN ship ordered the captains of the two (2) vessels to throw the giant clams and scrap materials overboard and later advised them to leave the shoal. The Chinese vessels subsequently headed for Hainan Island.

During the same period last year, seven (7) foreign vessels were monitored in Scarborough Shoal. Of these, four (4) were PROC fishing vessels, while the rest were unidentified.

This is the first interception effected in Scarborough Shoal for 2004. The last incident occurred on February 23, 2003 involving five (5) PROC fishing boats. Three (3) of these vessels were released while the other two (2) escaped.

Very truly yours,

FOR THE FLAG OFFICER IN COMMAND, PN:


ALEXANDER P PAMA
Captain, PN(GSC)
AC of NS for Intelligence, N2

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**FLAG OFFICER IN COMMAND
PHILIPPINE NAVY**
Roxas Boulevard, Manila

DEC 0 2 2004

Honorable **HERMOGENES E. EBDANE Jr.**
National Security Adviser and
Director General, National Security Council
NICA Compound, V. Luna Road cor East Ave.
Quezon City 1104

Dear Secretary Ebdane:

For the month of October 2004, two (2) *People's Republic of China* (PROC) fishing vessels operated in Scarborough Shoal.

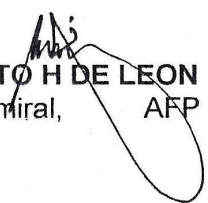
On October 31, 2004, one (1) PROC vessel manned by five (5) crew members was intercepted by BRP EMILIO JACINTO (PS-35) at around 12:15 PM while operating along the waters off Scarborough Shoal. The other vessel manned by three (3) crew members was intercepted an hour later. Both vessels were loaded with giant clams, and one with scraps from a shipwrecked vessel which has been in the shoal for a considerable period of time. The PN ship ordered the captains of the two (2) vessels to throw the giant clams and scrap materials overboard and later advised them to leave the shoal. The Chinese vessels subsequently headed for Hainan Island.

During the same period last year, seven (7) foreign vessels were monitored in Scarborough Shoal. Of these, four (4) were PROC fishing vessels, while the rest were unidentified.

This is the first interception effected in Scarborough Shoal for 2004. The last incident occurred on February 23, 2003 involving five (5) PROC fishing boats. Three (3) of these vessels were released while the other two (2) escaped.

For the information of the Honorable Secretary.

Respectfully yours,


ERNESTO H DE LEON
Vice Admiral, AFP

SECRET

CONFIDENTIAL

PHILIPPINE NAVY
HEADQUARTERS PHILIPPINE FLEET
Naval Base Cavite, Sangley Point
Cavite City

F2F-153-04

11 November 2004

From: Commander, Philippine Fleet
To : Flag Officer In Command, Philippine Navy
Attention: AC of NS, N2

Subj : Maritime Patrol in Scarborough Shoal

Ref : After Mission Report of PS35

Encl : Pictures

1. On or about 310753H Oct 04, while BRP EMILIO JACINTO (PS35) was conducting maritime patrol at a distance of 5.6 NM SE from the south entrance of Scarborough Shoal, PS35 spotted two (2) unidentified vessels inside the shoal. PS35 initiated to establish radio contact with said two (2) unidentified vessels thru radio frequency/channel 16. Repeatedly, the OOW of PS35 send radio signals by giving the unit's nationality purpose and its presence. Said vessels were instructed to clear the area as they were within the EEZ of the Philippines, but no response was received from said vessels. Hence on or about 311200H while PS35 was lying to at vicinity 4.8 NM SW off ship wreck, dispatched one (1) officer and a team of NSWG on board a rubber boat to conduct board and search operation.

2. Board and search conducted on the two (2) fishing vessels revealed the following:


- a) The first fishing vessel was manned by five (5) crewmembers, while the second fishing vessel was manned by three (3) crewmembers all are Chinese nationals.
- b) On board said fishing vessels were giant clams and corals.

3. The boarding team ordered the Chinese crewmembers to throw over boards the corals and clams found on board, while some of it were confiscated to serve as evidence. Afterwhich, crewmembers of said two (2) fishing vessels from Hainan, China were instructed/ordered to leave the area.

4. The boarding team reportedly experienced difficulty communicating with the Chinese crewmembers of said vessels due to language barrier.

5. For information and reference.

FOR THE COMMANDER, PHILIPPINE FLEET:

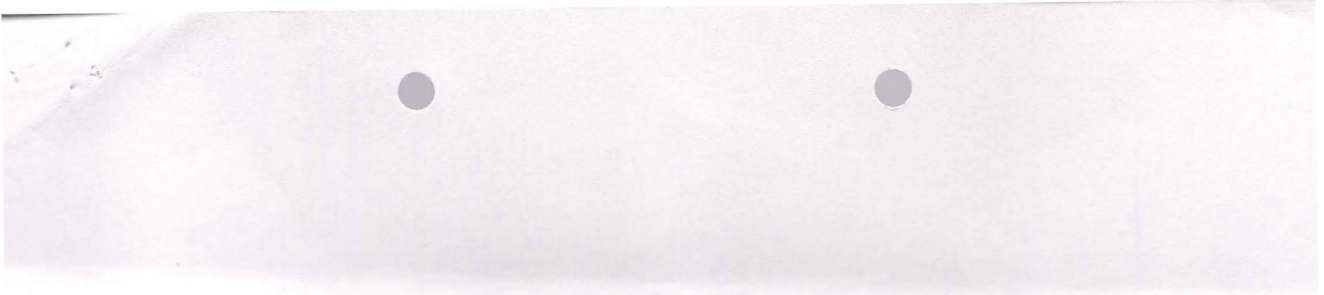

ELPIDIO B MISOLAS JR
CDR PN
AC of FS for Intelligence, F2

CONFIDENTIAL

NOTED
140900A Nov 04
N2, E



**The boat Captain of second vessel throwing
Overboard illegal marine catch**



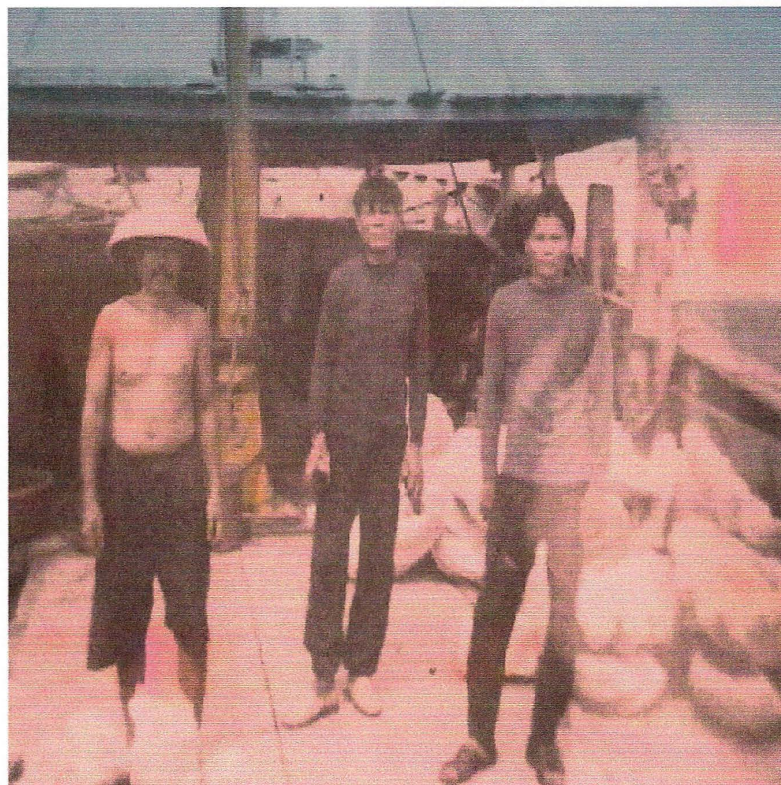
Confiscated Giant Clams



Chinese crew throwing overboard their illegal marine catch



Photo of Chinese Vessel prior the inspection



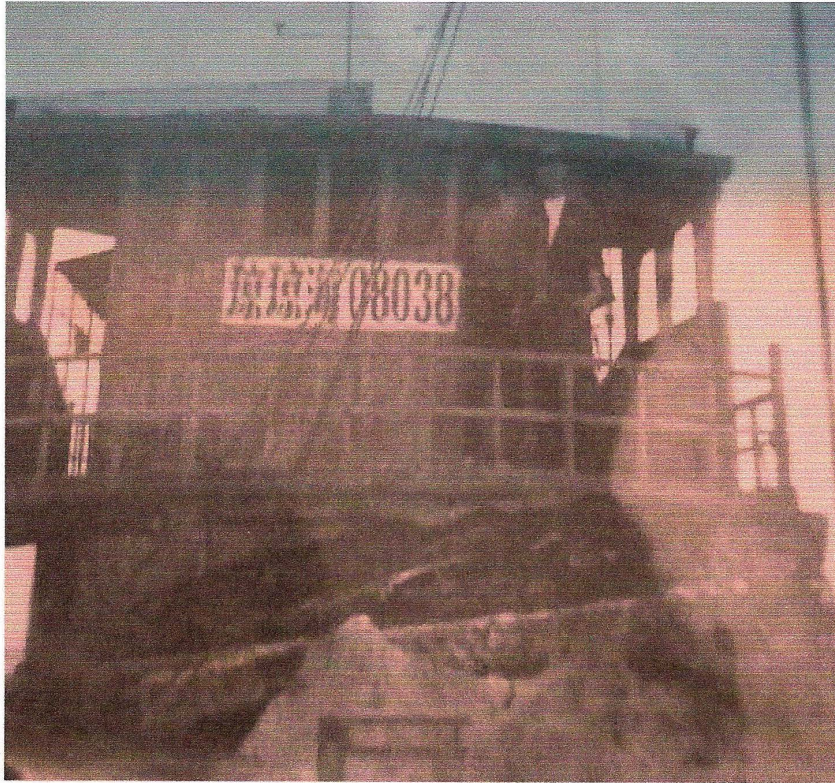
The crew at the bow with giant clams



Photo of the Chinese boat Captain



Starboardside of the First Chinese Vessel



Bridge of the Chinese Vessel

Annex 56

Memorandum from the Embassy of the Republic of the Philippines in Beijing to the Secretary of Foreign Affairs of the Republic of the Philippines, No. ZPE-61-2005-S (28 Oct. 2005)

VERY URGENT AND CONFIDENTIAL

For : SFA
 Fr : Beijing PE
 Re : Meeting with Vice Foreign Minister Wu Dawei, 28 October 2005
 Dt : 28 October 2005
 Rt : ASPAC, OUP
 Cn : ZPE- 61 -2005 - S

Chinese Vice Foreign Minister Wu Dawei requested to meet with the undersigned today, primarily to express China's concern over recent activities in the Huangyan Island (Scarborough Shoal).

Huangyan Island

According to Vice Foreign Minister Wu:

1. The Philippine Navy recently sent military aircrafts and vessels for sovereign patrol missions, and for inspection and punitive measures against ships, including Chinese ships.
2. These actions violated the sovereignty and maritime rights of China, and China expresses serious concern and dissatisfaction over the matter.
3. China maintains indisputable sovereignty over Huangyan Island based on historical and legal evidence.
4. Historically, China had exercised effective jurisdiction over the island since the Yuan Dynasty. The waters surrounding the island had served as traditional fishing grounds for Chinese fishermen.
5. China's claim over Huangyan Island is internationally recognized, and the Philippines never raised any objection to the claim.
6. According to the Philippine Constitution, Philippine territory extends to 118 degrees east longitude. Existing Philippine maps do not include Huangyan Island.
7. It was only in 1997 when the Philippines declared Huangyan Island as part of its territory under the 200-mile exclusive economic zone. This claim by the Philippine side is a violation of the territorial rights and sovereignty of China.
8. In the spirit of friendly relations between the two sides, the Chinese government urges the Philippine side to maintain restraint, and not to take moves to further complicate the situation.
9. The Philippines has time and again dispatched military vessels for inspection and punitive measures, which violated the common ground reached between the two sides. Should the Philippine side continue to dispatch its military vessels in the area, it will not be conducive to stability in the region.
10. Bilateral relations are enjoying a good momentum, and moving forward comprehensively. The Philippine side should bear in mind the overall bilateral relations and strictly observe the common understanding reached between the two sides.

The undersigned said in reply:

1. The Philippine position, of which China is also aware, has long been enunciated by Philippine officials.
2. The Philippine government view on the issue at hand is that acts taken by the Philippine Navy are meant to provide sovereign patrol over its territory.

3. The issue is a sensitive one which requires mutual understanding. Vice Minister Wu urged both sides to stick to the common understanding reached on the issue.

The undersigned expressed hope that the issue will not get in the way of the development of bilateral relations.

Other Matters

Vice Foreign Minister took the occasion to raise other bilateral issues, including the status of the Northrail project, and the reported visit of former President Ramos to Taiwan.

Northrail project

On this issue, Vice Minister Wu said:

1. Recently, some criticism has been leveled against the Philippine President and the Northrail project. The Chinese leadership has been following this issue very closely.
2. China's financial support for the North and South railway projects is substantial, and did not come easy for the Chinese government.
3. Chinese contractors took a closer look at the Northrail project, and found no political or economic problems.
4. China's assistance is never linked to any political objectives. China has no political ends in financing the Northrail project.
5. Recent comments on the project put into question China's image and assistance to other developing countries.
6. China hopes that the Philippine government could take steps to accelerate the implementation of the project. If the pace of the project is quickened, benefits to the people will be realized and could silence those who are opposed to it.

The undersigned expressed his own frustration with the latest turn of events on the project. He added, however, that:

1. The complaint concerning the Northrail project has been dismissed by the court, in which case, the project passed from a legal perspective. He also informed that yesterday, the President and Vice President celebrated the successful relocation of informal settlers in some portions covered by the project.
2. As for informal settlers, the demolition and removal of squatter areas are gathering pace.
3. The Philippine government is serious in implementing its end of the contract.
4. The Philippines is also suffering from the delay in the implementation of the project, and hopes that the Chinese government understands the political conditions in the country. In the final analysis, all parties are interested in the welfare of the people.

Reported Visit of former President Ramos to Taiwan

On this issue, Vice Minister Wu said the following:

1. The MFA received information that former President Ramos is going to Taiwan on 1-6 November.

2. The former President is an old and good friend of the Chinese people. He is the initiator of the Bo' Ao Forum for Asia (BFA).
3. The Chinese government hopes that the Ambassador can work on this issue, as Taiwan is a sensitive matter for the Chinese people.

The undersigned said in reply:

1. The former President will be in China twice in November: he will be in Beijing on 15-16 November to attend the *Businessweek* CEO Summit, and then again in Shenzhen on 20-21 November for the Bo' Ao CEO Summit.
2. The undersigned will convey China's concern to the former President's office.

Recommendation

In Post's view, the alleged visit of former President Ramos to Taiwan will not send the right signals to China as he is the BFA Chairman. Post recommends that the Department make representations with the Ramos for Peace and Development Foundation (RPDEV) to encourage the former President to reconsider his visit to Taiwan.


WILLY C. GAA
Ambassador

2PE-61-05-5

Annex 57

Letter from George T. Uy, Rear Admiral, Armed Forces of the Philippines, to Assistant Secretary, Office of Asia and Pacific Affairs, Department of Foreign Affairs of the Republic of the Philippines (2006)



CHIEF OF NAVAL STAFF
PHILIPPINE NAVY
2335 Pres. M. Roxas Boulevard, Manila

Honorable ERLINDA F. BASILIO
Assistant Secretary
Office of Asia and Pacific Affairs
Department of Foreign Affairs
Pasay City

Dear Secretary Basilio:

This pertains to the routine inspection and apprehension conducted by BRP ARTEMIO RICARTE (PS37) last December 30, 2005 on four (4) Chinese fishing boats at the vicinity of Scarborough Shoal.

The four (4) Chinese fishing boats with a total of 52 crewmembers were found to have in possession assorted corals, live clamshells weighing about 16 tons and illegal fishing gears. As part of Standing Operating Procedure (SOP), the Board and Search Team of PS37 confiscated these items and requested the masters of the fishing boats to sign the Inspection and Apprehension Report (IAR) which specifies the items confiscated by the team but failed to have their signatures due to language barrier. The four (4) Chinese fishing boats were later released and directed to leave the shoal.

Enclosed are extracts of the After Operations Report and photographs taken during the inspection and apprehension.

The Philippine Navy maintains its position that the operation in Scarborough Shoal was a legitimate exercise of Philippine sovereignty over the area.

Very truly yours,

FOR THE FLAG OFFICER IN COMMAND, PN:


GEORGE T UY
Rear Admiral, AFP

EXTRACT AFTER OPERATIONS REPORT

**Extract from After Operation Report of
BRP ARTEMIO RICARTE (PS37)**

CHRONOLOGY OF EVENTS

A. Departure from Rivera Pier, SBMA: (290350H Dec 05)

This unit was prepared to depart at 292100H December 2005, as the NAVSOU2, NISGNL and ACS personnel from NSP is expected to arrive on or before 2100H of same day. At 1830H it was learned that the M35 truck they were riding had a derangement at Rosario, La Union. The group arrived SBMA at exactly 300230H December '05. The ship departed Rivera Pier at exactly 300350H Dec '05 and steamed enroute patrol to Scarborough Shoal.

B. Deployment of Board and Search Team at Scarborough Shoal: (301515H Dec '05)

The weather is good and sea condition varies from moderate to rough. Upon arrival at SE portion of Scarborough Shoal on 301515H Dec '05, four (4) unidentified fishing vessels were sighted inside the shoal. O/A 1515H, this unit immediately deployed two (2) teams of Board and Search composed of one (1) officer and six (6) enlisted personnel each team (Team Alpha and Team Bravo).

Team Alpha that was first launched inspected the first sighted local fishing boat named M/B FLORENCIO manned by certain REY BENITEZ and four (4) crews. The team found no illegal fishing paraphernalia on board. Upon arrival of Team Bravo, they (A and B) requested the owner of local fishing boat to be utilized by the team for Board and Search. Eventually both teams noticed that the sighted unidentified F/V were moving northward of the shoal with approximate distance of 4-5 nautical miles from their position. With the two (2) rubber boats in tow, the group proceeded to the sea. O/A 301715H Dec '05, both teams conducted Board and Search in accordance with the existing procedures and found the following.

- 1) One Chinese F/V with 12 crews including the master, document presented were written in Chinese character and identification card with photo. Said F/V contains endangered species of assorted clamshells of different sizes with an estimated weight of 10 tons.
- 2) One Chinese F/V with 14 crews including the master, presented same documents of identification cards. This F/V contains assorted corals and clamshells with an estimated weight of 5 tons.
- 3) One Chinese F/V with 14 crews including the master, presented same documents of identification cards. This F/V contains assorted fresh fish and live clamshells (TAKLOBO) with a total estimated weight of 500 kgs.
- 4) One Chinese F/V with 12 crews including the master, presented same documents of identification cards. This F/V contains assorted fresh fish and live clamshells (TAKLOBO) with an estimated weight of 500 kgs.

The team also found and confiscated illegal fishing paraphernalia on board four F/Vs. They confiscated the corals and live clamshell that are considered endangered species. Due to language differences, the team uses voice, hand and sign signals in communicating with the Chinese fishermen. Similarly, the team failed to convince the master or any of its members to sign in the Inspection and Apprehension Report. All the documents shown by the Chinese fishermen were photographed and the conducts of inspections were properly recorded using video camera.

O/A 0900H, Board and Search Teams terminated the inspection. Due to the worsening sea condition and poor visibility outside the shoal the teams stayed overnight on board local F/B inside the shoal.

O/A 310600H Dec '05, the teams continued the conduct of board and search to an unidentified F/V positioned at approximately eight (8) nautical miles NW of the shoal and found nine (9) Vietnamese nationals with master on board. Found on board were large fishnets, assorted fresh and salted fish with an estimated weight of 400 kgs. No illegal fishing paraphernalia was found.

O/A 1000H, all foreign fishing vessels were directed to leave the shoal immediately. Board and Search Teams went back to the ship after the last foreign fishing vessels leave the shoal and the activity was officially terminated at 311130H Dec '05. The following confiscated items were subsequently transferred aboardship:

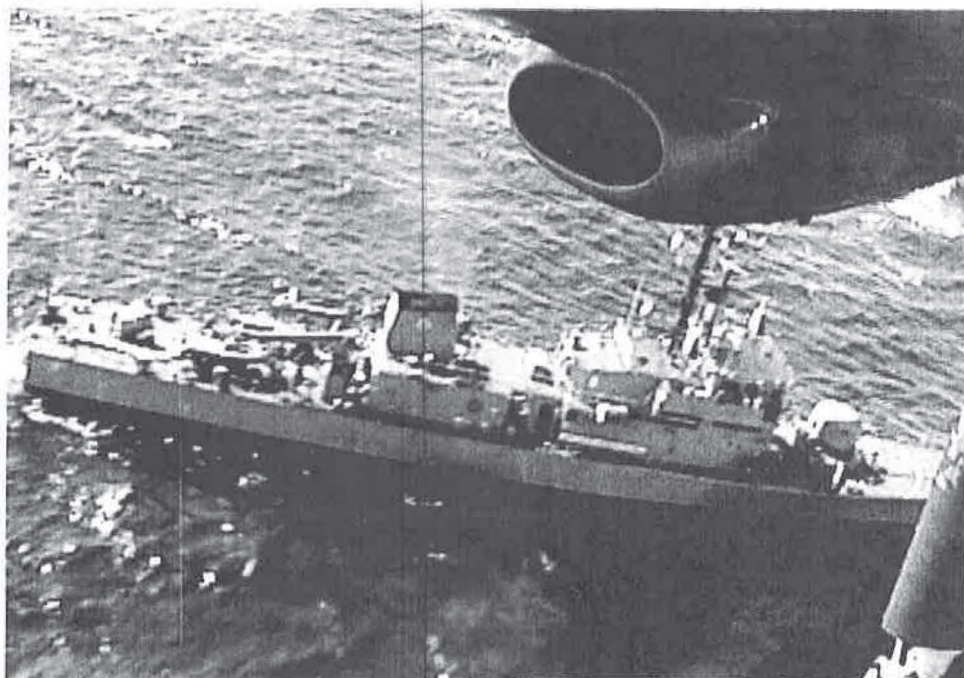
Nomenclature	U/I	QTY
Compressor, Air	ea	2
Suit, Diving	pr	5
Suit, Diving Upper	pc	2
Fins, Diving	pr	5
Pump, Cyanide Fishing	pc	4
Hose, Compressor	mtr	50
Corals, Assorted		
Clam Shells	pc	21

C. Conduct of Sovereignty and Maritime Patrol: (311230H Dec '05)

O/A 311000H Dec '05, this unit acted as air platform for PN Islander 310 while conducting air surveillance patrol at the vicinity of Scarborough Shoal.

O/A 311230H Dec '05, after the embarkation of Board and Search Teams and the confiscated items, this unit continued the conduct of sovereignty patrol at vicinity of Scarborough Shoal ensuring that no foreign fishing vessels are within the 12 nautical mile exclusive zone.

PHOTOGRAPHS



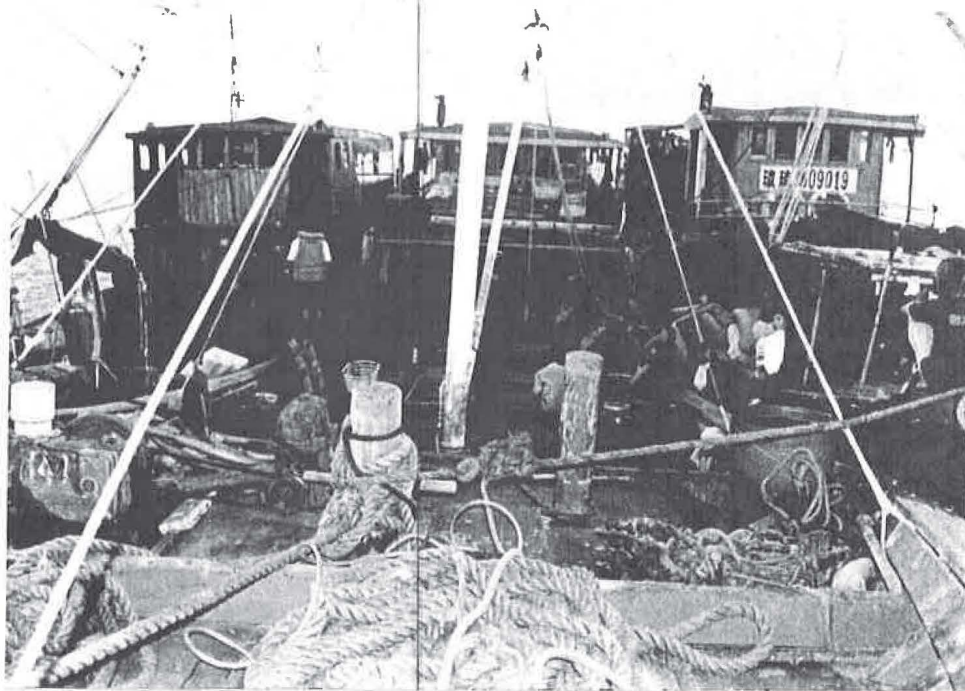
**BRP ARTEMIO RICARTE (PS37) CONDUCTING SOVEREIGNTY
PATROL AT SCARBOROUGH SHOAL**



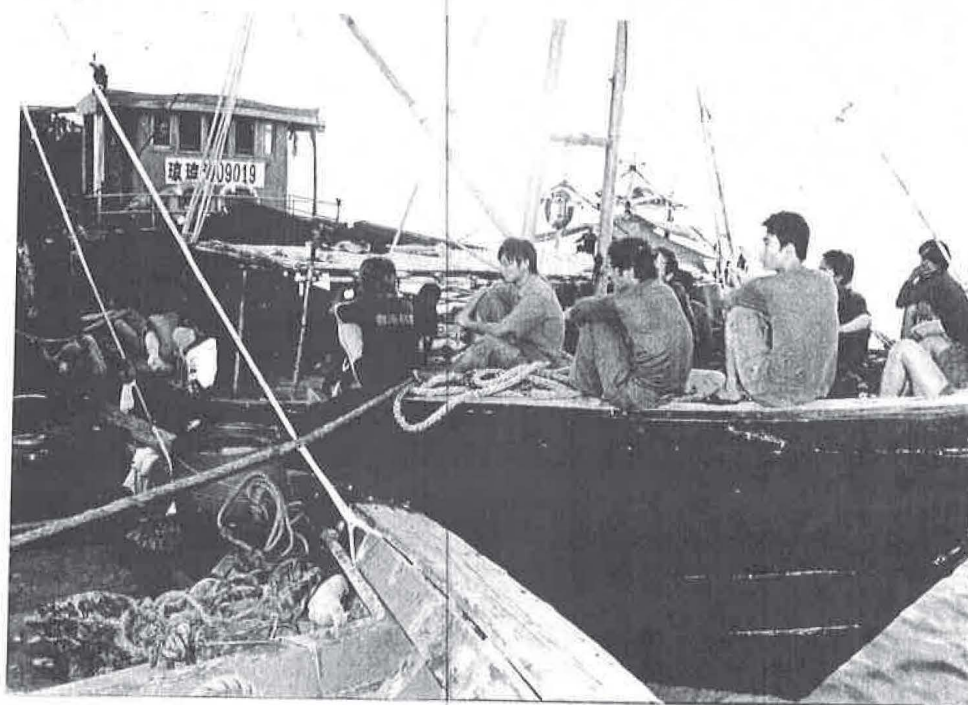


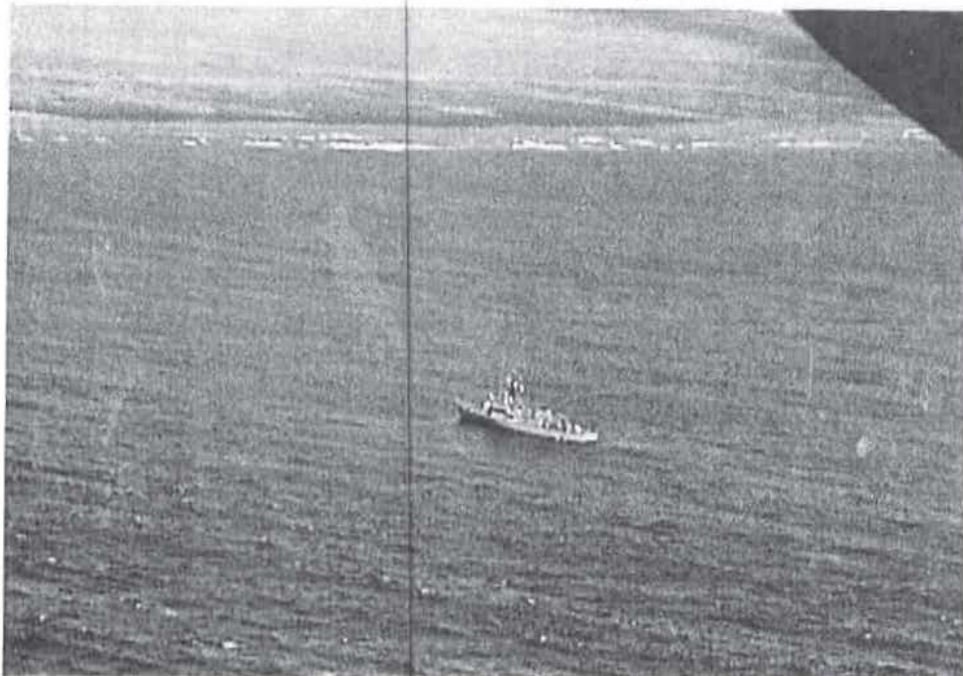
**PROPER TURN-OVER OF CONFISCATED ITEMS TO NSP
PERSONNEL ABOARD NSP HEADQUARTERS**



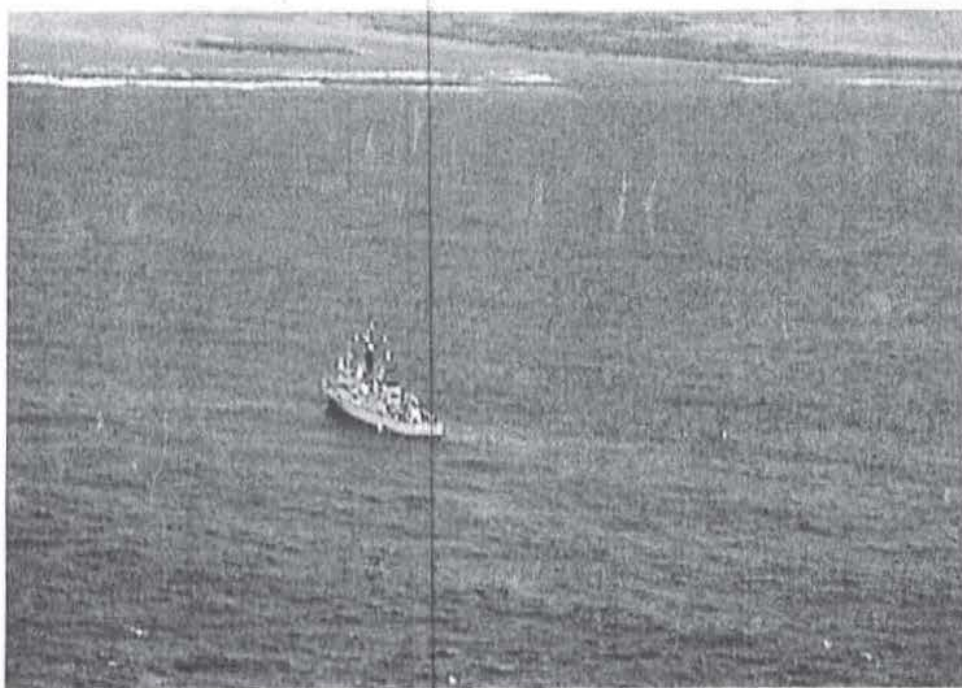


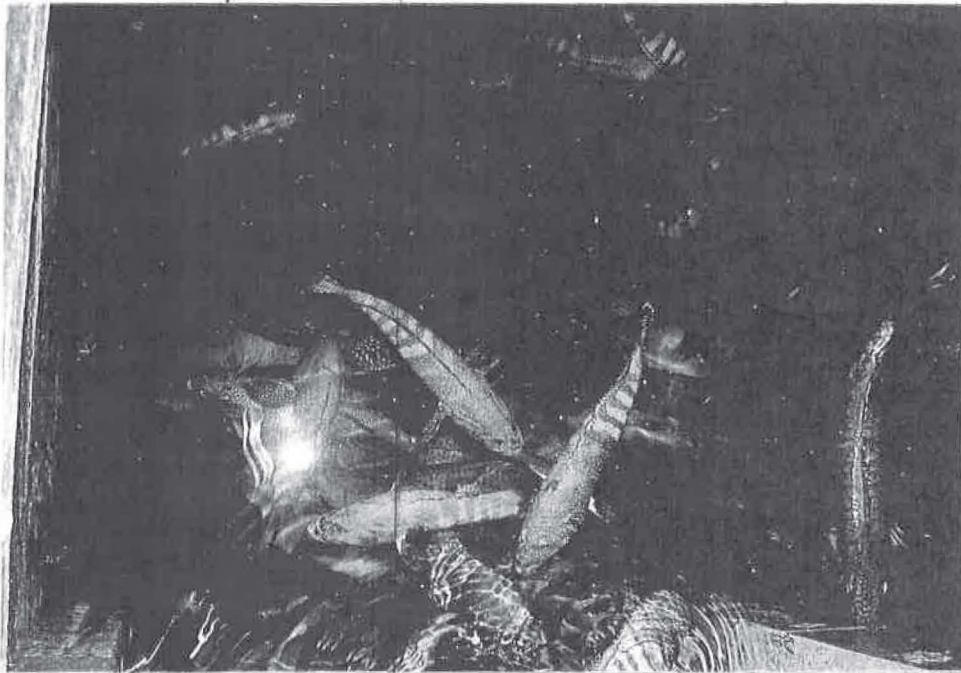
**VBS TEAM INSPECTED THE THREE (3)
CHINESE FV'S**





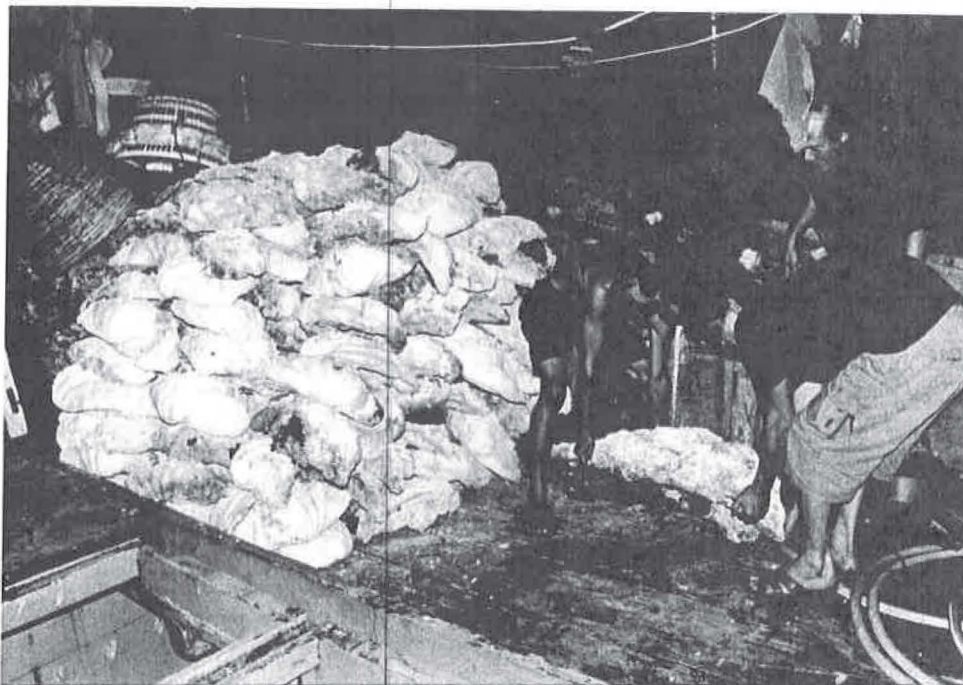
BRP ARTEMIO RICARTE (PS37) AT SCARBOROUGH SHOAL



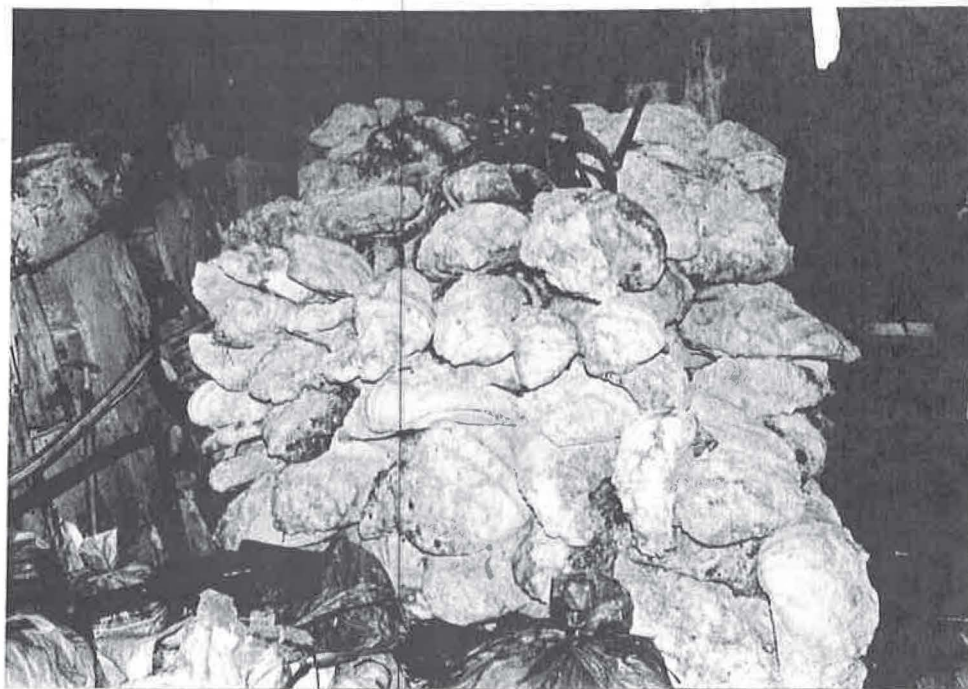


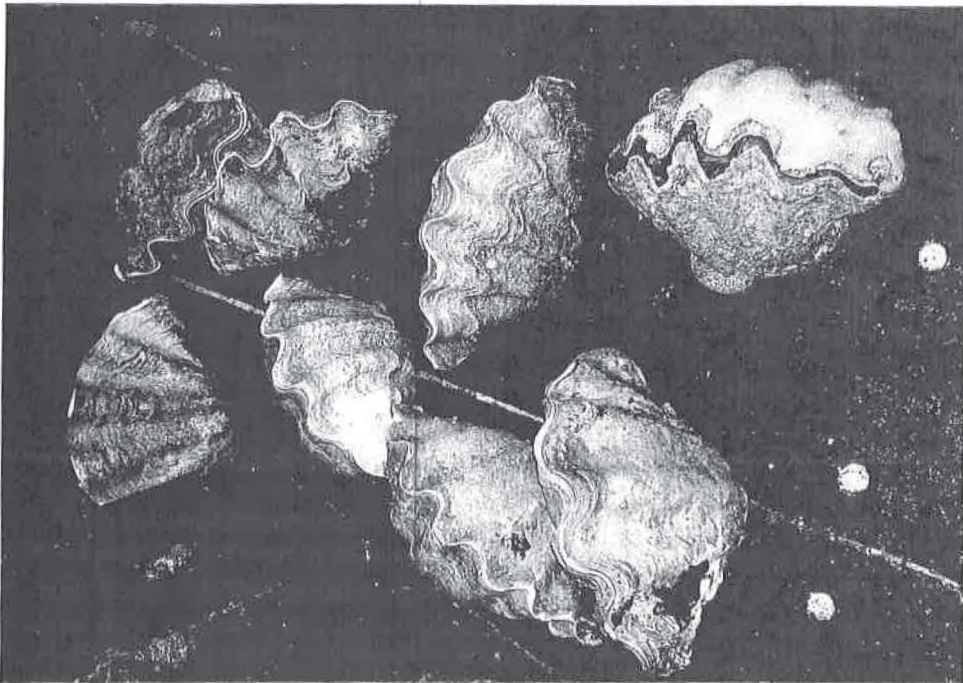
**LIVE FISHES CAUGHT BY CHINESE F/V AT
SCARBOROUGH SHOAL**



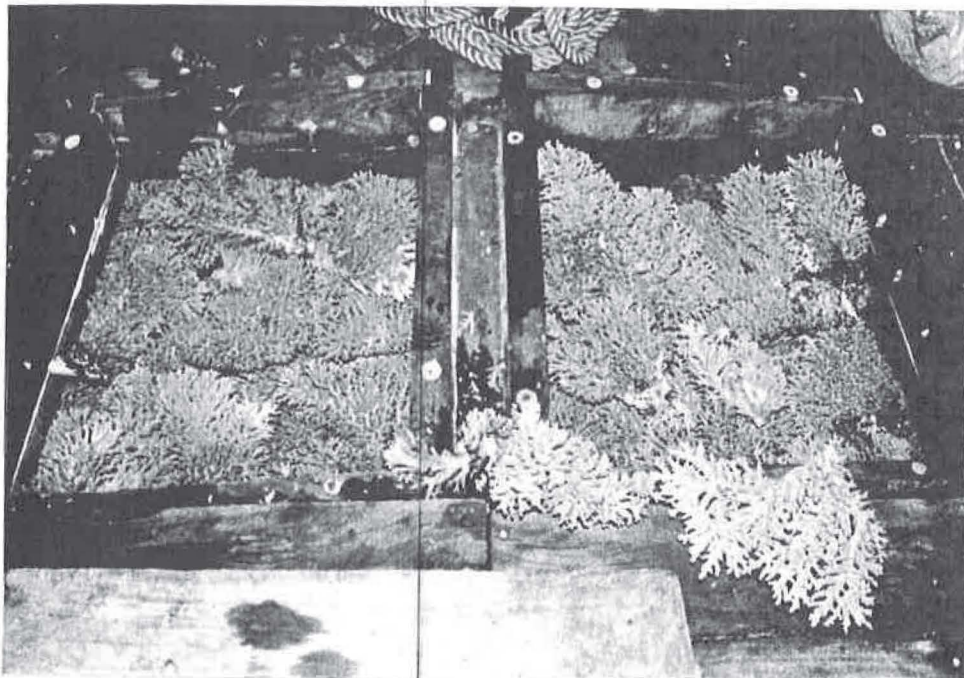


**AN ESTIMATED 10 TONS OF DRIED CLAMSHELLS ABOARD
CHINESE FISHING VESSEL**

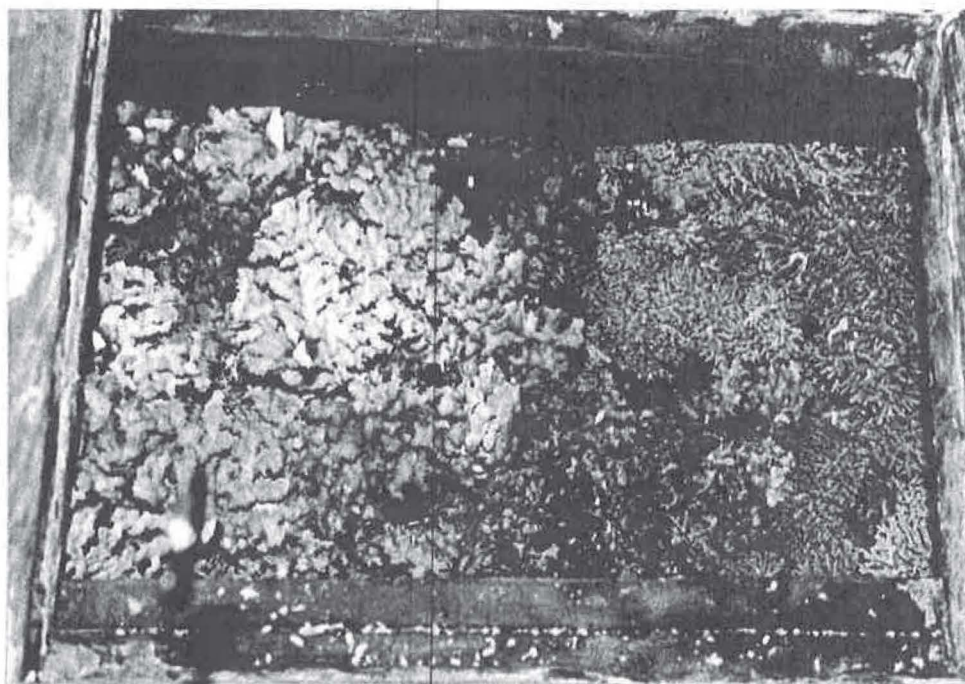




**LIVE CLAMSHELLS (TAKLOBO) CAUGHT BY
CHINESE F/V AT SCARBOROUGH SHOAL**

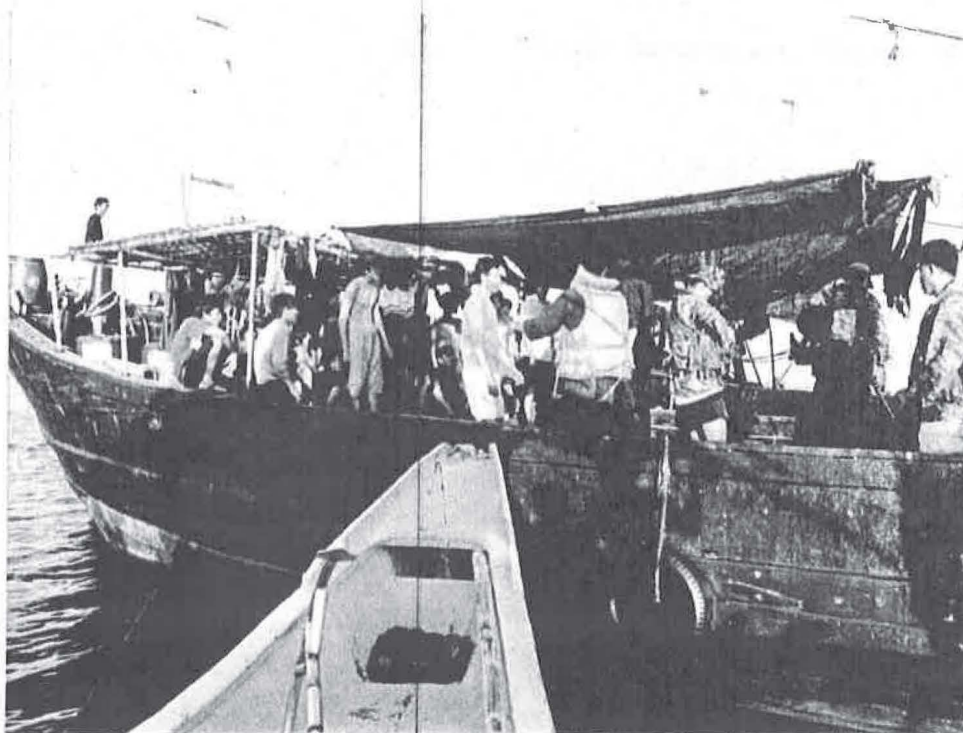


**ASSORTED CORALS GATHERED BY CHINESE F/V's AT
SCARBOROUGH SHOAL**

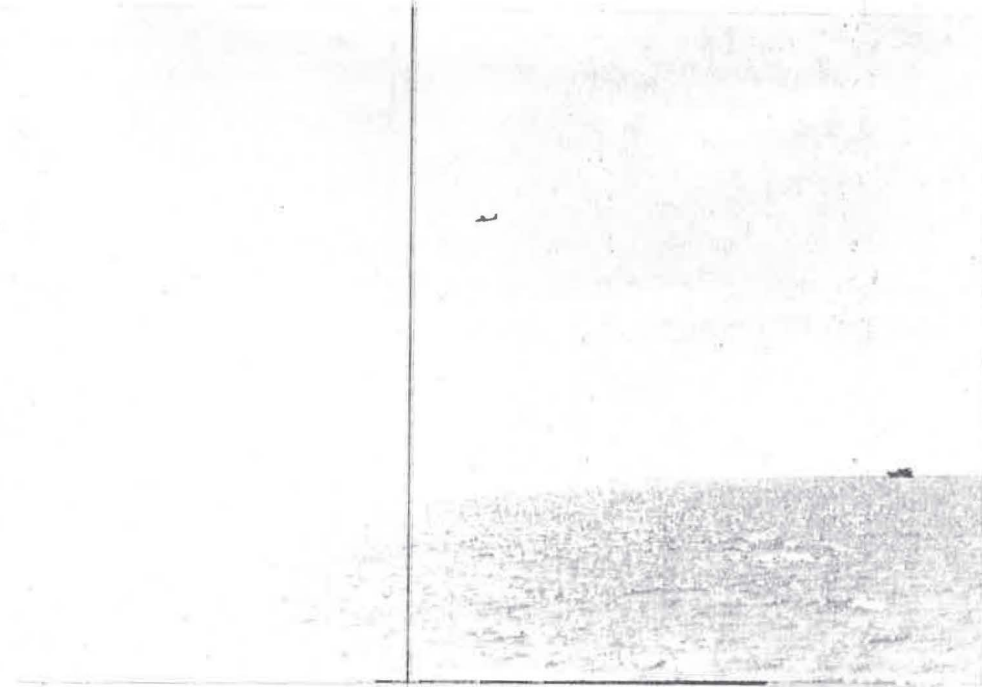




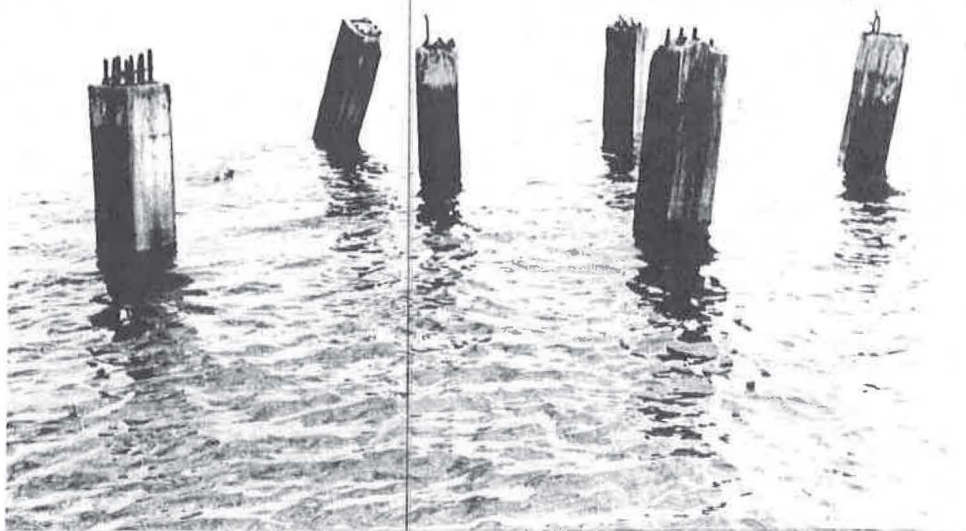
**FOUR (4) CHINESE F/V GATHERING MARINE
RESOURCES AT SCARBOROUGH SHOAL**



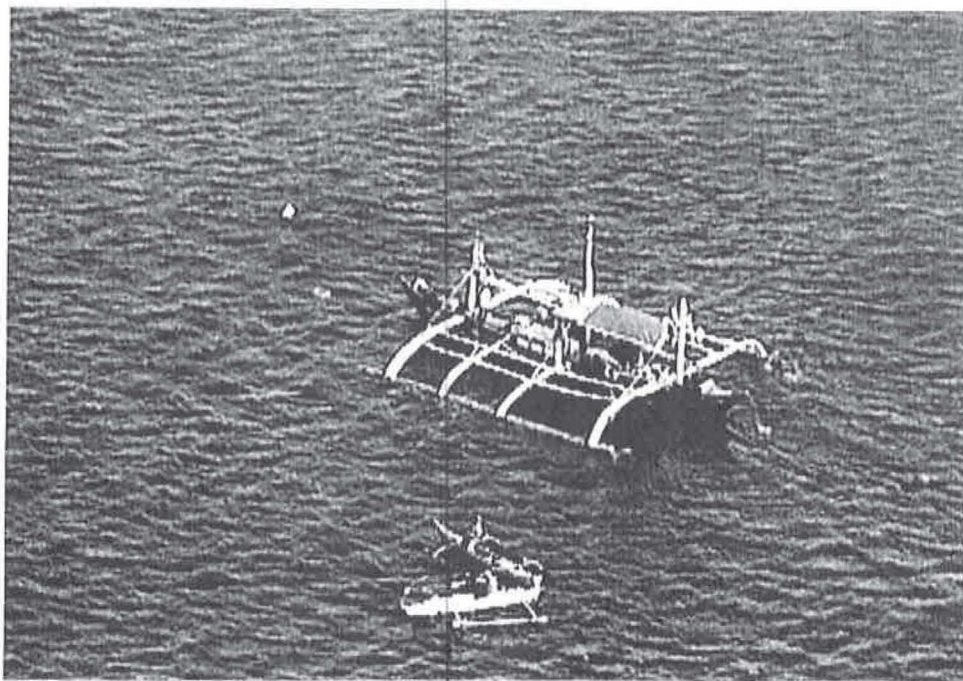
**VBS TEAM CONDUCTED INSPECTION TO ONE
OF THE CHINESE F/V**



**PNI310 CONDUCTED NAP OVER SCARBOROUGH SHOAL
ON 31 DEC 2005**



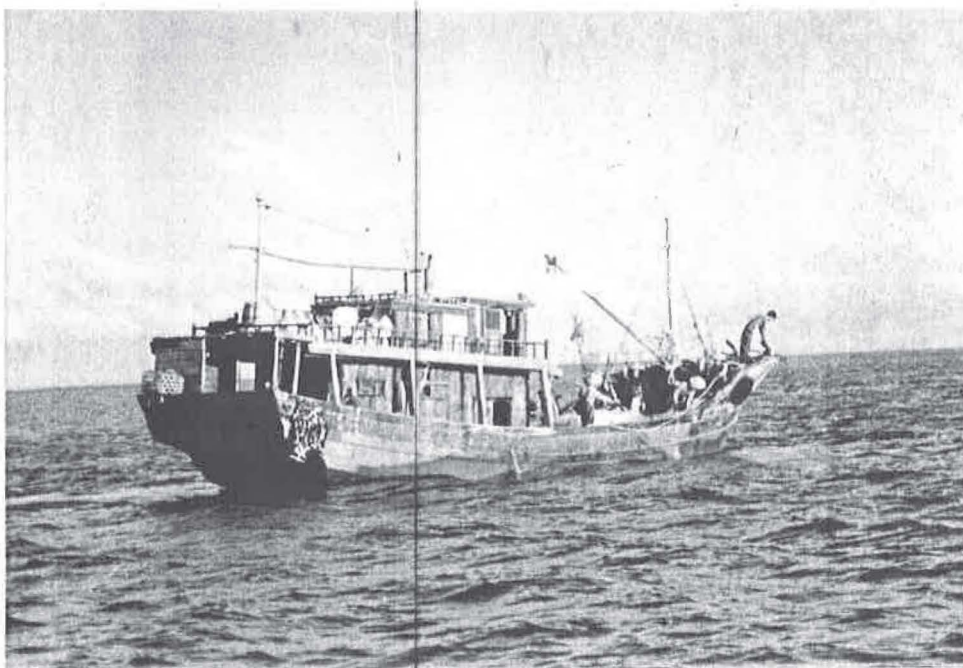
**REPORTED PYRAMID STRUCTURES ERECTED BY
AMERICANS INSIDE THE SHOAL**



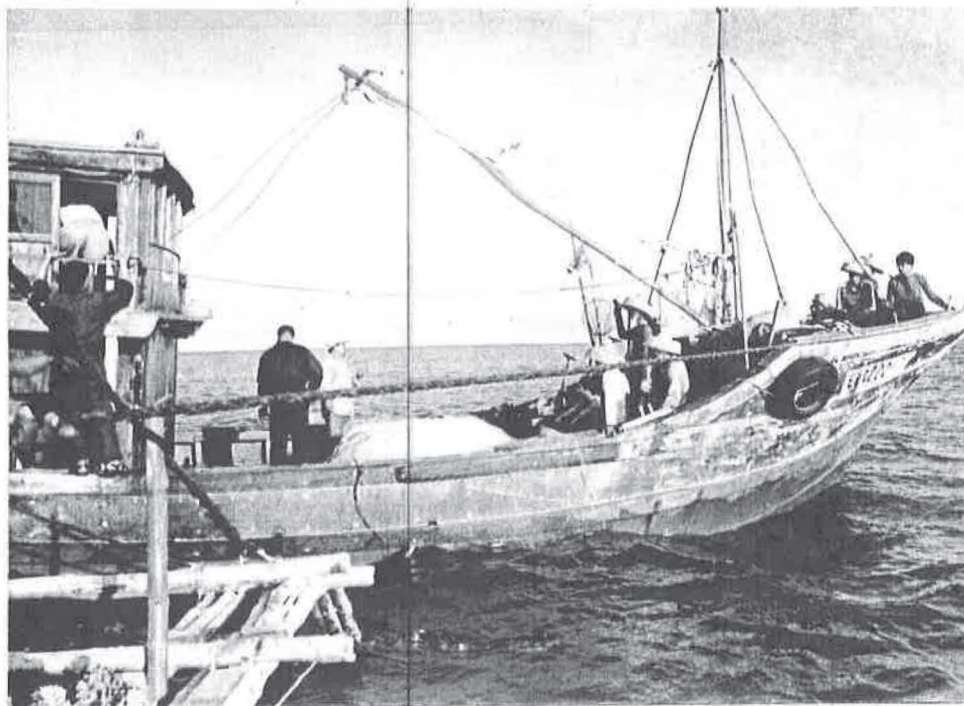
LOCAL F/B AT SCARBOROUGH SHOAL



SCATTERED STRUCTURE AT SCARBOROUGH SHOAL



VIETNAMESE FISHING VESSEL AT SCARBOROUGH SHOAL



**VBS TEAM CONDUCTED INSPECTION AT
VIETNAMESE FISHING VESSEL**



VIETNAMESE F/V AT SCARBOROUGH SHOAL



Annex 58

Memorandum from the Secretary of Foreign Affairs of the Republic of the Philippines to the President of the Republic of the Philippines (11 Jan. 2006)

2006-3

Kagawaran ng Ugnayang Panlabas



Department of Foreign Affairs

For The President

MEMORANDUM

THROUGH : The Executive Secretary
The Presidential Assistant for Foreign Affairs

FROM : Secretary of Foreign Affairs

SUBJECT : **Chinese fishermen in Scarborough Shoal**

DATE : 11 January 2006

Chinese Vice Foreign Minister Wu Dawei summoned Ambassador Willy Gaa to the Foreign Ministry in Beijing on 6 January to convey China's "grave concern and strong opposition" over the apprehension by the Philippine Navy of four Chinese fishing boats in the Scarborough Shoal on 30 December 2005. Vice Minister Wu said that PN vessel No. 37 "fired gunshots and plundered the equipment aboard the fishing boat, resulting in damages of about US\$30,000." He reiterated China's position on its "indisputable sovereignty over Scarborough Shoal and adjacent waters" and conveyed that China might "be forced to take necessary measures" if such reported actions from the Philippines continue.

The Philippine Navy confirmed the apprehension and board and search operations on 30 December, and the confiscation from the Chinese fishermen of equipment and paraphernalia for illegal fishing. Fifteen (15) tons of endangered coral species and 300 kilos of live fish were in the possession of the Chinese fishermen. The four vessels were ordered to leave the Scarborough area on 31 December.

The Philippine position emphasizing the following points will be conveyed to the Chinese government through its Embassy in Manila and the Foreign Ministry in Beijing:

- The Philippines' right and duty to protect its national territory and sovereignty;
- The grave concern of the Philippine government and the Filipino people on harmful illegal fishing and rampant trading of endangered corals and marine species in the South China Sea; and,
- The Philippine commitment to work with China in addressing differences over the South China Sea issue considering that the two countries have taken important steps to transform the area from a region of conflict to a region of peace, cooperation and stability.

For the information of the President.

ALBERTO G. ROMULO

Kagawaran ng Ugnayang Panlabas



Department of Foreign Affairs

OFFICE OF ASIAN AND PACIFIC AFFAIRS

Confidential

MEMORANDUM FOR THE SECRETARY OF FOREIGN AFFAIRS

THROUGH THE UNDERSECRETARY FOR POLICY




FROM : **ERLINDA F. BASILIO**
 Assistant Secretary

SUBJECT : **Chinese fishermen in Scarborough Shoal**

DATE : **11 January 2006**

Enclosed for the consideration of the Secretary is a draft memorandum to the President on the apprehension by Philippine Navy of four Chinese fishing vessels in the vicinity of Scarborough Shoal, which was the subject of a representation made by Chinese Vice Foreign Minister Wu Dawei with Ambassador Willy Gaa in Beijing on 6 January 2006.

The Philippine Navy (PN) confirmed the apprehension and board and search operations on 30 December, and the confiscation from the Chinese fishermen of equipment and paraphernalia for illegal fishing. Fifteen (15) tons of endangered coral species and 300 kilos of live fish were in the possession of the Chinese fishermen. PN also clarified that no shots were fired during the apprehension and the boarding procedures were conducted according to rules of engagement. The four vessels were ordered to leave the Scarborough area on 31 December.

ASPAC will make representations with the Chinese Embassy in Manila to convey the following Philippine position on the issue:

- The Philippine Navy was exercising the Philippines' right and duty to protect Philippine national territory and sovereignty. The Philippine Navy conducted their actions responsibly according to law;
- The Philippine government and the Filipino people are gravely concerned that Chinese fishermen continue to engage in harmful illegal fishing and rampant trading of endangered corals and marine species in the South China Sea, contrary to our agreement to protect the marine environment. We request the Chinese government to take serious efforts to address this matter; and,
- The Philippines and China have achieved important accomplishments in their efforts to transform the South China Sea from a region of conflict to a region of peace, cooperation and stability. The Philippines remains committed to work with China in addressing differences over the South China Sea issue in the spirit of goodwill, friendship and understanding enjoyed by both sides.

For the consideration of the Secretary.

Annex 59

Report from Commanding Officer, NAVSOU-2, Philippine Navy, to Acting Commander, Naval Task Force 21, Philippine Navy, No. NTF21-0406-011/NTF21 OPLAN (BANTAY AMIANAN) 01-05 (9 Apr. 2006)

PHILIPPINE NAVY
PHILIPPINE FLEET
HEADQUARTERS NAVAL TASK FORCE 21
NAVAL SPECIAL OPERATIONS UNIT 2
Naval Station Poro, City of San Fernando, La Union

09 April 2006

From: Commanding Officer, NAVSOU-2
To: Acting Commander, Naval Task Force 21

Subj: After Operation Report

Ref: CITE NTF21 – 0406-011 / NTF21 OPLAN (BANTAY AMIANAN) 01-05

I. MISSION:

To augment PS36, proceed to Scarborough Shoal ICOW sovereignty patrol and to conduct Visit, Board, Search and Seizure (VBSS) on suspicious vessels in the area.

II. PERIOD COVERED: 06-09 April 2006

III. PERSONNEL INVOLVED:

MR1 Constante M Bulosan 778078 PN
GM2 Rolie C Viray 734450 PN
RM3 Rodolfo C Matias 733614 PN
EN3 Manuel R Abalos 776535 PN
MR3 Walter T Masangcay 776624 PN
CD3 Virgilio R Cruzado 777303 PN
ET3 Elimar V Soclo 797993 PN
ET3 Reynanido C Pascua 799942 PN

IV. SUMMARY OF EVENTS:

06 Apr 06

0120H – Tm departed NSP on board M35 truck enroute to Sangley Point, Cavite City
0750H – Tm aboard NFNL Liaison Office, Bonifacio Naval Station
0910H – Departed Liaison Office proceeded to Cavite City to bd PS36.
1200H – Tm aboard PS36.

(R-O-N)

07 Apr 06

1550H – PS36 departed Salvo pier enroute patrol to Scarborough Shoal.

08 Apr 06

0500H – PS36 arrived at the area, conducted MARPAT around the shoal.

1000H – Tm disembarked PS36 on board two (2) rubber boats with one (1) officer, one (1) NISGNL and one (1) PIO personnel, and entered Scarborough shoal.

1015H – Tm conducted VBSS on a sighted vessel and further identified it as a Vietnamese vessel w/ bow number Q-NG 96455 TS w/ 12 crew on board and loaded w/ scrap metals approx 8 tons. After a brief interrogation on the Captain, it was found out that it only took shelter since it encountered engine trouble. Tm left said vessel and proceeded to another sighted vessel.

1100H – Tm conducted VBSS on the second vessel w/ bow number 09011. It was revealed that it was a Chinese fishing vessel w/ 27 crew on board loaded w/ assorted corals and shells w/ approx 10 tons.

1130H – Tm conducted VBSS on the third fishing vessel w/ bow number 09019. It was a Chinese fishing vessel again w/ 30 crew on board loaded w/ assorted shells approx 20 sacks.

1220H – Tm conducted VBSS to the fourth sighted vessel w/ bow number 01018. Again, it was a Chinese fishing vessel w/ 14 crew on board loaded w/ assorted and live fish approx 1 ton.

1255H – Tm advised the three (3) fishing vessels to go outside the Shoal and to come closer to PS36.

1300H – Tm requested additional personnel at PS36 to help haul and throw overboard some corals, shells and fishes from the three (3) Chinese fishing vessel.

1745H – Tm and hauling party from PS36 finished hauling.

1800H – Tm and hauling party secured, PS36 enroute patrol to San Fernando City La Union.

09 Apr 06

0700H – PS36 aboard San Fernando City pier.

0730H – Tm disembarked PS36 and proceeded bck to NSP.

0840H – Tm aboard NSP, secured.

V. EQUIPMENTS USED:

- 2 Ea Rubber boat
- 2 Ea Obm
- 4 Ea Obm tank
- 4 Ea Paddles
- 2 Ea Flashlight
- 2 Ea M60 LMG
- 1 Ea M14 rifle

- 1 Ea M203 made launcher
- 5 Ea M16 rifle
- 8 Ea Face mask
- 8 Prs Swim fins
- 1 Ea descending line
- 4 Ea Aqua Lung
- 4 Ea Regulators
- 8 Ea UDT Vest

VI. EXPENDITURES:

100 Ltrs Xcs gas , 4 ltrs Quicksilver Marlub oil, 8 ea batt 1.5 V dry cell

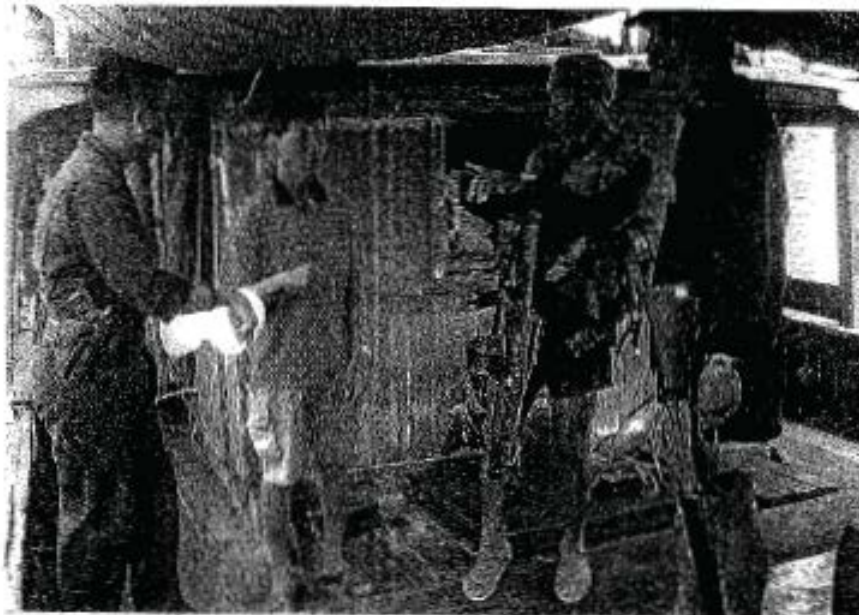
VII. PROBLEMS ENCOUNTERED/OBSERVATION:

There was a hardship in communicating with the foreign vessels' crew since they did not know how to speak English during the interrogation.

VIII. RECOMMENDATION:

Further recommend to have Chinese /Vietnamese interpreter during same msn.

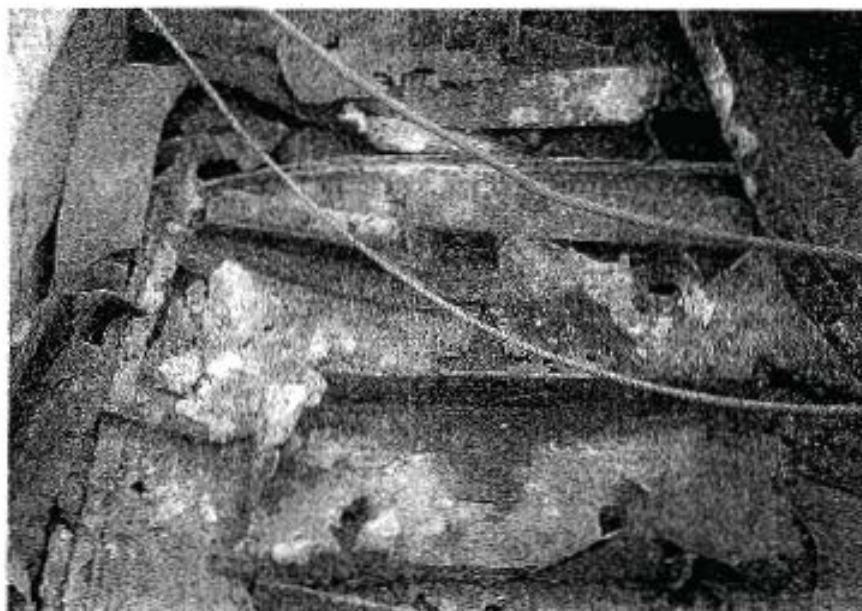
Carlos Y Garcia Jr.
CARLOS Y GARCIA JR
LCDR PN



VBSS team interrogated the crew of Chinese Vessel through hand signal



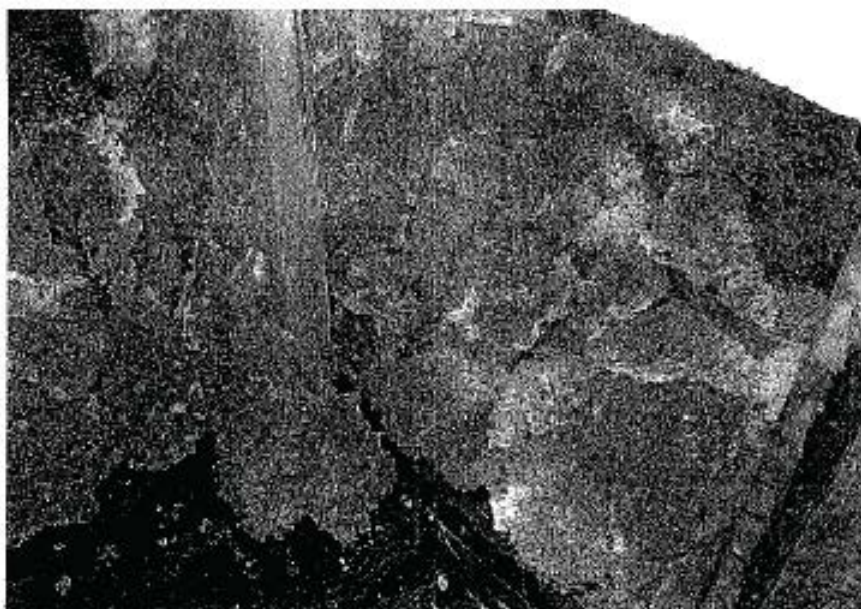
VBSS TEAM



Scrap metals aboard Vietnamese Vessel



OIC of VBSS team (ENS VILLANUEVA PN)



Confiscated Tons of corals aboard Chinese Vessel



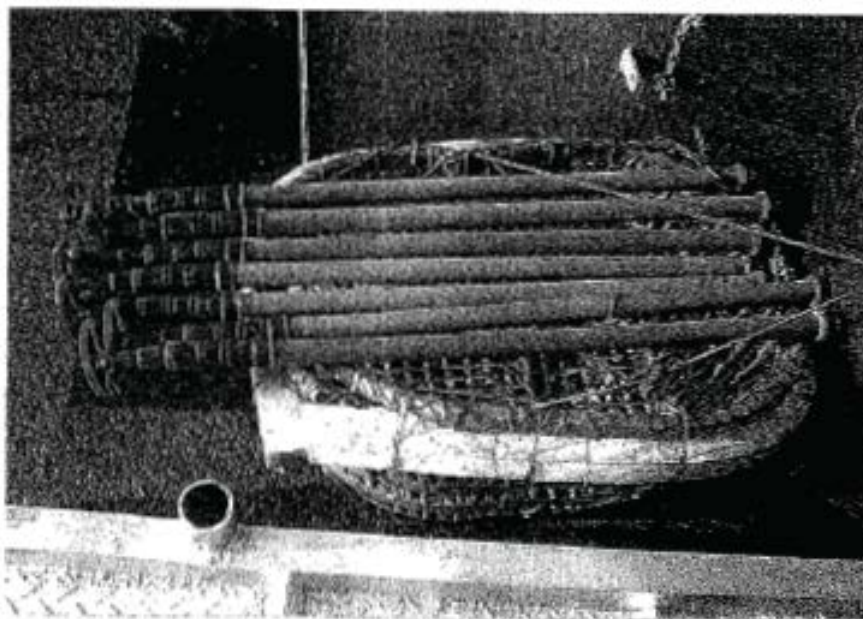
Confiscated sacks of sea shells aboard Chinese Vessel



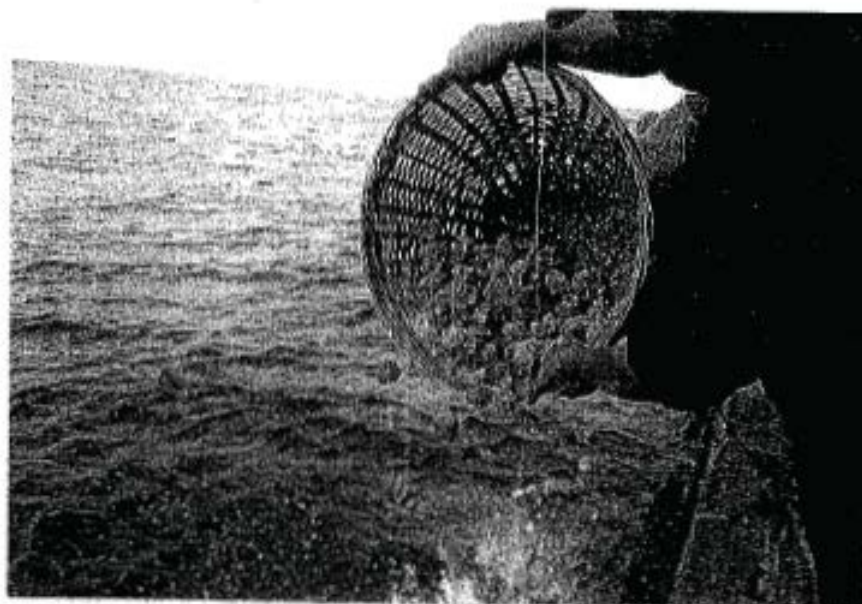
VBSS team conducting Board and Search to Chinese Vessel



Chinese Vessel inside the Shoal



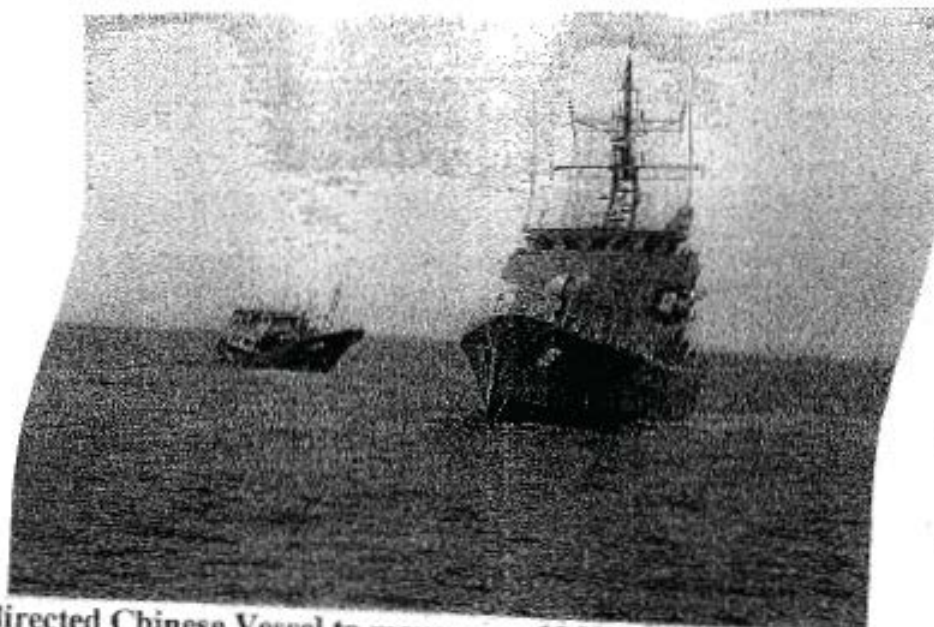
Confiscated pump cyanide paraphernalia's aboard Chinese Vessel



VBSS team thrown overboard shells at Scarborough Shoal



VBSS team thrown overboard Corals and Shell at Scarborough Shoal



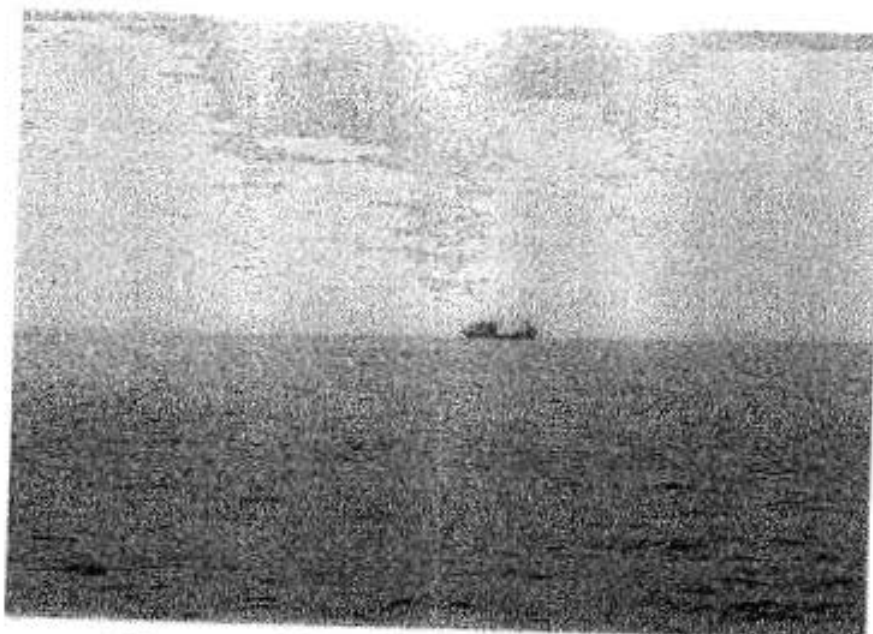
PS36 directed Chinese Vessel to move away 12 NM at Scarborough Shoal



VBSS team aboard Vietnamese Vessel



Crew of Vietnamese Vessel at Scarborough Shoal



Vietnamese Vessel inside Scarborough Shoal



Tons of fish, corals and ells aboard Chinese Vessel where confiscated by VBSS team



VBSS team dis-embarked V/V after completion of Board and Search operation



Sacks of sea shells stored at Chinese Vessel at Scarborough Shoal



Chinese Vessel inside the Shoal



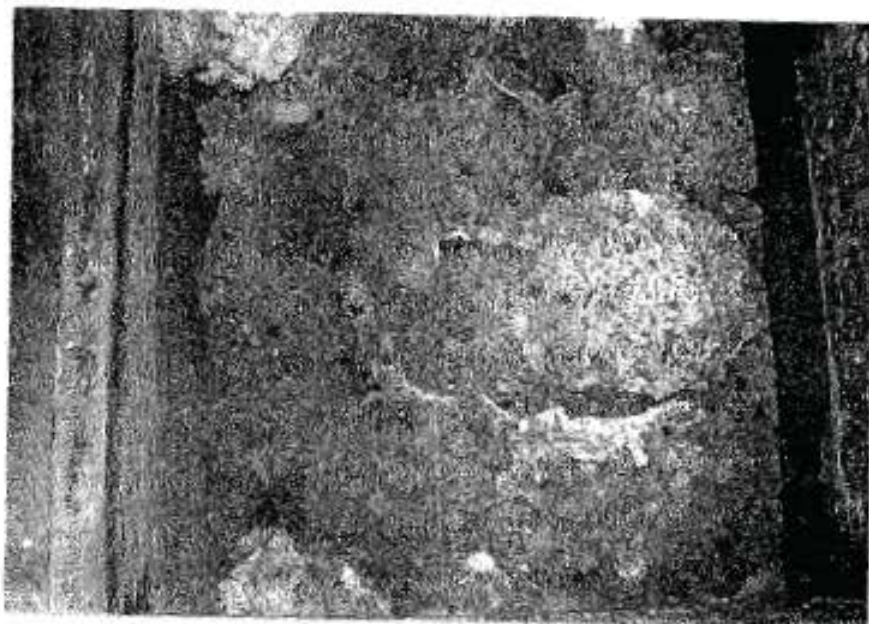
VBSS team at Vietnamese Vessel



VBSS team interrogated the crew of V/V through hand signal



VBSS team inspected Vietnamese Vessel at S/S



Confiscated Tons of corals aboard Chinese Vessel



Confiscated Tons of corals aboard Chinese Vessel at S/S

Annex 60

Republic of the Philippines, *Republic Act No. 9522, An Act to Amend Certain Provisions of Republic Act No. 3046, as amended by Republic Act No. 5446, to Define the Archipelagic Baseline of the Philippines and for Other Purposes* (10 Mar. 2009)

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourteenth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-eight day of July, two thousand eight.

REPUBLIC ACT NO. 9522
March 10, 2009

**AN ACT TO AMEND CERTAIN PROVISIONS OF REPUBLIC ACT NO. 3046, AS
AMENDED BY REPUBLIC ACT NO. 5446, TO DEFINE THE ARCHIPELAGIC
BASELINE OF THE PHILIPPINES AND FOR OTHER PURPOSES**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Sec. 1 of Republic Act No. 3046, entitled "An Act to Define the Baselines of the Territorial Sea of the Philippines", as amended by Sec. 1 of Republic Act No. 5446, is hereby amended to read as follows:

Section 1. The baselines of the Philippines archipelago are hereby defined and described specifically as follows:

Basepoint Number	Station Name	Location	World Geodetic System of 1984 (WGS 84) Coordinates		Distance to next basepoint (M)
			Latitude (N)	Longitude (E)	
1	PAB-01	Amianan Is.	21°6'57.73"	121°57'27.71"	70.08
2	PAB-02	Balintang Is.	19°57'38.19"	122°9'46.32"	99.17
3	PAB-04	Bigan Pt.	18°18'35.30"	122°20'19.07"	71.83
4	PAB-05A	Ditolong Pt.	17°7'16.30"	122°31'28.34"	1.05
5	PAB-05B	Ditolong Pt.	17°6'14.79"	122°31'43.84"	0.39
6	PAB-05	Ditolong Pt.	17°5'51.31"	122°31'42.66"	3.29
7	PAB-06	Spires Is.	17°2'36.91"	122°31'3.28"	9.74
8	PAB-06B	Digollorin Pt.	16°59'18.03"	122°27'56.61"	3.51

9	PAB-06C	Digollorin Rk.	16°49'56.11"	122°26'50.78"	2.40
10	PAB-07	Divimisa Pt.	16°47'38.86"	122°26'4.40"	30.94
11	PAB-08	Dinoban Pt.	16°18'44.33"	122°14'06.69"	116.26
12	PAB-10A	Tinaga Is.	14°29'54.43"	122°57'51.15"	80.29
13	PAB-11	Horodaba Rk.	14°6.29.91"	124°16'59.21"	0.54
14	PAB-12	Matulin Rk.	14°6.10.40"	124°17'26.28"	96.04
15	PAB-13	Atalaya Pt.	12°41'6.37"	125°3'53.71"	6.79
16	PAB-13A	Bacan Is.	12°36'18.41"	125°8'50.19"	5.52
17	PAB-14	Finch Rk.	12°32.33.62"	125°12'59.70"	0.80
18	PAB-14A	Cube Rk.	12°31.57.45"	125°13'32.37"	4.90
19	PAB-14D	NW Manjud Pt.	12°28'36.42"	125°17'12.32"	1.30
20	PAB-15	SE Manjud Pt.	12°27'37.51"	125°18'5.23"	7.09
21	PAB-16A	S Sorz Cay	12°21'41.64"	125°23'7.41"	5.68
22	PAB-16B	Panablihon	12°17'27.17"	125°27'0.12"	5.21
23	PAB-16C	Alugon	12°13'21.95"	125°30'19.47"	1.94
24	PAB-16D	N Bunga Pt.	12°11'48.16"	125°31'30.88"	0.54
25	PAB-17	E Bunga Pt.	12°11'20.67"	125°31'48.29"	5.71
26	PAB-18A	SE Tobabao Is.	12°6'7.00"	125°34'11.94"	83.94
27	PAB-19C	Suluan Is.	10°45'16.70"	125°58'8.78"	56.28
28	PAB-19D	N Tuason Pt.	9°49'59.58"	126°10'6.39"	57.44
29	PAB-20A	Arangasa Is.	8°53'16.62"	126°20'48.81"	40.69
30	PAB-21B	Sanco Pt.	8°13'11.53"	126°28'53.25"	30.80
31	PAB-22	Bagoso Is	7°42'45.02"	126°34'29.08"	12.95
32	PAB-22C	Languyan	7°29'49.47"	126°35'59.24"	0.54
33	PAB-23	Languyan	7°29'16.93"	126°35'59.50"	0.76
34	PAB-23B	Languyan	7°28'30.97"	126°35'57.30"	1.2
35	PAB-23C	N Baculin Pt.	7°27'29.42"	126°35'51.31"	10.12
36	PAB-24	Pusan Pt.	7°17'19.80"	126°36'18.26"	1.14
37	PAB-24A	S Pusan Pt.	7°16'14.43"	126°35'57.20"	63.28

38	PAB-25B	Cape San Agustin	6°17'14.73"	126°12'14.40"	1.28
39	PAB-25	Cape San Agustin	6°16'8.35"	126°11'35.06"	67.65
40	PAB-26	SE Sarangani Is.	5°23'34.20"	125°28'42.11"	0.43
41	PAB-27	Pangil Bato Pt.	5°23'21.80"	125°28'19.59"	3.44
42	PAB-28	Tapundo Pt.	6°21'55.66"	126°25'11.21"	3.31
43	PAB-29	W Calia Pt.	5°21'58.48"	125°21'52.03"	0.87
44	PAB-30	Manamil Is.	5°22'2.91"	125°20'59.73"	1.79
45	PAB-31	Marampog Pt.	5°23'20.18"	125°19'44.29"	78.42
46	PAB-32	Pola Pt.	6°9'8.44"	124°15'42.81"	122.88
47	PAB-33A	Kantuan Is	6°26'47.22"	122°13'34.50"	29.44
48	PAB-34A	Tongguil Is.	6°2'33.77"	121°56'36.20"	2.38
49	PAB-35	Tongquil Is	6°1'8.51"	121°54'41.45"	1.72
50	PAB-35A	Tongquil Is.	6°0'17.88"	121°63'11.17"	85.94
51	PAB-38A	Kirapusan Is	5°12'8.70"	120°41'38.14"	55.24
52	PAB-39	Manuk Manka Is.	4°47'39.24"	119°51'58.08"	43.44
53	PAB-40	Frances Reef	4°24'53.84"	119°14'50.71	0.61
54	PAB-40A	Frances Reef	4°25'3.83"	119°14'15.15"	15.48
55	PAB-41A	Bajapa Reef	4°36'9.01"	119°3'22.75"	6.88
56	PAB-42A	Paguan Is.	4°42'52.07"	119°1'44.04"	8.40
57	PAB-43	Alice Reef	4°45'55.25"	119°3'15.19"	2.28
58	PAB-44	Alice Reef	4°47'5.36"	119°5'12.94"	18.60
59	PAB-45	Omapoy Rk.	4°55'10.45"	119°22'1.30	23.37
60	PAB-46	Bukut Lapis Pt.	5°2'23.73"	119°44'18.14"	44.20
61	PAB-47	Pearl Bank	5°46'35.15"	119°39'51.77"	75.17
62	PAB-48	Bagnan Is.	6°5'58.41"	118°26'57.30"	8.54
63	PAB-48A	Taganak Is	6°4'14.08"	118°18'33.33"	13.46
64	PAB-49	Great Bakkungaan Is.	6°11'4.65"	118°6'54.15"	3.97
65	PAB-50	Libiman Is.	6°13'39.90"	118°3'52.09"	5.53

66	PAB-51	Sibaung Is.	6°17'43.99"	118°0'5.44"	41.60
67	PAB-52	Muligi Is.	6°52'14.53"	118°23'40.49"	75.06
68	PAB-53	South Mangsee Is.	7°30'26.05"	117°18'33.75"	26.00
69	PAB-54	Balabac Is.	7°48'30.69"	116°59'39.18"	6.08
70	PAB-54A	Balabac Great Reef	7°51'27.17"	116°54'17.19"	1.18
71	PAB-54B	Balabac Great Reef	7°52'19.86"	116°53'28.73"	2.27
72	PAB-55	Balabac Great Reef	7°54'36.35"	116°53'16.64"	5.42
73	PAB-60	Ada Reef	8°2'0.26"	116°54'10.04"	10.85
74	PAB.61	Secam Is.	8°11'18.36"	116°59'51.87"	30.88
75	PAB-62	Latua Pt.	8°87'56.37"	117°15'51.23"	7.91
76	PAB-63	SW Tatub Pt.	8°44'17.40"	117°20'39.37"	11.89
77	PAB-63A	W Sicud Pt.	8°53'32.20"	117°28'15.78"	13.20
78	PAB-64	Tarumpitao Pt.	9°2.57.47"	117°37'38.88"	81.12
79	PAB.64B	Dry Is.	9°59'22.54"	118°36'53.61"	82.76
80	PAB-65C	Sinangcolan Pt.	11°13'19.82"	119°15'17.74"	74.65
81	PAB-67	Pinnacle Rk.	12°19'35.22"	119°50'56.00	93.88
82	PAB-68	Cabra Is	13°53'24.45"	120°1'5.86"	115.69
83	PAB-71	Hermana Mayor Is.	15°48'43.61"	119°46'56.09"	9.30
84	PAB-72	Tambobo Pt.	15°57'61.67"	119°44'55.32"	12.06
85	PAB-72B	Rena Pt.	16°9'57.90"	119°45.15.76"	0.25
86	PAB-73	Rena Pt.	16°10'12.42"	119°45'11.95"	6.43
87	PAB-74	Rocky Ledge	16°16'34.46"	119°46'19.50"	0.65
88	PAB-74A	Piedra Pt.	16°37'12.70"	119°46'28.62"	1.30
89	PAB-75	Piedra Pt.	16°18'29.49"	119°46'44.94"	1.04
90	PAB-75C	Piedra Pt.	16°19'28.20"	119°47'7.69"	0.63
91	PAB-75D	Piedra Pt.	16°20'4.38"	119°47'20.48"	80.60
92	PAB-76	Dile Pt.	17°34'24.94"	120°20'33.36"	6.86
93	PAB-77	Pinget Is.	17°41'17.56"	120°21'2.20"	14.15
94	PAB-78	Baboc Is.	17°55'4.13"	120°24'40.56"	35.40

95	PAB-79	Cape Bojeador	18°29'32.42"	120°33'42.41"	1.77
96	PAB-79B	Bobon	18°30'52.88"	120°34'55.35"	58.23
97	PAB-80	Calagangan Pt.	19°10'14.78"	121°12'52.64"	98.07
98	PAB-82	Itbayat Is.	20°43'15.74"	121°46'57.80"	25.63
99	PAB-83	Amianan Is	21°7'17.47"	121°56'43.85"	0.08
100	PAB-84	Amianan Is.	21°7'18.41"	121°56'48.79"	0.25
101	PAB-85	Amianan Is.	21°7'12.04"	121°57'3.65"	0.44

Sec. 2. The baseline in the following areas over which the Philippines likewise exercises sovereignty and jurisdiction shall be determined as "Regime of Islands" under the Republic of the Philippines consistent with Article 121 of the United Nations Convention on the Law of the Sea (UNCLOS):

- a) The Kalayaan Island Group as constituted under Presidential Decree No. 1596; and
- b) Bajo de Masinloc, also known as Scarborough Shoal.

Section 3. This Act affirms that the Republic of the Philippines has dominion, sovereignty and jurisdiction over all portions of the national territory as defined in the Constitution and by provisions of applicable laws including, without limitation, Republic Act No. 7160, otherwise known as the Local Government Code of 1991, as amended.

Sec. 4. This Act, together with the geographic coordinates and the chart and maps indicating the aforesaid baselines, shall be deposited and registered with the Secretary General of the United Nations.

Sec. 5. The National Mapping and Resource Information Authority (NAMRIA) shall forthwith produce and publish charts and maps of the appropriate scale clearly representing the delineation of basepoints and baselines as set forth in this Act.

Sec. 6. The amount necessary to carry out the provisions of this Act shall be provided in a supplemental budget or included in the General Appropriations Act of the year of its enactment into law.

Sec. 7. If any portion or provision of this Act is declared unconstitutional or invalid the other portions or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Sec. 8. The provisions of Republic Act No. 3046, as amended by Republic Act No. 5446, and all other laws, decrees, executive orders, rules and issuances inconsistent with this Act are hereby amended or modified accordingly.

Section 9. This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in any two (2) newspaper of general circulation.

Approved:

(Sgd.) **PROSPERO C.
NOGRALES**
Speaker of the House of
Representatives

(Sgd.) **JUAN PONCE ENRILE**
President of the Senate

This Act which is a consolidation of Senate Bill No. 2699 and House Bill No. 3216 was finally passed by the Senate and the House of Representative on February 17, 2009.

(Sgd.) **MARILYN B. BARUA-
YAP**
Secretary General
House of Representatives

(Sgd.) **EMMA LIRIO-REYES**
Secretary of Senate

Approved: MAR 10, 2009

(Sgd.) **GLORIA MACAPAGAL-ARROYO**
President of the Philippines