

## **A Legal Critique of the Philippines' Actions in the South China Sea in 2024**

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### **Abstract**

In 2024, the South China Sea's geopolitical complexity has surged, with the China-Philippines maritime rights rivalry drawing intense global attention. This paper examines Philippine actions at Xianbin Jiao (Sabina Shoal) and Huangyan Dao (Scarborough Shoal). From China's perspective, the Philippines has engaged in illegal beaching activities and territorial water intrusions, seriously violating China's sovereignty and maritime rights, contrary to the United Nations Convention on the Law of the Sea (UNCLOS), the South China Sea Declaration, and other international laws. Regarding Xianbin Jiao, China's scientific endeavors on the reef constitute lawful exercises of sovereignty, adhering to the principle of peaceful ocean use and fulfilling obligations for environmental cooperation. Conversely, the Philippines' conduct contravenes the Declaration and jeopardizes regional stability. As for Huangyan Dao, China's declaration of territorial sea baselines and subsequent law enforcement actions are aligned with both international and domestic law, whereas the Philippines' Maritime Zones Act and Archipelagic Sea Lanes Act flout international law, seeking to entrench illegitimate territorial claims through domestic legislation.

China firmly upholds its territorial sovereignty and maritime rights, responding lawfully to Philippine provocations. Both nations should adhere to international law, resolving disputes through dialogue to maintain peace in the South China Sea. From an international law standpoint, this article

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offers in-depth analyses to enhance understanding of the China-Philippines South China Sea dispute and provides jurisprudential underpinnings for its peaceful resolution.

**Keywords:** *South China Sea, China-Philippines dispute, international law, Territorial sovereignty, Maritime rights and interests.*

## 1. Introduction

The situation in the South China Sea has undergone rapid changes, becoming increasingly complex. The current tensions between China and the Philippines in the South China Sea have led to the deterioration of bilateral relations. Since the beginning of 2024, the intensifying dispute over maritime rights and interests between the two parties in the South China Sea has been centered around several focal points.

The Philippines has accused China of land reclamation activities at Xianbin Jiao (Sabina Shoal), while simultaneously attempting to replicate the tactics used at Ren'ai Jiao (Second Thomas Shoal) by grounding ships at Xianbin Jiao (Sabina Shoal) for extended periods. China believes that a Philippine vessel deliberately rammed a Chinese Coast Guard ship in the confrontation and hence had to take effective countermeasures against the Philippines' action, resulting in a five-month stay before finally withdrawing. In the same month, the Philippine bicameral conference panel approved the Archipelagic Sea Lanes Passage Act and the Maritime Zones Act, attempting to synergistically assist the Philippine government in determining the scope and jurisdiction of its maritime areas under UNCLOS. Following the enactment of these two laws in December, Philippine vessels entered the waters of Huangyan Dao under the pretext of "law enforcement", provoking disturbances at sea, which seriously violated China's territorial sovereignty and maritime rights and interests in the South China Sea.

## 2. International Law Analysis of the Philippines' Grounding at Xianbin Jiao (Sabina Shoal)

Since the 1970s, the Philippines has pursued a policy aimed at advancing its territorial ambitions in the South China Sea through a three-phase process involving both military force and soft occupation tactics. The Philippines occupied several features of Nansha Qundao (Spratly Islands) by force,

marking the beginning of its territorial expansion in the South China Sea. From the late 1990s to 2016, it expanded its control over Ren'ai Jiao (Second Thomas Shoal) and Huangyan Dao, among others, by grounding military vessels. After the 2016 South China Sea Arbitration, it took control of relevant maritime areas of the "Kalayaan Islands" and maintained control over multiple islands and reefs through soft occupation strategies (National Institute for South China Sea Studies, 2024: The Philippines attempts to use its activities at Xianbin Jiao to further substantiate the South China Sea Arbitration Award).

China's position is that Xianbin Jiao (Sabina Shoal) is an inherent territory of China and part of China's Nansha Qundao (Spratly Islands). Located in the northeast of Nansha Qundao, south of the Reed Bank and Southern Bank, Xianbin Jiao (Sabina Shoal) is a spoon-shaped, medium-sized, semi-open atoll that dries out at low tide, and it is administered by Sansha City, Hainan Province (CCTV News, 2024: China's first release of the "medical examination" report on the Xianbin Jiao and the remarks concocted by the Philippine side have no scientific or factual basis). China Coast Guard vessels have long patrolled and enforced the law nearby, and it has been a traditional fishing ground for Chinese fishermen. Fishermen from coastal provinces such as Guangdong, Guangxi and Hainan, have long engaged in fishing production here and even named it "Fish Scales" based on its shape. Historically, in 1935, the Chinese government named it Sabina Shoal, which was later renamed Xianbin Ansha in 1947. In 1983, the Chinese government officially announced the name Xianbin Jiao to the international community. In 1987, during a comprehensive survey of the Nansha Qundao (Spratly Islands) organized by the Chinese government, a comprehensive scientific research team landed on Xianbin Jiao (Sabina Shoal) and erected Chinese stone tablets and markers. China has indisputable sovereignty over Nansha Qundao (Spratly Islands), including Xianbin Jiao (Sabina Shoal), and the adjacent waters, based on sufficient historical and jurisprudential evidence.

As early as 2011, the Philippines attempted to control Xianbin Jiao (Sabina Shoal) through naval patrols and maritime area control (CCTV. COM, 2024). Since then, especially after the South China Sea Arbitration in 2016, it has frequently harassed and interfered with the normal activities of Chinese fishing vessels at Xianbin Jiao (Sabina Shoal), hyping the issue internationally. Since April 2024, using the pretext of monitoring China's

alleged activities of constructing “artificial islands and reefs” at Xianbin Jiao (Sabina Shoal), the Philippines grounded a vessel there and lingered for an extended period. Subsequently, it dispatched patrol boats and multiple fishing vessels, which gathered in the waters near the stranded Philippine Coast Guard vessel 9701 at Xianbin Jiao (Sabina Shoal), leading to multiple conflicts between China and the Philippines, including several malicious collisions, seriously violating China’s territorial sovereignty and maritime rights and interests. In addition, through repeated maritime provocations, the Philippines has hyped itself as a “victim” in the international community on issues such as so-called “humanitarianism”, “maritime security” and “sovereignty protection”, pushing international public opinion in a direction unfavorable to China.

## ***2.1 China’s Activities and the Protection and Preservation of the Marine Environment in the South China Sea***

### ***2.1.1 The Philippines’ Accusations Lack Scientific Evidence and Factual Basis***

Firstly, the Philippines’ accusations against China’s so-called illegal activities of constructing “artificial islands and reefs” at Xianbin Jiao (Sabina Shoal) are not grounded in sufficient scientific evidence. China’s activities on islands and reefs in the South China Sea primarily involve necessary reinforcement and protection of naturally exposed landforms, rather than so-called island and reef expansion. These measures not only comply with the provisions of international maritime law but also demonstrate China’s respect and protection for the ecological environment of the South China Sea. In fact, islands and reefs, as part of marine geomorphology, undergo dynamic changes, with their positions, sizes and shapes, altered by the combined effects of astronomical tides, storm tides, winds and waves. Based on scientific predictions of these natural phenomena, China’s island and reef activities ensure the natural survival and ecological safety of the islands and reefs. The Philippines should respect scientific facts and cease its unfounded accusations and rumors. More crucially, the evidence presented by the Philippines, namely China’s dispatch of research vessels and military ships, with dozens of vessels operating at Xianbin Jiao (Sabina Shoal), was obviously insufficient to constitute an accusation against China’s island and reef construction activities. The activities of these vessels were legitimate actions such as normal scientific research and maritime patrols. Therefore,

the Philippines should conduct rational analysis based on conclusive evidence and facts, rather than mislead the public solely through conjecture and rumors.

*2.1.2 China's Island and Reef Activities Within Its Sovereignty Comply with the Principle of Peaceful Uses of the Sea*

Based on the long-standing historical practices of the Chinese people and government, and the consistent position upheld by successive Chinese governments, and in accordance with national and international law, including the 1958 Declaration of the Government of the People's Republic of China on China's Territorial Sea, the 1992 Law of the People's Republic of China on Territorial Sea and Contiguous Zone, the 1998 Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf, the 1982 UNCLOS, and the 1996 Decision of the Standing Committee of the National People's Congress of the People's Republic of China on the Ratification of the United Nations Convention on the Law of the Sea—China has established, based on Nanhai Zhudao (the South China Sea Islands), its internal waters, territorial seas, contiguous zones, exclusive economic zones, and continental shelf. Furthermore, China has historic rights in the South China Sea (CCTV News, 2024). In terms of international treaties, the UNCLOS, as a comprehensive multilateral agreement on marine spaces, embodies the concept of sustainable development and covers all aspects of marine utilization, including environmental, economic and social aspects. It serves as the primary basis for determining China's maritime rights and interests in the South China Sea. One of the objectives of UNCLOS is to promote marine environmental research (Salpin *et al.*, 2018). Articles 2 to 32 of UNCLOS stipulate that the islands in the South China Sea possess a territorial sea of 12 nautical miles. Articles 33, 55 to 75, and 76 to 85 of UNCLOS grant coastal states specific rights over their territorial seas, exclusive economic zones and continental shelves, including conducting scientific research, resource development and other peaceful activities for the utilization of marine resources in these waters. Xianbin Jiao (Sabina Shoal) is part of China's Nansha Qundao (Spratly Islands), and China has the right to conduct legal scientific research and resource development activities in the surrounding waters. In fact, China's island and reef activities in Nansha Qundao (Spratly Islands) are carried out within its sovereignty, aimed at improving the living conditions

of garrison personnel on the islands and reefs while maintaining their natural state, enhancing search and rescue capabilities in the South China Sea, and better fulfilling China's territorial sovereignty and maritime rights and interests in the South China Sea. These activities are conducted with full respect for international law and regional stability and pose no threat or harm to the legitimate rights and interests of any country. Conversely, the grounding of the Philippine Coast Guard vessel on Xianbin Jiao (Sabina Shoal) may have caused damage to the marine ecological environment. By anchoring within the lagoon, the vessel's underwater anchor, influenced by waves and winds, could potentially destroy coral reefs. Once coral reefs are destroyed, marine organisms inhabiting them lose their living space and perish. If the Philippines insists on continuing its grounding activities, the entire ecosystem around Xianbin Jiao (Sabina Shoal) will be severely damaged.

Furthermore, regarding marine environmental protection, the international community's call for marine ecological sustainability is growing louder, and the United Nations mechanism is playing an increasingly important role. Article 33 of the Charter of the United Nations stipulates that "the parties to any dispute, the continuation of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice" (Chen & Xu, 2022). Therefore, countries should follow the principle of peaceful settlement of disputes and jointly maintain regional peace and stability through dialogue and consultation. The various unfounded accusations and provocative actions of the Philippines do not comply with the peaceful methods required by the Charter of the United Nations. It should return to the right track as soon as possible to work with China to promote the proper resolution of issues in the South China Sea.

### *2.1.3 China Has Not Breached the "Duty to Cooperate" with Environmentally Affected Countries*

The Philippines has accused China of violating its obligation to cooperate under Articles 123 and 197 of the Convention. Article 197 of the UNCLOS, titled "Cooperation on a global or regional basis," stipulates the cooperative obligations that states must fulfill in establishing and improving international

rules, standards and recommended practices and procedures, to protect and preserve the marine environment. This article emphasizes the fundamental cooperative obligations that states must fulfill in establishing international rules, standards, and recommended practices and procedures to protect and preserve the marine environment. The “Ireland v. United Kingdom” case noted that the cooperative obligation is a fundamental principle of the Convention’s Part XII and general international law for preventing marine environmental pollution. In the “MOX Plant” case, the disputing parties were required to cooperate, consult and exchange information, among other things. However, the Philippines has interpreted this provision unilaterally. The term “cooperation on a global or regional basis” refers to the development and establishment of international rules, standards and recommended practices and procedures, in accordance with this Convention. It is clear that China’s scientific research activities at Xianbin Jiao (Sabina Shoal) do not fall within the scope of Article 197.

With regard to Article 123 of UNCLOS, “Duty of coastal States bordering enclosed or semi-enclosed seas to cooperate”, it imposes legally binding cooperation obligations on coastal states of enclosed or semi-enclosed seas, requiring coordination among countries in the management, conservation, exploration and exploitation of marine living resources, as well as in the exercise and fulfillment of their rights and obligations in the protection and preservation of the marine environment (Zhang, 2016). In addition, Paragraph 5 of the DOC elaborates on the obligation of restraint for all parties. Based on these provisions, the Philippines’ accusation that China’s dredging and construction activities are destroying the coral system in Nansha Qundao (Spratly Islands) is completely unfounded. China has always actively fulfilled its obligations under Article 123 of the Convention. Within the framework of the full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea, China initiated the establishment of three specialized technical committees on marine scientific research and environmental protection, navigation safety and search and rescue and combating transnational crimes at sea in 2011, and has been making efforts to this end (Ministry of Foreign Affairs of the People’s Republic of China, 2011). In addition, from May to July 2024, a number of research institutes affiliated with the Ministry of Natural Resources of China, together with the support of a number of domestic scientific and technological innovation platforms, conducted

a comprehensive investigation of the Xianbin Jiao (Sabina Shoal), and officially released the “A Survey Report on the Coral Reef Ecosystem of Xianbin Jiao” on August 30 (National Institute for South China Sea Studies, 2024: China releases an ecological investigation report on the Xianbin Jiao: Philippine ship agglomeration activities have caused damage to the Xianbin Jiao ecosystem), which shows China’s efforts in marine environmental protection and scientific research, so it cannot be accused of violating Article 123 of UNCLOS.

As mentioned above, the natural formation process of islands and reefs in the South China Sea is a complex geographical phenomenon, and China’s normal marine scientific research activities cannot be smeared as artificial island and reef construction. According to “A Survey Report on the Coral Reef Ecosystems at Xianbin Jiao”, the false remarks such as China dumped coral debris at Xianbin Jiao (Sabina Shoal) and caused massive coral bleaching and death are without scientific or factual basis (The South China Sea Development Research Institute of the Ministry of Natural Resources and the South China Sea Ecological Center and the South China Sea Survey Center, 2024). On the contrary, illegal beach landings and the constant delivery of supplies by the Philippines will harm Xianbin Jiao (Sabina Shoal).

## ***2.2 China’s Law Enforcement Activities Against the Philippine Vessels in the Area of Xianbin Jiao (Sabina Shoal) are Lawful and Reasonable***

On August 19 and August 25 in 2024, during the period when the Philippines grounded its vessel on Xianbin Jiao (Sabina Shoal), Philippine Coast Guard vessels also intruded into the waters adjacent to Xianbin Jiao (Sabina Shoal) consecutively and deliberately rammed China Coast Guard vessels that were conducting routine law enforcement, resulting in “collision” accidents. The Philippines accused China Coast Guard vessels of using water cannons to attack Philippine vessels, while the United States even exaggerated the situation by expressing solidarity with its ally and condemning China for deliberately colliding with Philippine Coast Guard vessels.

China enjoys sovereignty over, and maritime entitlements based on the Nansha Qundao (Spratly Islands) as a unit which includes Xianbin Jiao (Sabina Shoal). The activities of the Philippine vessels in China’s territorial sea were not “innocent passage”, and China, via its law enforcement vessels, was entitled to “take the necessary steps in its territorial sea to prevent



passage which is not innocent” according to international law. According to Article 18 of UNCLOS, foreign ships exercising “passage” within China’s territorial waters must do so for the purpose of “navigation”. The Philippines claims that Xianbin Jiao (Sabina Shoal) is within the exclusive economic zone of the Philippines and claims to conduct maritime patrols and law enforcement activities, but in fact, it was likely providing supplies to ships stranded at Xianbin Jiao (Sabina Shoal). It is not a passage through Chinese territorial waters for the purpose of navigation. Even if the activities of the Philippine ships are considered “passage”, they do not constitute “innocent passage”. According to Article 19 of UNCLOS, passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. The provocative actions of Philippine ships entering the waters of Xianbin Jiao (Sabina Shoal) for maritime patrols and attempting to resupply the stranded ships are clearly acts that undermine regional peace and are not “innocent passage”. According to Article 25 of UNCLOS, “the coastal State may take such steps as are necessary to prevent passage which is not innocent within its territorial sea”.

In addition, Article 111 of the Convention provides that the hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Although Article 111 does not explicitly state that force may be used in exercising the right of hot pursuit, it would be difficult to achieve the purpose of law enforcement if the right of hot pursuit could only be exercised by closing the distance with the offending vessel without the assistance of the use of force. Some scholars also believe that, from a legal perspective, since the right of hot pursuit is a kind of police power, and the police have the right to use force against escapees who ignore warnings when enforcing the law, law enforcement vessels of the coastal state may use force after the warning to order the offending vessel to stop has been ineffective (Gao, 2009).

In international judicial practice, the International Court of Justice, the International Tribunal for the Law of the Sea and arbitration tribunals have also recognized in many cases the use of limited force at sea as a necessary step to prevent innocent passage. In *SAIGA (No. 2) (Saint Vincent and the Grenadines v. Guinea, 1999)* case, the tribunal considered that although the Convention does not contain express provisions on the use of force in the arrest of ships, international law, which is applicable by virtue of article

293 of the Convention, requires that the use of force must be avoided as far as possible and, where force is unavoidable, it must not go beyond what is reasonable and necessary in the circumstances (ITLOS, 1999).

Moreover, according to the relevant provisions of China's domestic law, the Coast Guard Law of the People's Republic of China, concerning the use of force or weapons in compliance with international law and customs, and the newly issued Provisions on the Administrative Law Enforcement Procedures of Coast Guard Agencies, China Coast Guard has the right to take necessary measures against foreigners who infringe upon China's territorial waters in accordance with the law. China Coast Guard conducted warning water cannon sprays on Philippine vessels that illegally entered the waters adjacent to Ren'ai Jiao (Second Thomas Shoal) in the South China Sea, maintaining rational restraint throughout the process. The Philippines was trying to change the peaceful status quo in the South China Sea, while China is a party that maintains the status quo. The Philippines' attempt to stay in Chinese territory for a long time precisely proves that China is taking legal and necessary actions to safeguard its territorial sovereignty. The Philippines also undermined the DOC reached between China and ASEAN countries, which was not conducive to accelerating the negotiation of a "Code of Conduct in the South China Sea" and fostering a good atmosphere. These countermeasures are not only necessary for China to safeguard its territorial sovereignty but also to uphold the solemnity and authority of the DOC.

### ***2.3 Philippines Cannot Acquire Territorial Sovereignty through "Effective Control"***

The Philippines has a "precedent" of occupying Xianbin Jiao (Sabina Shoal). Since the Marcos Jr. administration came into power, there have been some noticeable changes in the Philippines' South China Sea policy, including continuously stirring up troubles in the South China Sea, consolidating its grounded ship at Ren'ai Jiao (Second Thomas Shoal) aiming to turn it into an occupation, and returning to Huangyan Dao (Scarborough Shoal) (Wang & Li, 2024). However, international law does not stipulate that territorial sovereignty can be acquired through prescription or through the so-called "effective control" over islands and reefs (Fu & Li, 2016).

Effective control refers to "the acts of a state intended to demonstrate sovereignty over territory through the exercise of national power

(Marcelo, 2018).” In terms of legal requirements, the Permanent Court of International Justice stated in the “Eastern Greenland Case” that effective control must meet two conditions: firstly, there must be a subjective and continuous intention to exercise control; secondly, there must be objectively demonstrable acts showing the purpose of control (Permanent Court of International Justice, 1993). When a state’s subjective intention is not explicitly expressed, it can be realized through the state’s objective manifestations (Qu, 2010). In the *Nicaragua v. Honduras* case concerning sovereignty over islands and maritime delimitation, the International Court of Justice (ICJ) held that “an important factor in identifying sovereign acts related to the disputed islands is the extent and scope of acts already performed by the other claiming sovereignty,” specifically supporting Honduras’ acts of immigration control, fisheries management, and public works construction on the islands (ICJ, 2007). In the *Pedra Branca* case between Singapore and Malaysia, the ICJ considered acts such as investigations into maritime accidents, control over visits to Pedra Branca by foreigners (including Malaysians), installation of maritime communication equipment, and land reclamation plans as sovereign acts demonstrating effective control (ICJ, 2008).

This is precisely the intention behind the Philippines’ recent elaborate schemes to ground ships on the pretext of monitoring “China’s land reclamation activities at Xianbin Jiao (Sabina Shoal)”, attempting to gain “effective control” over Ren’ai Jiao (Second Thomas Shoal), Xianbin Jiao (Sabina Shoal), and other South China Sea islands. However, in the aforementioned cases, the ICJ further clarified the applicable conditions and rules of this principle, namely, the ICJ invokes the principle of effective control to adjudicate cases only under certain prerequisites, such as when the legal owner cannot be determined (Zhou & Zou, 2013). In territorial disputes, one country may assert its original legal rights to the disputed territory to deny another country’s claim of effective control. Original rights may derive from the occupation of *terra nullius* or from assertions based on the rule of continued occupation. The rule of continued occupation means that newly established sovereign states should retain the internal boundaries of their territories as they existed before independence, provided that the legal title to the territory is established. These internal boundaries are delineated by domestic laws (including legislation and executive orders) enacted by the colonies before independence or by international treaties

concluded by colonial states. The ICJ stated in the Burkina Faso/Mali case, “As the basis of sovereignty, the rule of continued occupation requires the legal title to prevail over effective occupation”.

In other words, international judicial bodies follow a certain order, where the existence of a legal title determines the assessment of the legal value of effective control. In the presence of a legal title, if the effective control is legitimate, the legal title takes precedence; if the effective control is illegal, then the effective control has no legal effect, and the legal title still takes precedence; if there is no legal title or the proof of the legal title is insufficient, effective control takes precedence and can create a source of sovereignty; in other cases, effective control has the function of proving or interpreting the legal title, or a residual function.

As an inseparable and important part of China’s territory, Nansha Qundao (Spratly Islands) has corresponding historical records and legal basis to be under China’s sovereignty. Based on abundant historical evidence and the principle of occupation in territorial acquisition under international law, China was the first to discover and effectively occupy Nansha Qundao (Spratly Islands), acquiring sovereignty of its entirety over them, and has continuously and stably exercised this exclusive right thereafter (Chu, 2017). Combined with the conditions discussed above, “When the legal owner of the disputed territory can be determined, the legal owner should be considered first, and the application of the principle of effective control should be excluded; the principle of effective control can only be applied when it is difficult to determine the legal owner,” it can be concluded that the principle of effective control cannot be applied in the dispute over Nansha Qundao (Spratly Islands). Therefore, the Philippines’ attempt to ground ships at Xianbin Jiao (Sabina Shoal) to achieve “effective control” cannot be realized.

#### ***2.4 Philippines’ Grounding on Xianbin Jiao (Sabina Shoal) Violates the Declaration on the Conduct of Parties in the South China Sea***

The Philippines’ act of infringing upon China’s territorial sovereignty over Nansha Qundao (Spratly Islands) not only violates international law but also breaches the Declaration on the Conduct of Parties in the South China Sea (hereinafter referred to as “the Declaration”), jointly signed by China and ASEAN countries in 2002. A declaration typically refers to a statement or commitment jointly signed by multiple countries or international

organizations, aiming to express the common stance, policy direction, or cooperation intentions of the parties concerned on certain issues. Since the 1990s, China and the Philippines have repeatedly affirmed in bilateral documents the settlement of relevant disputes between them through negotiation and consultation. As a party to the Declaration reached among China and ten ASEAN countries, the Philippines participated in the entire negotiation process of the Declaration as an ASEAN member and was well aware of the obligations to be undertaken by all parties in the Declaration. The Declaration, as a political outcome achieved by ASEAN parties after years of effort, speaks for itself in terms of seriousness and authority. In the Danube Dam case, the International Court of Justice emphasized the agreement reached between the two countries in 1977 and subsequent commitments on environmental and water resources management. Although some content may have originated from political commitments, its binding force was deemed to meet international law standards. The ICJ ruling indicated that even if certain international declarations are not treaties themselves, they can still influence state conduct and international responsibility. Paragraph 5 of the Declaration stipulates that the Parties undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability, including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.

Before the signing of the Declaration, on 9th May 1999, the Philippines dispatched the landing ship *Sierra Madre* (LT 57 *Sierra Madre*) to invade China's Ren'ai Jiao (Second Thomas Shoal) and illegally "grounded" itself on the reef under the pretext of a "technical malfunction." And after the signing of the Declaration, it continuously dispatched fishing boats to transport supplies, attempting to turn the grounded vessel into a permanent facility on the reef and even rotated personnel to guard it, which constituted "actions aimed at the habitation of uninhabited reefs". After its bold move on Ren'ai Jiao (Second Thomas Shoal), the Philippines took similar actions on Xianbin Jiao (Sabina Shoal) in an even more egregious manner, attempting to replicate the process of grounding, resupplying and guarding, turning a blind eye to and repeatedly violating the commitments in Paragraph 5 of the Declaration. This not only violates the principle of good faith in international law but also undermines the authority of the Declaration.

### 3. The Philippines' "Maritime Zones Act" and "Archipelagic Sea Lanes Act" Violate International Law

China has sovereignty over Nansha Qundao (Spratly Islands) and their adjacent waters, as well as the Zhongsha Qundao (Zhongsha Islands), including Huangyan Dao (Scarborough Shoal), and their adjacent waters, and has sovereign rights and jurisdiction over the relevant maritime areas. China's territorial sovereignty and maritime rights and interests mentioned above have sufficient historical and jurisprudential foundations and comply with international law.

Huangyan Dao (Scarborough Shoal) has been China's inherent territory since ancient times, and China has indisputable sovereignty over Huangyan Dao (Scarborough Shoal) and its adjacent waters. China's activities in the South China Sea date back more than 2,000 years, being the earliest to discover, name and exploit the South China Sea Islands. China is also the earliest in the continuous exercise of sovereign jurisdiction over them. China has indisputable historical rights to the South China Sea Islands, including Huangyan Dao (Scarborough Shoal). Since the founding of the People's Republic of China, the Chinese government has been actively safeguarding the sovereignty of the South China Sea Islands through persistent and practical actions. Both the 1958 Declaration of the Government of the People's Republic of China on the Territorial Sea and the 1992 Law of the People's Republic of China on Territorial Sea and Contiguous Zone explicitly stipulate that the territory of the People's Republic of China includes the Dongsha Qundao (Dongsha Islands), Xisha Qundao (Xisha Islands), Zhongsha Qundao (Zhongsha Islands), and Nansha Qundao (Spratly Islands) (Ministry of Foreign Affairs of the People's Republic of China, 2016). Before the 1970s, the domestic laws and maps of the Philippines did not involve China's South China Sea Islands and reefs. Afterwards, the Philippines began to weave various justifications to make territorial claims on Huangyan Dao (Scarborough Shoal) in China's Zhongsha Qundao (Zhongsha Islands).

Firstly, the Philippines makes the argument that Huangyan Dao (Scarborough Shoal) is within its 200-nautical-mile exclusive economic zone and thus asserts jurisdiction over Huangyan Dao (Scarborough Shoal). Secondly, the Philippines introduced the idea of geographical proximity, arguing that Huangyan Dao (Scarborough Shoal) is closest to the Philippines and thus the Philippines acquires its sovereignty. It also makes

the argument that the Philippines inherited sovereignty over Huangyan Dao (Scarborough Shoal) from the US military stationed in the Philippines. Finally, the Philippines also asserts that Filipino fishermen began utilizing Huangyan Dao (Scarborough Shoal) as early as the Spanish colonial period, thereby acquiring territorial sovereignty over it. During the South China Sea Arbitration in 2016, China's position paper also clearly stated that Huangyan Dao (Scarborough Shoal) is China's inherent territory, and China has continuously, peacefully and effectively, exercised sovereignty and jurisdiction over Huangyan Dao (Scarborough Shoal). The territorial claims made by the Philippines over Huangyan Dao (Scarborough Shoal) since 1997 are unreasonable, illegal and invalid. The Chinese government does not recognize any territorial sovereignty dispute with the Philippines over Huangyan Dao (Scarborough Shoal) (China Gov.com, 2014).

Since the 1990s, the military of the Philippines has frequently harassed Chinese fishermen fishing near Huangyan Dao (Scarborough Shoal). Since the Marcos Jr. administration came to power in 2022, several Philippine vessels have intruded into the waters adjacent to China's Huangyan Dao (Scarborough Shoal) multiple times. In November of this year, China delineated and announced the territorial sea baseline of Huangyan Dao (Scarborough Shoal) in accordance with UNCLOS and other international laws, as well as the Law of the People's Republic of China on Territorial Sea and Contiguous Zone, clarifying the scope of the internal waters, territorial sea, and other maritime areas of Huangyan Dao (Scarborough Shoal). Meanwhile, President Marcos of the Philippines signed the Archipelagic Sea Lanes Passage Act and the Maritime Zones Act, using the implementation of UNCLOS as a pretext to solidify the arbitral ruling of the South China Sea Arbitration and legitimise its actions in the South China Sea. Then, in December, the Philippine Coast Guard vessels 9701 and 4409, as well as official vessels 3002 and 3003, attempted to intrude into the territorial sea of China's Huangyan Dao (Scarborough Shoal) under the guise of "law enforcement" and dangerously approached China Coast Guard vessels conducting normal law enforcement patrols. China exercised control over them in accordance with laws and regulations.

This article believes that the Archipelagic Sea Lanes Act and Maritime Zones Act of the Philippines violate international law, including UNCLOS. Firstly, the sea lanes and air routes designated by the Philippines' Archipelagic Sea Lanes Act do not include all commonly used international

routes within the archipelagic waters of the Philippines, which does not comply with Article 53(4) of UNCLOS, which stipulates that archipelagic states “shall include all normal routes for international navigation or overflight used for passage through the archipelagic waters or over them”, and impairs the legitimate interests of other shipping nations. Article 53(9) of UNCLOS further stipulates that when designating sea lanes, an archipelagic state shall make proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe or substitute them. In other words, the Philippines should propose and agree on sea lanes with the International Maritime Organization before designating archipelagic sea lanes, but the Philippines has not yet completed the corresponding agreement procedures.

In addition, the sea lanes and air routes designated by this Act are all in close proximity to the United States military bases in the Philippines. If the Philippines restricts the legitimate rights of passage for countries other than itself and its allies and takes the opportunity to monitor passing vessels, it will seriously threaten the navigation safety of countries in the South China Sea. It is obvious that the Philippines’ Archipelagic Sea Lanes Act exceeds the scope authorized by UNCLOS and serves the purpose of illegally restricting the legitimate rights of other countries. Therefore, before the Philippines completes the aforementioned procedures, in accordance with Article 53(12) of UNCLOS, other countries may still exercise navigational rights in other routes used for international navigation.

Secondly, the Maritime Zones Act of the Philippines includes China’s Huangyan Dao (Scarborough Shoal), some islands and reefs of Nansha Qundao (Spratly Islands), and their maritime areas within its maritime zones, thus violating China’s territorial sovereignty and maritime rights in the South China Sea. The Act lists islands and reefs that are part of China’s Nansha Qundao (Spratly Islands) as part of its exclusive economic zone, infringing upon China’s territorial sovereignty. This act deliberately replaces the Philippines’ territorial claims with “maritime jurisdiction claims”, and attempts to cover the fact of the Philippines’ occupation of some islands and reefs in China’s Nansha Qundao (Spratly Islands). Although the Maritime Zones Act of the Philippines mentions so-called “all other low-tide elevations within two hundred (200) nautical miles from the archipelagic



baselines” and “artificial islands located in the Philippines’ exclusive economic zone” without specifying their names, the targets are very obvious, mainly targeting some islands, reefs, banks and sandbars in China’s Nansha Qundao (Spratly Islands). This also suggests that the Philippines has cause to attempt to further occupy relevant islands and reefs in China’s Nansha Qundao (Spratly Islands), possibly including Yongshu Reef, Zhubi Reef and Meiji Reef, in the South China Sea as part of the territory of the Philippine government. Legally speaking, this provision actually exceeds the authorization of Articles 56 and 60 of UNCLOS. UNCLOS grants coastal states sovereign rights and jurisdiction over the construction, authorization, and management of the construction, operation, and use of artificial islands, but never mentions the issue of ownership of artificial islands. However, the Philippines has always had a record of using domestic legislation to endorse its territorial claims, and this is also an attempt to gradually expand beyond its territorial outer limits. The Maritime Zones Act adopts a similar approach and is also an inheritance and development of previous legislative infringements.

The Maritime Zones Act of the Philippines takes the ruling of the South China Sea Arbitration as one of the bases for delineating its maritime boundaries, attempting to solidify the arbitration ruling through domestic legislation. In the view of the Philippines, only by further ‘domesticating’ the arbitration ruling can it exert its “maximum effectiveness”, thereby consolidating the “political and legal foundation” for maritime confrontation with China and providing domestic legal support for its actions regarding the issue of the continental shelf beyond 200 nautical miles in the South China Sea, pushing forward negotiations with relevant countries on the delimitation of maritime boundaries in the South China Sea without China, and initiating new international arbitrations in the South China Sea. However, this cannot shake the fact that China has deemed the arbitral ruling of the South China Sea Arbitration as invalid, with the arbitral tribunal exceeding its jurisdiction, conducting trials in defiance of the law, and committing numerous errors in legal interpretation and application, evidence admissibility, and fact-finding. The Philippines’ reliance on an invalid ruling as the basis for its rights will not produce any legal effects.

Furthermore, the two Acts of the Philippines have violated Article 5 of the Declaration on the Conduct of Parties in the South China Sea, which stipulates “exercising self-restraint and refraining from actions that

complicate or escalate disputes and affect peace and stability”. The signing of the two Acts is not conducive to dispute resolution but will only further escalate contradictions and undermine regional peace and tranquility. The Philippines is thus seeking to expand and gain benefits in the name of international law, but its actions ultimately affect the freedom and safety of navigation in the South China Sea, threaten regional peace and stability, and inevitably cause dissatisfaction among regional countries and the international community.

Lastly, the invocation by the Philippines of the provisions of its domestic laws, the Maritime Zones Act and Archipelagic Sea Lanes Act, as the justification for not fulfilling treaty obligations, is not acceptable. According to Article 27 of the 1969 Vienna Convention on the Law of Treaties, concerning “Compliance with Internal Law and Treaties”: “A party may not invoke the provisions of its internal law as a justification for its failure to perform a treaty”. The Philippines’ enactment of these two Acts violates multiple international conventions, including the Charter of the United Nations and the UNCLOS, as well as the provisions of several joint declarations between China and the Philippines. The Philippines cannot invoke these domestic laws to disregard its obligations under various international treaties. According to the principle established by the International Court of Justice in the “Fisheries Case” (United Kingdom v. Norway), unilateral acts by the Philippines that do not conform to the rules of international law are externally invalid. Therefore, the two Acts unilaterally enacted by the Philippines should be considered invalid and have no binding force on China or the international community at the international law level. According to the Draft Articles on Responsibility of States for Internationally Wrongful Acts and customary international law reflected therein, the legislative acts of the Philippines also constitute internationally wrongful acts, for which the Philippines should bear international responsibility, and China has the right to take countermeasures.

#### **4. China’s Announcement of the Territorial Sea Baselines and Law Enforcement Activities in Huangyan Dao (Scarborough Shoal) Complies with International and Domestic Law**

China’s announcement of the territorial sea baselines of Huangyan Dao (Scarborough Shoal) complies with the legitimate measures stipulated by international law, including UNCLOS, and domestic laws such as the Law of

the People's Republic of China on the Territorial Sea and Contiguous Zone. The territorial sea baseline is an important basis for a country to determine its territorial sea. The Convention stipulates that "every State has the right to establish the breadth of its territorial sea up to a limit not exceeding twelve nautical miles measured from baselines determined in accordance with this Convention". Regarding the method for drawing territorial sea baselines, the Convention not only recognizes the "normal baseline" method, which uses the low-water line along the coast as the territorial sea baseline, but also permits the use of the "straight baseline" method to connect suitable points to determine the territorial sea. China's use of the "straight baseline" method to determine the territorial sea baseline of Huangyan Dao (Scarborough Shoal) fully complies with the relevant provisions of international maritime law.

Meanwhile, according to the Law of the People's Republic of China on the Territorial Sea and Contiguous Zone, the territorial sea baseline of the People's Republic of China is delineated by the straight baseline method, consisting of straight lines joining adjacent base points. Undoubtedly, China's announcement of the territorial sea baselines of Huangyan Dao (Scarborough Shoal) fully complies with the norms of international law, such as the UNCLOS, as well as domestic law requirements. In addition, China's law enforcement actions against the Philippine Coast Guard vessels comply with international and domestic law. Despite being fully aware that China had announced the territorial sea baselines of Huangyan Dao (Scarborough Shoal), the Philippines insisted on entering the territorial sea and colliding with Chinese law enforcement vessels, intending to enforce the newly enacted Archipelagic Sea Lanes Act and the Law on the Territorial Sea, and denying China's territorial sovereignty over Huangyan Dao (Scarborough Shoal), while completely ignoring the domestic legal measures taken by China to defend its sovereignty. Moreover, the Philippines' repeated provocations in Huangyan Dao (Scarborough Shoal) aim to continue enforcing the ruling of the South China Sea arbitration case related to Huangyan Dao (Scarborough Shoal). Based on the ruling, the Philippines firmly refuses to recognize China's sovereignty and maritime rights over Huangyan Dao (Scarborough Shoal), claiming that Huangyan Dao (Scarborough Shoal) belongs to the Philippines' exclusive economic zone, intending to stir up confrontation on Huangyan Dao (Scarborough Shoal) and use the ruling to garner international support.

China's countermeasures have effectively demonstrated its determination to firmly defend its national territorial sovereignty and maritime rights and interests in at least three ways. Firstly, China clearly announced that Philippine vessels entered the territorial sea of Huangyan Dao (Scarborough Shoal), indicating that China is exercising administrative jurisdiction based on the newly announced territorial sea baselines of Huangyan Dao (Scarborough Shoal), which complies with the provisions of the UNCLOS and effectively proves that Huangyan Dao (Scarborough Shoal) belongs to China. By enforcing the law within the territorial sea, China has clarified the scope of maritime rights arising from Huangyan Dao (Scarborough Shoal), providing clear guidance for future law enforcement activities in the exclusive economic zone and continental shelf of Huangyan Dao (Scarborough Shoal). Secondly, China firmly countered the Philippines' propaganda efforts, effectively demonstrating through the release of videos from the scene that the Philippines was the culprit behind the collision incident. Videos from the Chinese side show that the Philippines suddenly made a large-angle turn and reversed its vessel while navigating, deliberately colliding with Chinese Coast Guard vessels. During this dangerous collision, Philippine Coast Guard personnel were still jumping around to film and collect so-called evidence. It can be seen that the videos released by the Philippines only show a partial view rather than the whole situation, and the Philippines completely disregarded the safety and humanitarianism of its crew members. Thirdly, China maintained maximum restraint and patience during the collision incident, effectively maintaining peace and stability in the South China Sea. Peace and stability in the South China Sea are in the common interest of countries in the region. In China's view, the above-mentioned actions undertaken by the Philippines could trigger conflicts and undermine regional peace and stability. China's warning aims to remind the Philippines of the severity of its wrongdoings, urging it to stop in time and avoid further escalation of the situation. Only when the Philippines ceases its behavior can China and the Philippines resolve their dispute through dialogue and consultation and achieve regional peace and stability.

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