THE REPUBLIC OF THE PHILIPPINES RESPONSE ON THE
PEOPLE’S REPUBLIC OF CHINA TERRITORIAL CLAIM:
SOUTH CHINA SEA (2012-2016)

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A thesis presented to the Faculty of Humanities President University
in partial fulfillment of the requirements for Bachelor Degree in
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THESIS ADVISER

RECOMMENDATION LETTER

This thesis entitled “The Republic Of The Philippines Response on the People’s Republic Of China Territorial Claim: South China Sea (2012-2016)” prepared and submitted by Khairina Auliannisa in partial fulfillment of the requirements for the degree of Bachelor of Arts in International Relations in the Faculty of Humanities of President University has been reviewed and found to have satisfied the requirements for a thesis fit to be examined. I therefore recommend this thesis for Oral Defense.

Jakarta, Indonesia, 2017

Recommended and Acknowledged by,

Dr. Endi Haryono
Thesis Advisor
DECLARATION OF ORIGINALITY

I declare that this thesis entitled “The Republic Of The Philippines Response on the People’s Republic Of China Territorial Claim: South China Sea (2012-2016)” is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, Indonesia, 22 May, 2017

KHAIRINA AULIANNISA
Panel of examiners stated that the thesis entitled "The Republic Of The Philippines Response on the People’s Republic Of China Territorial Claim: South China Sea (2012-2016)" that was submitted by Khairina Auliannisa majoring in International Relations from the Faculty Humanities was assessed and approved to have passed the Oral Examination on

Hendra Manurung S.IP., M.A
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Examiner I

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Adviser
ABSTRACT
The Republic Of The Philippines Response on the People’s Republic Of China
Territorial Claim: South China Sea (2012-2016)

South China Sea is known with its rich natural resources such as oil and gas, and fisheries. Philippine made its claim with the basis of UNCLOS and claimed what is in the 200nm of the Economic Exclusive Zone (EEZ) in South China Sea dispute. In the other hand, China claimed everything in South China Sea using historical rights. The tension between Philippine and China started to rise in 1995 due to Mischief Incident. In order to respond China’s territorial claim that is overlapping with Philippine, Philippine started to address the issue in Association of Southeast Asian Nations (ASEAN) in 1998 when Philippine became the Chairman of ASEAN. Philippine’s responses brought result, it produced Declaration of Conduct (DoC), and later developed into CoC (Code of Conduct) in 2002. Philippine also raised the claim case to Permanent Court of Arbitration (PCA) in 2013, in order to ensure that China’s claim with the basis of historical rights over South China Sea is illegal. While so, Philippine is also planning to increase the military quality by increasing the military budget each year.

Keyword: Philippine, China, South China Sea Dispute, ASEAN, Spratly Island, Permanent Court of Arbitration (PCA)
ABSTRAK
The Republic Of The Philippines Response on the People’s Republic Of China Territorial Claim: South China Sea (2012-2016)


Kata Kunci : Filipina, Cina, Konflik Laut Cina Selatan, ASEAN, Mahkamah Arbitrase Internasional, Kepulauan Spratly
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<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>SCS</td>
<td>South China Sea</td>
</tr>
<tr>
<td>WPS</td>
<td>West Philippine Sea</td>
</tr>
<tr>
<td>EEZ</td>
<td>Economic Exclusive Zone</td>
</tr>
<tr>
<td>EIA</td>
<td>Energy Information Administration</td>
</tr>
<tr>
<td>KIG</td>
<td>Kalayaan Island Group</td>
</tr>
<tr>
<td>CNA</td>
<td>Centre for Naval Analysis</td>
</tr>
<tr>
<td>PCA</td>
<td>Permanent Court of Arbitration</td>
</tr>
<tr>
<td>EDCA</td>
<td>Enhanced Defense Cooperation Agreement</td>
</tr>
<tr>
<td>CLCS</td>
<td>Commission on the Limits of Continental Shelf</td>
</tr>
<tr>
<td>USGS</td>
<td>United States Geological Society</td>
</tr>
<tr>
<td>CNOOC</td>
<td>Chinese National Offshore Oil Company</td>
</tr>
<tr>
<td>DND</td>
<td>Department of National Defense</td>
</tr>
<tr>
<td>DoC</td>
<td>Declaration of Conduct</td>
</tr>
<tr>
<td>TAC</td>
<td>Treaty of Amity and Cooperation</td>
</tr>
<tr>
<td>MDT</td>
<td>Mutual Defense Treaty</td>
</tr>
<tr>
<td>AFP</td>
<td>Air Force of Philippine</td>
</tr>
<tr>
<td>UCAV</td>
<td>Unmanned Combat Air Vehicles</td>
</tr>
<tr>
<td>SIPRI</td>
<td>Stockholm International Peace Research Institute</td>
</tr>
<tr>
<td>C4ISR</td>
<td>Command, Control, Communications, Computers, Intelligent, Surveillance and Reconnaissance</td>
</tr>
<tr>
<td>Nm</td>
<td>nautical miles</td>
</tr>
<tr>
<td>Bbl</td>
<td>billion barrels</td>
</tr>
<tr>
<td>Tfc</td>
<td>trillion cubic feet</td>
</tr>
</tbody>
</table>
CHAPTER I

INTRODUCTION

1.1 Background of the problem

It is not new that South China Sea is known with its strategic route for trading activities. It is one of the strategic shipping lane that connect Indian Ocean to the East Asia and the Pacific Ocean and approximated to reach 5 billion USD worth per year. In fact, every country knows how much potential it holds for natural resources as well. Therefore, countries surrounding the sea are being very conscious for the opportunity. The countries that are involved directly are China, Brunei Darussalam, Philippines, Taiwan, Viet Nam and Malaysia. Several ASEAN member countries believe that they have the rights to claim it since it is still inside their EEZ (Economic Exclusive Zone) of their country. Even so, China in the other hand claimed the islands in the South China Sea are theirs completely historically. It received a lot of negative feedback from opposing countries because it is considered as not a strong basis. ¹

In the disputed area, there are Spratly, Scarborough Shoal and Paracels islands that were claimed by multiple countries. South China Sea itself is very wide and is around 3.500.000 km² in total. It is directly bordered with several countries such as Brunei Darussalam, Philippines, Indonesia, Malaysia, Singapore, Vietnam and China. The disputed area is consisting of small uninhibited islands, atoll, and coral reefs which most of them are located in Paracels archipelago and Spratly. Aside than that, there are Prata Island, Macclesfield Bank and Scarborough Shoal that are located in northeast and east of South China Sea. Even so, the islands that were mentioned before are small and is impossible for human to live above it. Other small islands that are scattered in the South China Sea were very small and is considered as an obstacle for ships to pass by.²

U.S. Energy Information Administration (EIA) estimated that there are around 28 billion barrels of mineral resources that the islands hold. In the other hand, China

¹ Suryo Atmo, Inilah Buku Kuno yang Jadi Dasar China “Klaim” Laut China. 2013
believes that there are around 213 billion barrels or at least 10 times more than what US has. In the same time, EIA estimated that there are at least 11 billion of crude oil resources.\(^3\) Other than that, islands in the disputed area also have a potential to become a tourist spot. Malaysia believes that it has a high potential to become an iconic diving tourism. Aside than it holds a big potential for fisheries, there are a lot of decorative fishes surrounding the island.\(^4\)

The South China Sea dispute started to rise at 1970s, where each country started to state their claim for the area. In the other hand, China has been very persistent that the islands are not available for negotiation. China outstand other countries in term of being active the most in the disputed area by building artificial island, creating dredged channel in several reefs, regularly visiting the islands, as well as regularly sending and patrolling the islands regularly.\(^5\) Whenever there are planes or ships that trespass the area, China would openly express their displeasure without hesitation. To add on, China want to exclusively keep the South China Sea for themselves because of all the potential that the sea holds and what they believe it has been written in a book of their ancestors. China named their claim as 9 dash line, where it is consisting of 9 imaginary points that covers its land, sea and islands.\(^6\) To this reason, China’s actions are considered as aggressive and uncooperative. This action of being uncooperative is shown by China being reluctant to accept the result of United Nations’ decision regarding China’s historical rights. They believe that what they have been doing is part of the sovereignty and have no intention to stop.\(^7\) This results a lot of negative feedback from opposing countries. In the same time, this triggered other countries that are being involved with the conflict to send parts of their military power such as military ships to the South China Sea as well.

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In the other hand, Philippines declared that they claim several islands in Spratly, as well as Scarborough Shoal. The islands in Spratly islands that Philippines claimed were called as Kalayaan Island Group (KIG). Philippines also have another name for South China Sea, which is Philippines West Sea.\(^8\)

Having an overlapping interest with other countries especially China, Philippines realize that necessary action should be taken. Moreover, China has been conducting a lot of activities in the disputed area where Philippines’ claim is. It also address how China has been very aggressive towards Philippine’s fishermen to the extent they shot and sink their boats. In order to clarify about their claim and seek for the solution, Philippines raised this issue to the International Arbitral Tribunal in 2013. \(^9\)

1.2. Problem Identification

Philippines is only claim a group of islands in the Spratly and named it as Kalayaan Island Group (KIG) along with its continental shelves which consisting of 53 features in the eastern part of South China Sea. In this dispute, Philippines raised the claim by emphasizing on the geographical location. Since Philippine and China has overlapping claim, Philippine had to respond to China’s territorial claim. \(^10\)

1.3. Statement of the Problem

As what have been elaborated in the previous sub chapters, the writer would like to elaborate the Philippines’ responses on People’s Republic of China’s territorial claim in South China Sea. Thus, the research question will be as the following.

Research Question:

- How did the Republic of the Philippines respond on the People’s Republic of China territorial claim in South China Sea?

1.4. Research Objective

- To elaborate the Republic of Philippines’ response on People’s Republic of China’s claim in South China Sea


\(^10\) Rizki roza, Poltak Partogi Nainggolan dan Simela Victor Muhamad, Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI), 2013, pg.13
• To elaborate what are Philippines claim in the disputed area
• To analyse what are the benefit of Philippine’s claim to Philippine

1.5. Significance of Studies
• To explain to the reader about Philippines’ claims in the South China Sea dispute
• To explain Philippines’ responses on China’s territorial claim in South China Sea
• To provide information and contribute for the future research particularly in the study of International Relations, specifically about Philippines and South China Sea dispute.

1.6. Literature Review

In A CNA Occasional Paper Philippine Claims in the South China Sea: A Legal Analysis (August 2014) written by Mark E. Rosen, JD, LLM, the writer described that Philippines is entitled to own what is inside the 200-nm EEZ and continental shelf as measured from the latest archipelagic baselines. What are within the EEZ are classified as low-tide elevations which include Reed Bank and Mischief Reef. According to what is stated in International law, these conditions that Philippines has meet are not susceptible to be occupied by others and is part of Philippines’ sovereignty. Therefore, China’s interference with Philippines’ area of use and management on the continental shelf sources is considered illegal.11

According to John G. Merills in his book with the title of International Dispute Settlement Fourth Edition (2010), dispute is something inevitable and is part of international relations, remembering that the world consisting of various countries with different interest and property. This book is specifically talking about international dispute along with its definition, examples of dispute and the possible solutions that can be used to solve the problem. John Merills likened a country as an individual to give an example such as people might disagree and have different perspectives of how to operate a river, a sum of money and even a piece of land. John assumes a country is just like an individual that has different needs and different characteristics. In bigger scale such as country, it involves more people and likely to

be more complicated in solving problems because of the policy that limit the actions, and interest of each country.  

In UNCLOS’ (United Nations Convention on the Law of the Sea) document regarding Exclusive Economic Zone of each country, it is stated that: The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

According that what was stated above, it means that Scarborough Shoals and few Spratys Islands are indeed part of Philippines’ EEZ and is legal for Philippines to manage and use them. Similar with the previous book that was written by the CNA, inside the analysis it is stated that it what is in Philippines 200 nm is not susceptible as part of one’s sovereignty.

Inside the award that was released by PCA (Permanent Court of Arbitration) in July 2016, it is to make a clear point on few points and one of it is that China’s historic rights regarding the 9 dash line in the South China Sea was not approved. To add on, in the award it is also stated that China has violated Philippines’ sovereignty over its EEZ. It was because China was also appointed that they aggravated the dispute and has violated the obligations to protect and maintain the marine environment. Through this book, it is obviously elaborated that Philippines has better position regarding the claim in the South China Sea over China’s.

1.7. Theoretical Framework

1.7.1. National Interest

A state produces its foreign policy decisions with a purpose to secure and strengthens its security. The efforts to secure international peace and security, that state are currently making, are being made because today the security of each state stands inseparably linked up with international peace and security. According to Hans J. Morgenthau, national interest has two factors, the first is rationally demanded, second is changeable and decided by situations. In short, national interest could be defined as a goal or ambition of a state. 15

In this context, it would be Philippine interest in South China Sea. Philippine has interest over 8 islands and several features that is in the EEZ while in the same time Philippine has overlapping claim with China. Therefore, it made Philippine will have to respond to the claim that was made by China.

1.7.2. Balance of Threat

In writing this thesis, the writer will be using Balance of Threat theory by Stephen M. Walt to explain the means of a country will take to form alliances in respond of threats that are approaching the country. In this case, it will be how Philippine will confront the South China Sea dispute through making alliances or cooperation. Even so, before a country decide to do

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15 Hans J. Morgenthau, Another Great Debate: the National Interest of US, December 1952
whether balancing or bandwagoning, a threat should exist in the first place then the decision will be made.  

The Balance of Threat theory has two concept which are Balancing and Bandwagoning. Both concepts have similarity, though it is different according to which side will a country take in facing the threat. Basically, balancing concept is, when a country is facing an external threat, they make alliance with other powerful countries to balance the power and oppose to align with the source of the threat. While bandwagoning basically means when a country is facing a threat, the country will ally with the country with the source of the threat. 

According to Stephen M. Walt, the hypotheses on bandwagoning are:

- States facing an external threat will ally with the most threatening power
- The greater the state’s aggregate capabilities, the greater the tendency for others to align with it
- The nearer a powerful state, the greater the tendency for those nearby to align with it
- The more aggressive a state’s perceived intentions, the less likely other states are align against it
- Alliances formed to oppose a threat will disintegrate when the threat becomes serious
- In wartime, the closer one side is to victory, the greater the tendency for others to bandwagon with it
- Weak States will balance against other states but may badwagon when threatened by great powers.

In this context, it will be how Philippine will act in facing the South China Sea dispute. In the past, Philippine has US in the back in this dispute. US’ intention to support Philippine is because US does not want

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18 Ibid
any other country to rise and overpower US. Since the South China Sea is a sea that is part of the Pacific Ocean, the continuation of Karimata and Malacca Straits to the Strait of Taiwan, which makes South China Sea is good for trading routes, makes why US has interest in South China Sea.

Meanwhile, Duterte has a negative perception with Philippine-US relation, and made him to see the presence of the US as negative and unreliable. Several reasons that Duterte stated were; (1) US’ occupation in the past that killed the lives of Filipinos in the Philippines, 19 (2) a non-solutive and even provocative US presence against the Abu Sayyaf insurgency in Mindanao 20 (3) Philippine's need to prioritize the rapid and effective law enforcement which is killing drug criminals, while US disagree with the idea of violating human rights because US prioritize human rights. 21

Philippine’s distrust towards US was confirmed when Barrack Obama as the President of United States stated that EDCA is not intended to contain China, since Washington is in no position to decide the sovereign right of the disputed territory. Duterte feels uncertain and publicly announces his doubts about the ability and willingness of the US to help if China will project their power to Philippines. Philippine’s decision in the past to do balancing because in case if China will project the power to Philippine, there will be US to help. Unfortunately, without any certainty from US, Philippine thinks that it is risky and might result to total failure. 22

According to Stephen M. Walt explanation, when a middle/small power states feel uncertain and no necessary support from the ally country, they may bandwagon to the source of the threat and make ally because it is the safest choice.

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21 Satria, Alif & Sianturi, Richard, Respon ASEAN dalam Konflik Filipina-China atas Laut Cina Selatan, CSIS 2016 Kuartal Keempat
22 Ibid
1.8. Scope and Limitations of the Study

In order to make this research regarding Philippines’ on China’s claim in South China Sea to stay in line and does not stray into other topic, the scope and limitations of the study will be limited on:

a. Philippines’ response in dealing with South China Sea dispute specifically in responding China’s claim
b. Philippines’ claim to South China Sea
c. Time frame will be limited from 2012 until 2016

1.9. Research Methodology

In order to finish the research, the writer will be using qualitative method which is offering non-numeric data, in other words collecting evidences that are related to the case. According to Creswell, qualitative research has steps where in the first place the writer will look up data for analysis and gaining the related information through reading the materials that has been collected. With the information that has been obtained, writer will include it in the research along with the sources, as well as processing the broader meaning of the data. Qualitative method also focused on determining whether the materials that were collected are related and accurate for the readers, participant and researchers. The technique of gathering materials for the research will be through bibliography such as journals, literature and newspaper, magazines, news. This thesis will describe the responses of Philippines in dealing with South China Sea dispute that has been around for years. The primary sources will come from governmental websites, statements from government officials, speech of Philippines’ governmental officials, press releases and official documents from organizations such as UNCLOS in order to answer the research question of the thesis.

1.10. Thesis Outline

1.10.1 Chapter I – Introduction

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23 Qualitative Research Methods: A Data Collector’s Field Guide Module 1 Qualitative Research Methods Overview. (http://www.ccs.neu.edu/course/is4800sp12/resources/qualmethods.pdf)
The first chapter of this thesis will introduce readers to the issue and the purpose of this research. This chapter will cover the background of the study, problem of identification, significance of studies, theoretical framework, the definition of term and scope of limitations of the study. In short, it will be talking about the general idea of the thesis and will showcase the reader regarding what will be shown in the following chapters.

1.10.2. Chapter II – History and Territorial Claim Of China and Philippine in South China Sea Dispute

The second chapter of this thesis will be focusing on the history and territorial claim of China and Philippine in South China Sea. It will be talking about both countries’ countries’ claims in South China Sea and the history of the claim. Philippine is claiming several islands in Spratly Islands, while China is claiming most of the South China Sea area. In this chapter it will also include the past story of both countries.

1.10.3. Chapter III – Philippine interest in South China Sea Dispute

The third chapter of this thesis will be focusing in Philippines’ interest in the South China Sea. This chapter will be explaining about how Philippine’s claim is beneficial for Philippine in order to become an additional natural resources for the economy of Philippine itself. First of all Philippine is a country with low oil production. Second, Philippine is exporting various kind of fishes in South China Sea. Third, since Philippine’s top trading partners both in import and export are Japan, US, China, Hong Kong, and Singapore, it might increase the trading activity of Philippine with the claim Philippine made.

1.10.4. The Republic of the Philippines responses on the People’s Republic of China Territorial Claim in South China Sea (2012-2016)

The fourth chapter of this thesis will be talking about the responses of Philippine on China’s territorial claim in South China Sea. Since China’s claim is overlapping with Philippine, therefore it made Philippine had to respond about it. There are various kind of responses that Philippine gave, which are trying to bringing it through ASEAN, raising the case to Permanent
Court of Arbitration, forming agreement with US, recently bandwagoning to China, and lastly increasing their own military quality.

1.10.5. Chapter V – Conclusion

In chapter V, the writer will write the conclusion regarding the thesis shortly and briefly.
CHAPTER II
HISTORY AND TERRITORIAL CLAIM OF CHINA AND PHILIPPINE IN SOUTH CHINA SEA DISPUTE

II. Introduction

South China Sea area consists of water and land from two collective groups of islands which are Spratly and Paracels, Macclesfield river bank and the Scarborough Shoal that is located near Singapore, started from Malaka Straits to Taiwan Straits. Therefore, because of its vast area and in the same time it is located between several countries, it makes countries such as China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei Darussalam that are located surrounding it will try to dominate what is in the South China Sea. In the other hand, Indonesia as a non-claimant country started to get involved with the dispute when China declared their absolute claim regarding the disputed area in 2012. 25

According to the International Hydrographic Bureau, South China Sea is defined as a sea that extends from the southwest toward the northeast, bordered to the

south by 3 degrees south between Sumatra and Kalimantan. In the northern part it is bordered by the Straits of Taiwan from the northern tip of Taiwan towards the coast of Fukien, China. The sea approximately covers the area of 4,000,000 square kilometres.26

The strategic location of South China Sea that is surrounded by countries has made it became famous way back in the time where navigation and trade once started in the past. Therefore, there are various names that were created by various countries all over the world. To European Sailors, the sea is known as South China Sea. Portuguese sailors were the first European to sail to the sea and named it as *Mar da China*, Or China Sea.27

Talking about UNCLOS 1982, it is also discusses about closed seas or semi-enclosed seas. The enclosed seas or semi-enclosed seas are discussed in Chapter IX Section 122-123 of UNCLOS 1982. In Article 122 it is stated that; "Enclosed or semi-enclosed sea" means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States."28

This classifies South China Sea as a semi-enclosed sea that lies between the coastal states. It is bordering with China and Taiwan on the northern part, Vietnam, Cambodia, Thailand and Malaysia on the Southwest, Philippines in the eastern part, lastly Malaysia and Indonesia (Sarawak and Sabah) in the Southern part. The centre of the archipelago is about 400 km from Sarawak (Malaysia), 600 km Saigon (Vietnam), 700 km from Manila, 1.100 km from Hainan Island (China) and 1.600 km from Sumatra Island (Indonesia). With an area of about 3,000,0002 km of waters, in the South China Sea area there were scattered several clusters of islands, which are Pratas Islands, Paracel Islands and Spratly Islands.29

The status and geographical position of the South China Sea as a semi-enclosed sea often causes conflicts of interest and disputes to countries which were

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27 Ibid 1 pg. vii
directly adjacent to the South China Sea. Cooperation between countries surrounding the South China Sea is expected and very necessary.

Since 1990, South China Sea area has always been the most frequently highlighted security issue mainly because the disputed sea is a sea basin area that is bounded by several large and small countries such as Philippines, Vietnam, Malaysia and Taiwan. Although there are two main clusters of islands, Spratly islands are more prominent as a study by the expertise since it is involving several countries at once. The countries which claim the Spratly Islands are China, Malaysia, Philippines, Taiwan and Vietnam.30

When South China Sea dispute is impossible to forget the fact that it holds various resources such as petroleum, fisheries, even the potential for ships to pass by for the purpose of trading which will be explained further in chapter III. 31 In fact, petroleum has been the main objective of China since in the early 90’s because China was one of the ten largest petroleum importer countries in the world. This encouraged China to get more supply abroad in massive quantity to keep their economy grow and develop even more. As China sees the potential of the petroleum in the South China Sea, it made China become more intense towards the disputed area. According to the

30 Ibid 2
31 See page 23
Chinese National Offshore Oil Company it is approximated that the South China Sea region holds 125 billion gallons of oil and 500 trillion cubic feet of gas.  

2.1. Claims and history of each country

<table>
<thead>
<tr>
<th>Country</th>
<th>Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philippine</td>
<td>Several Islands in KIG; Pagasa Island, Likas Island, Parola Island, Lawak Island, Kota Island, Patag Island, Panata Island. Several features; Scarborough Shoal, Reed Bank, Mischief Reef</td>
</tr>
<tr>
<td>China</td>
<td>9 dashed-line; Claiming everything in South China Sea</td>
</tr>
</tbody>
</table>

2.1.1. Philippines

The history of Philippines started in 1898 during Spanish-American War, where Spanish handed over to America the water and lands that they occupied which is named as Philippines. The land and water ownership was agreed via the Treaty of Paris in which in it is talking about the entire Philippines’ archipelago map, drawn as a large box with around the 7,107 islands in it. Then, in 1932, the Philippine Senate passed Act No. 4003, classifying all of the waters inside the Treaty Box as Philippines.

DeLuca, Derek, Why the Spratly Islands Dispute Matters, 20/02/2016
http://www.americanthinker.com/articles/2016/02/why_the_spratly_islands_dispute_matters.html
territorial waters for purposes of regulating fisheries activities, law enforcement, national defence, and resource development.  

In 1933, the United States handed over the land back that was obtained under the Treaty of Paris to the people of the Philippines; however, the United States remains in the land as a protector of Philippines until the Philippine establish a self-rule. In 1946, the United States formally recognized Philippine independence, and all of those territories inside the Treaty Box were ceded until today to the Republic of the Philippines without protest by any other nations. Both Scarborough Shoal and the features now claimed by the Philippines as part of its Kalayaan Island Group (KIG) claim were inside of the original Treaty Box. In 1955, Philippines notified the Secretary General of the United Nationals that all waters inside of the Treaty Box to be part of territorial waters.  

In the next legislation, the Government of the Philippines established Act No. 3046 on June 17, 1961 with the content says that there are a series of 80 straight baselines that framed the Philippine archipelago and is different from the old Treaty Box claim. The statement of the Philippines in that legislation was that all waters that is inside the baselines were considered internal waters, while all waters between the baselines and “Treaty Limits” were territorial seas. The United States and several other countries perceived that this new claim as excessive because it would affect numerous international straits (Surigao, Sibutu, Balabac, and Mindora) and would result to the difficulties of international community passage.  

Philippine’s claim on the South China Sea is based with its 200nm EEZ, which means several islands in the Spratly Islands which Philippine called it Kalayaan Island Groups (KIG). The islands and reef that Philippine claimed are Lawak Island, Kota Island, Lukas Island, Pag-asa Island, Parola Island, Panata Island, Patag Island, Rizal Reef and Ayungin Shoal. The Spratlys Islands itself are very close to the

34 Ibid
36 Ibid pg. 4
Philippines, which is less than 200nm compared to Vietnam and China. 38 Philippine also several other features which are Reed Bank, Mischief Reef, Scarborough Shoal.

Source : Centre of Naval Analysis, A CNA Legal Analysis : Philippine claim to South China Sea pg.35

As an assertion of its claim Philippines prevents other countries which are seeking to occupy its claimed territory, for example, which occurred in 1995 when China occupied Mischief Reef and built shelters for its fishermen that are doing the activities nearby the reef. Philippines responded this action by sending the Navy Army to abolish the buildings and chased away China from it. 39

2.1.2. China

Among other claimant countries to the disputed area, China made the biggest claim. The claim is known with the name as 9-dashed lines. China made its demands based on historical records, ancient documents and ancient maps. Based on what China said, their fishermen have been catching fishes in the South China Sea water

38 CNA (Centre or Naval Analysis), A CNA Legal Analysis : Philippine claim to South China Sea pg.35
39 Ibid
since 2000 years ago when Ming Dynasty was ruling China. To China, the Spratly Islands has been part of China since the period of Han, Yuan and Ming dynasties.  

The 9-dashed lines claim was first proposed in 1947 when it was during the Kuomintang regime which first started to include South China Sea as part of his territory with 9 dotted lines to describe China’s sovereignty. The line also covered Spratly and Paracel Islands. Although China has declared its 9-dashed lines long ago, China has just occupied the claimed region several years after the claim. There is no clear definition regarding the coordinates of the 9-dashed lines despite it has been drawn in the map as part of China’s sovereignty.  

China started to claim Paracel and Spratly islands since 19th and 20th century. It was declared formally and openly for the first time by China’s ambassador to the United Kingdom claimed that Paracel Islands were part of China in 1876. China’s sense of belonging towards both Paracel and Spratly Islands was so strong that pushed China to cast away Germany’s survey team that were once in Spratly Islands in 1883.  

By the end of 1930, China’s started to lose ownership to islands in South China Sea because the presence of Japan that gradually became stronger and occupied Itu Aba Island as their submarine fleet’s base. There are two main reasons why China’s ownership in South China Sea was decreasing. It was because China’s military that was weak and the internal disputes during colonial times in the 18-19th centuries. These two reasons made China unable to claim back their ownership in South China Sea especially when France also claimed the Spratly Islands as part of their sovereignty in 1930.  

As an assertion of China’s claim towards their claim in South China Sea islands, China started to occupy the islands by building features for military purposes. Aside than that, China also restricts any kind of military activities that is conducted by

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40 Prof. Dr. phil. Poltak Partogi Nainggolan, M.A, Konflik Laut China Selatan Dan Implikasinya Terhadap Kawasan,. 2013  
41 Ibid  
43 Ibid
other countries. This reason what makes there is serious tension between United States’ military plane and China’s military ships.\textsuperscript{44}

To China, occupying the area by building features wasn’t enough. Therefore China took another step to take self legal and administrative actions. In 2012, China released a passport which there is a map of China inside. In the map, China included the disputed South China Sea area as part of the country. This draws international world’s attention and China received a lot of negative feedbacks due to the reckless action. Not only that, in 21th June 2012 China announced that there is a new prefecture named Sansha that is located in one of the islands in Paracel which is Yonxing Island. Sansha is the youngest island in China and is populated with 10,000 lives. The city of Sansha belongs to the territory of China, which is a prefecture-level city that has its own rules or laws. The prefecture area is larger than the size of the regular city level. The Sansha prefecture is 350 kilometers wide (220 miles) and is located in the southeast of Hainan. According to China, Sansha will supervise the government of Paracel Islands, Spratly Islands and Macclesfield Bank. \textsuperscript{45}

China’s government gave authority to police border patrol near the Hainan Province to rumble through ships that is sailing inside the South China Sea water. Before that, they were only allowed to give warnings to ships that are passing in the water. In China’s point of view, unidentified ships that are passing in South China Sea area have potential to harm China’s national security. Therefore, it is also normal that there are a lot of ships are being expelled from the area In August 2012, China established military garrison in Paracel which result negative feedback from Vietnam. \textsuperscript{46}

In 7\textsuperscript{th} May 2009, China sent a note to UN Secretary General with the content of refusing the claim that was proposed together by Malaysia and Vietnam regarding the Commission on the Limits of Continental Shelf (CLCS). With the note, China stated that China’s sovereignty over South China Sea dispute unchangeable and China will stay consistent with their 9-dashed line as how it has been done since 1947.

\textsuperscript{44} Susan. V. Lawrence & Thomas, US-China Relations: Policy Issues, CRS Report for Congress. 11\textsuperscript{th} March 2011
\textsuperscript{45} Diba, Farah. Kebijakan Cina Mendirikan Garnisun Militer Di Kota Sansha Di Kawasan Laut Cina Selatan TAHUN 2012
\textsuperscript{46} Sekj Jen ASEAN Peringatkan China : http://nasional.kompas.com/read/2012/11/30/17215797/Sekjen.ASEAN.Per ingatkan .China
However, China attached its own map which there is South China Sea in it. Although China has been using 9-dashed line since 1947, this is the first time where China stated it in official letter to UN. 47

2.2. Development of the dispute

Of all the disputed areas in the South China Sea, the Spratly Islands has a potentially to develop into a military conflict area in the future. Not only because of overlapping demands involving the six claimant countries (China, Taiwan, Malaysia, Vietnam, Philippines and Brunei), but also because of the interests of superpower countries such as Japan, US and Russia in the waters of the South China Sea. The six claimant countries filed their claims on the Spratly Islands using the basis of historical evidence, past invention, temporary or recurrent occupation, and the maintenance of ties with one of the islands for centuries. 48

The basis of the Spratly islands claims became more complicated since there are several change of power which first France occupied the land in the 1933-1939, followed by Japan on 1939-1945. The defeat of Japan produced San Francisco Peace Treaty in 1951 which made China, Vietnam, Philippines and Taiwan to demand that the Spratly Islands and Paracel to be part of their sovereignty since Japan renounced its sovereignty claims over the Spratly and the Paracel Islands, but did not reassign them to any single country. 49 This led countries that were involved in the dispute began to reinforce their claims with more concrete action by occupying and building on the island, issuing historical documents with the purpose to support their claim, even the deployment of military forces in the disputed area. 50

Philippines raised the claim based on Cloma's invention, in 1956 then declared his ownership over 53 features in South China Sea and named it Freedomland. Cloma made the claim for the purpose of self-interest, without representing Philippines as a country. However, Cloma’s claim was officially supported by Philippines government.

48 Mike, Jason, U.S. in the South China Sea, 21/01/2012 http://thediplomat.com/2012/01/us-in-the-south-china-sea/
in 1971. In 1972, KIG officially registered under the Province of Palawan. In 1978, Philippines stated that there was a clear coordinates of the KIG and is part of Philippines’ sovereignty and has occupied two islands, namely Lamkiam Cay and Loalita Island. This occupation was supported by juridical action which is a 1956 Presidential Decree that was signed by President Marcos on 19\textsuperscript{th} June 1978, stating the ownership of the Kalayaan Islands. \footnote{Hasjim Djalal, The South China Sea: The Long Road Towards Peace and Cooperation. 2009} According to this decree, the islands that were claimed by Philippines were similar to Cloma's claim, however Spratly Island and Amboyna Island were not included. Both islands were occupied by Vietnam as part of the sovereignty. Malaysia also claimed a group of Admiral Reefs that were occupied by the Philippines as part of its territory. Even so, these demands were not followed by the deployment of troops and military forces. \footnote{Asnani, Usman & Rizal Sukma. Konflik Laut China Selatan : Tantangan Bagi ASEAN. Jakarta: CSIS, 1997}
CHAPTER III

PHILIPPINE INTEREST IN SOUTH CHINA SEA DISPUTE

3. Introduction

Through this chapter, it will focus on what are the interests of Philippines over the claimed area. It will elaborate and describe interests of Philippines in South China Sea. The explanation will be divided into two parts, the first is Philippines’ interest for economic purpose, and the second is Philippines’ interest for military purpose.

The first subchapter will describe the economy potential that the disputed area holds, which are oil and gas, fisheries and trade routes. In order to make it clear, there will be pictures and pie chart to show the Philippines’ top five trading partners in 2015, along with light explanation to make it understandable. The map of the possible trade route in South China Sea area will also be included for the purpose of showing that it could increase Philippines’ economy and trading activities.

The second subchapter will describe Philippines’ interest in the disputed area for military purpose. In Department of National Defence of Philippine’s White Paper that was created in July 2012, inside the paper there is a plan where DND stress the security and maritime coast watch in it. Moreover, as China’s presence in South China Sea is gradually stronger, it will likely cause Philippines to increase the military presence to defend the claim.

3.1 Philippines interest in South China Sea (Economy Purpose)

South China Sea is known that with its richness in natural resources despite the fact that it is just an approximation since the status is still in dispute. However, there are several potential that is certainly there and certainly will enhance the economy of whichever country that won the claim. The certain potential are fisheries and trade routes. In fact, fish catching activities in the disputed area has happened way back in the past. The clash happened between Philippines and China in 1995 when
Chinese fishermen were doing their activities to catch fishes near Mischief Reef, which is one of a reef in Spratly Islands in South China Sea.  

As for trade routes, it is pretty clear what South China Sea can do to the country which the claim is accepted and recognized internationally.

### 3.1.1 Oil and gas potential

For Philippines, mineral resources especially gas and oil is one of the most important product for the development of a country. With the concerns regarding the decreasing amount of oil on land, offshore oil reserves or continental shelf will be important to coastal countries around them in the future, especially to Philippines.

The most known natural resources potential of South China Sea dispute is its oil and gas. The oil and gas potential that have been known were part of the areas that are not disputed, which is close to the coastline of the countries that are directly adjacent to South China Sea. The South China Sea also has other mineral resources potential such as cobalt, copper, tin, phosphate, manganese nodules, although the one that has most quantity is oil and gas.

In 2010, the United States Geological Society (USGS) surveyed petroleum resources in the South China Sea. They estimated the amount of oil in the South China Sea area is 22 billion barrels and 290 trillion cubic feet of natural gas that may present. Data from the Energy Information Agency (EIA) shows the potential amount for the undiscovered hydrocarbons reserves in the South China Sea area is considered relatively small when it is being compared in a global scale.

However, in November 2012, the Chinese National Offshore Oil Company (CNOOC) estimated that the South China Sea area holds

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54 Partogi, Poltak, Konflik Laut China Selatan dan Implikasinya Terhadap Kawasan, 2013, pg.16

55 Usman, Asnani & Sukma, Rizal, Konflik Laut Cina Selatan Tantangan bagi ASEAN, CSIS Jakarta, 1997, pg. 23

56 Cockayne, Rebecca, China’s territorial sovereignty dispute is all about energy, 22/01/2014 http://globalriskinsights.com/2014/01/chinas-territorial-sovereignty-dispute-is-all-about-energy/
approximately 125 billion barrels of oil and 500 trillion cubic feet of natural
gas in undiscovered resources category, which is around ten times more than
US has estimated for oil and more than double the estimates for natural gas. 57
If China’s calculation regarding the South China Sea’s potential is correct,
then the South China Sea has more amount of oil than any area of the globe
except Saudi Arabia. Several Chinese observers have called the South China
Sea as “the second Persian Gulf” because of its richness. 58

![Map of South China Sea](image-url)

Source: Asia Maritime Transparency Initiative, CSIS, 2014 59

According to EIA, the disputed Reed Bank that is located in Spratly
Islands is estimated to contain up to 5.4 billion barrels (bbl) and 55.1 trillion
cubic feet (tfc) of natural gas. Referring to USGS’ survey, EIA estimated that
Spratly Islands territory might contain significant deposits of undiscovered
hydrocarbons. The EIA also stated that South China Sea could be used for
additional sources of energy in order to fulfill the demand of the growing
economy. 60

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57 Ibid
58 Kaplan, Robert, Why the South China Sea is so crucial, 20/02/2015
59 https://amti.csis.org/atlas/
60 By Iris C. Gonzales, US agency sees huge oil, gas potential in Spratlys, 11/02/13, http://news.abs-
cbn.com/business/02/11/13/us-agency-sees-huge-oil-gas-potential-spratlys
From the chart above, Philippine’s export for crude and oil products starting to increase in 2013. In 2012, the amount of the export was 319 thousand barrels, then increased very high in 2013 are 1528 thousand barrels. In 2014, it was 1940 and in 2015 was 2529. The export keeps on increasing until 2015, but dropped in 2016. Even so, the oil export in Philippine itself is still low. According to Worlds Top Exports, Philippine’s position as crude oil exports is 54 out of 105 countries in 2016, and is 0.03% from world’s total export. Since Philippine’s amount export for oil and gas is still low, Philippine can use the potential of oil and gas in South China Sea to be an additional resources to use.

3. 1.2. Fisheries

South China Sea area is known to be rich with its fish. By seeing its abundant sea water, it is estimated that South China Sea is able to provide protein needs for one billion Asian people, or at least 500 million people in coastal areas. Philippine is an exporter as well as an importer of fish and fishery products. In 2003, the balance of trade was positive, both quantity and

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61 EIA, Annual Export Data https://www.eia.gov/dnav/pet/pet_move_expc_dc_NUS-NRP_mbbl_a.htm
62 http://www.worldstopexports.com/worlds-top-oil-exports-country/
In 2012, Philippines ranked as the major fish producing countries in the world, with a total production of 3.1 million tonnes of fish, crustaceans, mollusks and other aquatic living animals. Aquaculture contributed 790,900 tonnes, or 25.4%, to the total fish production. In 2013, exports of fish and fishery products were valued high which was USD 1.2 billion. Tuna was the top exporter fishery products, followed by shrimp and prawns.

Not only the fishes in South China Sea area are consumable, there are also various decorative fishes and coral reefs that are up to trade and export. This live reef-fish trade is an important fishery is priced pretty high in the market and might worth approximately up to $1-2 billion.

The South China Sea itself is one of the richest fishing areas which consisting with various species of fish. Not only it is fishes that are favoured by Asian (fish with soft and boned flesh), but the sea also has fishes that are favoured by Europeans (tuna). Fishes that are known to exist in the sea are tuna, red snappers, pony fish, anchovies, round scads, sardines, mackerels, goat fish, thread breams, groups, big eye snappers, lizardfish, croakers, cuttlefish, squids and shrimps.

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66 Usman, Asnani & Sukma, Rizal, Konflik Laut Cina Selatan Tantangan bagi ASEAN, CSIS Jakarta, 1997, pg. 23
From the chart above, it is pretty clear that Philippine has higher export for fisheries products rather than import. Other thing to be seen is that each year the number of export is decreasing each year. With the fish resources that South China Sea has, it will be a good booster for Philippine’s fisheries export and boost the economy. Moreover, some top exported fish species such as tuna, prawn and shrimps are also there in South China Sea.  

3. 1.3 Trade Route

South China Sea waters could be a good route to transport of export goods and imports through the water not only between coastal states, but also between countries outside the South China Sea region such as US, Japan, South Korea and Russia. It can also be a trading route for inter-Southeast Asian trade, for example from Philippines to Malaysia, Indonesia to Philippines, and vice versa. In the international level, the South China Sea plays an important role for trading routes that connect East Asia with Europe, Africa and the Middle East through the Strait of Malacca. In fact, South China Sea is the second-most used sea route in the world. In terms of world

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68 Ibid pg.539
69 Ibid, pg. 25
annual merchant fleet tonnage, over 50% ships pass through the Sunda Strait, Strait of Malacca, and the Lombok Strait which continuing on to the South China Sea. Therefore, it is nothing strange that every countries in the disputed area holding to their claims strongly. To Philippines, it is important because it could open trade routes for exporting and importing activities.

![Diagram of Major Trading Partners of the Philippines: 2015](image)

Source: Philippines Statistics Authority, 2015 Statistics

In 2015, Japan was the top trading partner of Philippines, which in total it was worth $18.669 billion or 14.4% of the country’s total trade. Exports to Japan in total were $12.301 billion while imports were valued at $6.369 billion. Then there was China, which is the second largest trading partner of Philippines’ with the total trade worth $17.646 billion or 13.6% of the total trade. Export from China was at $6.175 billion while import was worth $11.471 billion. The third best trading partner of Philippines in 2015 was United States with 12.7% or $16.491 billion total trade. Total of exports amount was $9.023 billion and imports with $7.468 billion. The fourth and fifth places were seated by Singapore and Hong Kong. Meanwhile, trade with EU member countries was at 10.7% in total.

According to the report regarding Philippines’ trading activities that involves export and import, it is very clear that South China Sea plays an

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70 Factbox: South China Sea ruling - What’s at stake for oil, commodities?, 22/07/2016

71 Foreign Trade Statistics of the Philippines: 2015, released at 15/07/2016
https://psa.gov.ph/content/foreign-trade-statistics-philippines-2015

72 Ibid
important role for Philippines’ trades. In 2014, the top five countries trading partners were Japan, China, United States, Singapore, and South Korea.\footnote{Foreign Trade Statistics of the Philippines: 2014, released at 01/07/2015 https://psa.gov.ph/content/foreign-trade-statistics-philippines-2014} 

In 2013, Philippines’ top five trading partners were Japan, US, China, Hong Kong, and Singapore.\footnote{Stacy Kat, Factbox: South China Sea ruling - What's at stake for oil, commodities?, 22/07/16, https://www.platts.com/latest-news/oil/singapore/factbox-south-china-sea-ruling---whats-at-stake-27632115} In 2015, there is not much a big difference regarding the trade partners. This shows that Philippines’ consistent trade partners are Japan, US, China, Singapore and Hong Kong. According to the picture below, it is very likely that South China Sea, especially Spratly Islands could benefit Philippines in trading activities. Almost each of Philippines’ top trading partners’ shipping route are passing through the South China Sea. In short, it will be very beneficial and essential for Philippine to develop the economy if the claims are accepted by other claimant countries.

3.2 Philippines interest in South China Sea (Military Purpose)

In Philippine’s White Paper written by Philippine’s Department of National Defense in 23rd July 2012, there was a list of plans that were written regarding the maritime issue which is talking about South China Sea dispute. The DND’s goal is;  

“Guard [the country] against external and internal threats to national peace and security, promote the welfare of soldiers and veterans, and provide support for social and economic development”.

As a national security policy for 2011-2016, the national leadership has defined two broad objectives: promote internal socio-political stability, and enable the Philippines to exercise full sovereignty over its territory and provide protection to its maritime interest. Therefore, DND lists these strategic options in order to achieve the strategic objectives:

a) Securing the national territory and protecting strategic maritime interest;
b) Securing communities and supporting local authorities;
c) Reducing the risks of natural and human-induced disasters;
d) Strengthening and expanding international defense alliances and partnerships; and,
e) Strengthening the integrity of the defense establishment by subscribing to generally accepted principles of security sector reform.

As DND continues to perform its various defense missions, DND must also toughen its institutional capacity frequently in developing capabilities to effectively solve and be ready to various kind of defense and security challenges in the upcoming time. In order for DND to focus and achieve the goal successfully, DND made a list of priority. Thus, here is the list (maritime related only) that will provide the DND to perform effectively and fulfill its mandate and missions:

- **Securing the National Territory and Protecting Strategic Maritime Interests**

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77 Strategic Planning Assessment 2013 – 2018, DND, May 2011; Chapter 2 – Defense Strategic Objectives, p.2
79 Ibid
The DND is expected to make sure that the Air Force of Philippine have the capabilities in order to protect the people of Philippines and the state itself. In the face of a fast changing and challenging regional environment, there are several main concerns that Philippines should be aware of: 80

a) How claimant countries will perform in the West Philippine Sea (WPS);
b) How violent extremists bring sudden unwanted ‘surprises’ (disaster caused by human);
c) How other claimant countries violate Philippine maritime policies and jurisdiction; and,
d) The uncertainty situation of maritime environment, which is the sudden environment changes that may harm Philippine

Through the concept of active defense, joint warfare, coast watch system and maritime policies, securing Philippine national territory and protecting its strategic maritime interests, Philippine must consider the need for the following types of capabilities, 81

e) Appropriate strategic response forces
f) Enhancing Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C4ISR)
g) Development of Defense and Security Infrastructure of Philippine occupied Islands in the disputed areas in the Western Philippines Sea
h) Enhanced space-based satellite network-centric communications
i) Interoperability with allied forces
j) Updated guerrilla warfare to support conventional forces

In the third point which says development of defense and security infrastructure of Philippine occupied islands in the disputed areas in the Western Philippines Sea, the plan should be done in order to support and toughen Philippines’ claim. To let the guard down will open new opportunity

80 Ibid
81 Ibid
for other countries to penetrate and take away the islands, while it can be prevented by being protective towards the disputed area.

In the early of 2014, China secretly started a massive reclamation operation on seven coral reefs in the Spratly Islands. China has reclaimed approximately 3,200 hectares of land in seven places on the Spratly Islands in the past two years. China added airfield facility, lighthouse and a capable port facility in the reclaimed area. The list of reclaimed islands by China in the South China Sea region is Subi Reef, Fiery Cross Reef, Mischief Reef, Gaven Reef, Hughes Reef, Johnson Reef, Cuarteron Reef. 82

In September 2015, President Xi Jinping in Washington stated that China would not militarize the islands of reclamation. In fact, China built three airfields strips on three of the largest reclaimed islands. Analysts believe that the airfield has the capability to accommodate fighter and bomber aircraft, based on observations from satellite imagery analysed by the Washington-based Center for Strategic and International Studies (CSIS). 83

Recently, China has significantly increased its military presence in the South China Sea by deploying an onshore version of the anti-ship cruise missile (ASCM) YJ-62 anti-ship missile with a 400 km range on Woody Island on the Paracel Islands. Posted on March 20, 2016 at China's popular Weibo blog, a photo image of the YJ-62 ASCM missile launch captured by the magazine is almost identical to photographs from a Chinese military magazine, and according to satellite images taken by the US. The images of the ASCM launch photo also show a radar dome sighting that makes the stronger allegation that the scene took place on Woody Island that is located in Paracel Islands. 84

From the explanation above, it can be seen that the presence and movement of China in the South China Sea keep on increasingly and it seems that China has no intention to actually stop developing. This left Philippines

will likely increase the number of military presence in the South China Sea in order to maintain its security interests in the disputed area.
CHAPTER IV

THE REPUBLIC OF THE PHILIPPINES RESPONSES ON THE PEOPLE’S REPUBLIC OF CHINA TERRITORIAL CLAIM IN SOUTH CHINA SEA (2012-2016)

Regarding China’s claim, Philippine made few responses. There are, through ASEAN, Philippine and US relation, Philippine raising the claim to Permanent Court of Arbitration (PCA) and bandwagoning to China. While so, Philippine also planning to increase the military quality by increasing the military budget.

4.1 Diplomacy

4.1.1. Through ASEAN

ASEAN as an organization of Southeast Asian, South China Sea dispute is also part of ASEAN’s concern because several of the member countries were involved in the dispute. Not to mention, China is one of ASEAN’s member countries’ top trading partner. When there is escalating tension between China and other member countries of ASEAN, it will indeed affect the relation.

Philippines, through ASEAN, has always tried to bring up the dispute to attention. In 1992, when Philippine was appointed as the Chairman of ASEAN, produced a Declaration of South China Sea (DOC) or known as Manila Declaration. Then in 2002, the DOC is signed by China and developed into Code of Conduct with the purpose to is to build mutual trust among the claimant countries, and ASEAN members countries with China that are involved with the dispute could refrain from taking action that might cause war.

Although the DOC has temporarily calmed down the tension in South China Sea dispute through the idea of each claimant countries refrain from

escalating any tension, DOC is still fragile because it is not binding. Thus, dispute in South China Sea is still the major maritime issue in Asia.

In January 2012, Philippine proposed an informal draft titled as “Philippines Draft Code of Conduct”. However, China strongly refused and said that DOC must be implemented first. China also said that they will discuss COC with ASEAN at the right time. In ASEAN High Level Conference 2012 in Cambodia, the different opinion between several ASEAN member countries happened and cancelled the communiqué regarding the South China Sea. After Philippines has tried several times through ASEAN did not provide certainty, Philippine raised the case to Permanent Court of Arbitration in 2013.  

To add on, referring to the Treaty of Amity and Cooperation (TAC) that was established in 1976, it is possible for ASEAN to maintain the situation in the disputed area to calm. Basically TAC is created with the purpose of resolving internal conflicts in Southeast Asia. TAC was indeed created with the aim of uniting countries in Southeast Asia and not doing any intervention to its member countries in any matter. "With the Treaty Amity and Cooperation, there will be no use of threats or violence in resolving issues between States and Countries," the words were from Kao Kim Hour’s remarks, State Secretary and Cambodian Foreign Ministry. Therefore, with the treaty, it could be a basis ASEAN and countries that signed the treaty is up for discussion regarding the dispute. Not to mention, China also one of the country that signed the treaty.

According to ASEAN Charter, the Chairman of ASEAN will change every year. Fortunately for Philippine, it is confirmed that Philippine will be

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86 Tri Nuke and Pandu Prayoga, dan Isu Laut Cina Selatan : Transformasi Konflik Menuju Tata Kelola Keamanan Regional Asia Timur
88 Usman Manor, Treaty Amity and Cooperation (TAC); Sebuah Perjanjian Multilateral ASEAN, 05/03/15, http://www.kompasiana.com/usmanmanor/treaty-amity-and-cooperation-tac-sebuah-perjanjian-multilateral-asean_54f89581a33311ba188b4593
89 http://www.mfa.gov.cn/ce/ceindo/eng/rdht/dmhy/t87242.htm
the Chairman of ASEAN in 2017 per 1st January 2017. With this chance, Philippine could raise the maritime issue once again to be discussed in ASEAN, along with China.

4.1.2. Philippine – US relation

The alliance between US and Philippine is one of America’s relation related to security in Asia. The alliance was formed by the signing of Mutual Defense Treaty (MDT) in 1951. Since the South China Sea dispute has been rising and become Philippine’s concern, the alliance evolved, marked by the ratification of the Enhanced Defense Cooperation Agreement (EDCA) between US and Philippine in 2014.  

Under the presidency era of President Benigno Aquino III, Philippine’s concern toward maritime security is increasing, especially since China was very active in South China Sea. Aside than increasing the military quality, Philippine strategy is to strengthening the security cooperation with US. Philippine realize that by competing alone with China would put them at disadvantage. The EDCA will allow US forces to utilize the facilities that owned and controlled by the Philippines’ Armed Forces but will still make sure the base commander’s ease of access. EDCA also allow US military to build and improve the infrastructure and Philippine military is welcomed to use it. Also, if there are any changes and other activities in the Philippine base, it require the approval of Philippine-U.S. Mutual Defense Board and Security Engagement Board.  

Through EDCA, there are several joint military exercises that was conducted between Philippine and USA. The exercise was called as Balikatan, which means shoulder to shoulder, and was conducted at 5th May 2014 and

20th April 2015. Aside than joint military exercise, there is also Maritime patrol US. 93

However in 2014, in a bilateral press conference with Philippine, President Barrack Obama stated that EDCA is not for containing China. US also stated that it is they are not in position to decide the sovereign right over the disputed territory. The EDCA is intended to bring Philippine and U.S. military even closer together. 94

During presidency era of President Benigno Aquino III, Philippine worked together with US and named the agreement as EDCA in 2014. Through the agreement, Philippine and US conducted joint military exercises in the disputed area.

The Combined Military Training of the Philippines and the United States is called Balikatan, which means shoulder to shoulder. Balikatan training in 5th May 2014 involving 3,000 troops from Philippine US sent 2,500 troops. The two countries conducted a 10-day exercise held at military camps in the north and west of the Philippines, including the provinces of Zambales and Palawan near the South China Sea dispute region. Exercises include shooting with a sharp shotgun, raiding ships, landing on the beach and training armored vehicles near the Spratly Islands. The exercise is called "Philippine Bilateral Exercise" that focuses on the maritime security sector and regional defense operations. 95

In 20th April 2015, the second exercise involving 11,500 troops in total, with 5000 from Philippine and 6,500 from US. The military exercise was conducted in Luzon Island, Palawan and Panay, which is under the dispute with China. The exercise involving amphibious landing, firing drills and more sophisticated maritime surveillance.

EDCA would work hand-in-hand with the Air Force of Philippine (AFP) modernization. At the time of signing, EDCA’s initial 10-year period (the deal is renewable) overlapped with the 13 years remaining in the modernizing law. The United States would be weighted with the cost of upgrading AFP infrastructure for both countries’ use, boost disaster response readiness, and facilitate further training between military men on both sides. Over roughly the same period, the AFP could focus on acquiring basic hardware and put the pieces in place to monitor and secure Philippine territory more independently. The delayed implementation of the EDCA, however has prevented the AFP from concentrating on those priorities. Uncertainty before the court’s decision forced the AFP to plan for the possibility that all of the assistance promised in EDCA might be blocked by the constitutional challenge and an unfriendly senate.\(^{96}\)

There are still dilemmas over EDCA from several perspectives, the situation does not resolve into a simple win-win scenario. At the strategic level, a stronger relationship with the United States raises concerns regarding U.S.’ influence over Philippine foreign policy. China’s current behavior in the South China Sea in the recent years may be in favor with the purpose of EDCA at the moment, though the degree of current domestic support may not be sustained under all other possible conditions. For both Philippine and U.S’ governments to implement the deal while satisfying both countries’ interests and easing Filipino fears could benefit each other right now.\(^{97}\)

### 4.1.3 Permanent Court of Arbitration (PCA)

In 2013, the Philippine Deputy Foreign Minister for Marine Affairs, Gilberto Asuque, stated that Philippine will raise the case to International Arbitration, by referring to the United Nations Convention on the Law of the Sea (UNCLOS). The case was raised to PCA with a main reason, Philippine stated that China has violated UNCLOS – violating Philippine’s EEZ, which is

\(^{96}\) Victor Andres Manhit, EDCA Refocus: Eyes on the AFP’s modernization Program, 05/02/16, https://amti.csis.org/edca-refocus-eyes-on-the-afps-modernization-program/

\(^{97}\) Ibid
370km away from the coastline. The arbitration filing also calls China's centuries-old claim to almost the entire South China Sea area is illegal. 98

In response to the Philippine Department of Foreign Affairs’ statement, the China’s Ambassador to the Philippines sent back arbitration notices to the Philippines. Later in the press conference, Chinese Foreign Ministry spokesman Hong Lei stated that the submission was flawed. He said that Philippines has made many historical and legal errors in the past, including false accusations against China. Therefore, regarding Philippine rising the case to the PCA, he said that China could not accept it. In recent years, the list of Philippine diplomatic protests about the alleged intrusion of China into the exclusive economic zone is increasing. 99

Later on, the PCA (Permanent Court of Arbitration) International Tribunal in The Hague received and confirmed that they could handle cases of conflict between China and the Philippines over territories in the South China Sea. Even so, PCA set aside the fact the objection from China, stating that the Arbitration Board has no authority to handle the dispute between China and Philippine. 100

Philippines filed complaint against the claims and activities of china in South China Sea with 18 lawsuits under four categories of lawsuits to the Court of Arbitration Permanent (PCA), namely: 101

1. The Philippines asks the tribunal to decide the basic maritime rights and ownership in the South China Sea. Specifically, the Philippines asked PCA to declare that the claims filed by China in the South China Sea must be based on UNCLOS, not on the historical claim that China has been using (referring to nine dashed line map), which is lacking legal basis.


101 Masitah Nor Rahma, Respon ASEAN dalam Konflik Filipina-China atas Laut Cina Selatan, Analisis CSIS Kuartal Keempat 2016, pg.335
2. The Philippines asked the court to decide on the rights of maritime zone of Scarborough Shoal and features of Spratly Islands based by the Convention. The Convention stipulates that the corals that are submerged in tidal water have no right to maritime areas and that "rocks that can not support human life or their economic life" have no right to ZEE as far as 200nm or to the continental shelf.

3. The Philippines asked the court to resolve a series of disputes on the validity of China’s actions so far in the South China Sea. The Philippines wishes PCA to declare that China has violated the convention because: (a) interfering with the exercise of the Philippines’ rights that has been guaranteed by the convention in terms of fishing, oil exploration, sailing, artificial island development and installation (b) failed to protect and preserve the marine environment through allowing and supporting Chinese fishermen to endangered species of fish and using methods that aren’t environmentally friendly (c) inflicting severe damage to the marine environment by building artificial islands and (d) engaging in extensive land reclamation on seven reefs in the Spratly archipelago which are Subi Reef, Fiery Cross Reef, Mischief Reef, Gaven Reef, Hughes Reef, Johnson Reef, Cuarteron Reef.

4. The Philippines wishes that PCA will declare that China prolonged disputes between parties during this arbitration by restricting access to the Philippine marine database that stationed at Second-Thomas Shoal.

In response to this, PCA has issued a 501 page verdict on the Philippine lawsuit on July 12, 2016. This decision is very important to look deeper, since the decision could directly give legal implications to the disputed countries and not concerning the interpretation of UNCLOS regarding the rules about the validity of a country to have sovereignty in the disputed area. Here are some important points of the verdict: 102

102 Ibid pg.336
1. China’s historic rights regarding the nine-dashed line that claimed around 90% of the whole South China Sea, PCA stated that the claim based on historical rights is not valid and is not in accordance with UNCLOS.

2. PCA has decided the category of South China Sea features such as islands, corals, rocks, and disputed islands. Referring to UNCLOS, the judge has decided that such features do not have EEZ and continental shelf.

3. In line with the previous two points, the judge decided that China’s action toward Philippine in its EEZ, referring to Philippine’s activities such as fishing and oil exploration, is not accepted and China has no rights to conduct any kind of similar activities.

4. Judge has decided that China’s action toward Philippine is unfriendly, since China is still doing island reclamations in South China Sea.

From point of view of international law, it is clear that China did a big fault. First, UNCLOS 1982 is the only current international maritime legal rule, in which other claimant countries in the South China Sea dispute follow the guidelines of UNCLOS by ratifying it. In fact, China has ratified the UNCLOS in 1996. China’s inconsistency is a mistake since China has to follow the rules and regulations because they has agreed to ratify the Convention. Moreover, the ratification of UNCLOS in 1982 has been discussed around 10 years while China never show their disagreement. However, China started to bring up the historic rights once again in 2000.

Furthermore, the action where China conduct massive building activities over reefs in Spratly Islands in South China Sea is done with expectations to be able to have rights over land and territorial waters. Even so, UNCLOS Article 60 has stated that artificial island islands are not entitled to the territorial waters around it.

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103 Declarations and statements, 29/10/13
The outcome of PCA that released in July 2016 came out as predicted, that China’s claims is considered invalid under international law. Although China has the right not to be a participant in the case, it is still an instrument of international law that has to be respected by all countries. China’s displeased attitude towards the outcome from PCA has shown the world that China refuse to respect the law to protect the national interest. 105

Despite China’s refusal, other countries appreciated Philippines’ responses in using international law instrument to make clear the issues in South China Sea. Some developed countries also support this Philippine’s move, such as United States, which from the beginning Philippine’s side. After that in June 2015, US Assistant Secretary of State for East Asian and Pacific Affairs, Daniel R. Russel said that as both China and the Philippines have ratified the UNCLOS Convention, they must legally comply with this court decision. 106 Similar support also flows from Australia. In January 2016, Australian Foreign Minister Julie Bishop said that the decision by the PCA raised by Philippines will become very important as a good example to follow international rules. Even if China’s clearly said would be bound by the court, the final decision of the PCA shall be adopted and upheld by all countries which also have claims or interests in the territory. 107

4.1.2. Bandwagoning Towards China

On Thursday, 20\textsuperscript{th} October 2016, President of the Philippines Rodrigo Duterte walks with President of China Xi Jinping over a red carpet banquet to visit The China-Philippine Trade and Investment Forum, which is located in Great Hall of the People. At this time, Duterte gave his speech to express Philippine’s separation to US. The forum ended with Duterte signed 13 bilateral agreements which are tourism, trade, investment, crime and drug

105 Tom Philips, Beijing rejects tribunal’s ruling in South China Sea case, 12/07/16
https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china
106 China says U.S. trying to influence Philippines’ sea case, 24/07/15
http://www.reuters.com/article/southchinasea-china-usa-idUSL3N1043AM20150724
107 Australia supports peaceful dispute resolution in the South China Sea
prohibition. Regarding Philippine and US’ separation, President Rodrigo Duterte stated:

"In this venue, your honors, in this venue, I announce my separation from the United States. Both in military, not maybe social, but economics also"

Duterte’s statement can be interpreted as:

- The separation with US means the separation of foreign policy, not a complete separation.
- The current economy partnerships such as trade and investment will still be continued, though it still is uncertain for the new agreement in the future.
- Duterte will cut ties militarily with US, which includes sending back all US troops from Philippine territory and nullify the Enhance Defence Cooperation Agreement (EDCA) of 2014 which originally to ensure the constant presence of the US military in 5 military bases of the Philippines.

With the bandwagoning taken by Duterte to separate from US, it might affect Philippine. First of all, Philippine will find difficulties in buying military equipment from US, given that Philippine is planning to spend it to increase the military quality. However, in the same time, with Philippine being separated Philippine could become more engaging towards ASEAN this way, since originally ASEAN does not want to have any other external party to be included in Southeast Asia. With this, it could also be easier for both Philippine and China to discuss the dispute bilaterally as how China prefer it to be. The Philippine’s decision could also bring both Philippine and China becoming closer in terms of country relation, and is possible to settle the dispute between both countries.

110 Satria, Alif & Sianturi, Richard, ASEAN dan Tantangan bagi Resolusi Konflik di Laut China Selatan, CSIS Kuartal Keempat 2016 pg.338
4.2 Military Development

4.2.1. Philippine’s Military

When it comes to maritime security, it is better if a country to have good military just in case if there is any escalation increasing. In Philippine’s case, compared to China, both countries has a gap in the matter of military equipment number. Therefore, it will make Philippine unprofitable if there is increasing tension in South China Sea dispute with China. Numerous Philippine’s defence equipment comes from the refurbish of the WWII era, it is shown where Philippine Navy ships mostly American used war ships. 111

Philippine’s Air Force is also similar, since the F-5 Tiger fighter that belongs to Philippine retired in 2005, the Philippine Air Force no longer has a supersonic fighter that is still operational. Talking about the Philippine army, the weapons that are used still were from the era of cold war and ex-Vietnam war, such as M-16 assault rifle. 112

4.2.2. Philippine Military Plan

In the Philippine’s white paper that was written in 23rd July 2012, it is explained that the South China Sea (West Philippines Sea) is an area that needs to be maintained and secured, referring to the national security policy plan for 2011-2016. In the first point of Philippine Department of National Defence’s plan which is “Securing the National Territory and Protecting Strategic Maritime Interests”, there are several requirements that is mentioned in order to fulfil the plan. Philippine realize that it is a must to prepare appropriate strategic response forces for the conduct of defense operations under joint warfare concept, and to respond to any kind of unwanted events. As an archipelagic state, this capability requirement would need the establishment of a joint operational concept that will increase the capabilities

112 Ibid
that covers various operational domains such as sea, air, land, and cyberspace. Having this capability shall require, namely:

a. **Three-tiered Philippine Navy fleet**, with sub-surface and air warfare capabilities added to a more improved surface capabilities that is not only for sea patrol. It favours well for the Philippines, being an archipelagic country, for its Navy to develop submarine warfare capability to deter aggression and bullying.

b. **Strategic Air Strike Force**, The force should be capable of neutralizing potential threat that threatens Philippine’s forces; and, of supporting our surface forces through air-delivered weapons. The Air Force of Philippines (AFP) should have multi-role fighter aircrafts and Unmanned Combat Air Vehicles (UCAV) capable of air interdiction, air combat manoeuvring, air-to-ground and air-to-ship missions.

c. **Reliable expeditionary capability**, organized in combining with the Army and Marines combat organizations.

d. **Strategic sea and air lift capability**, mainly to support rapid constant shifting skills since these require a proportionate capability shift constantly by air or by sea.

e. **Special operations forces**, which are personnel that are organized, trained, and equipped to conduct special operations activities (for example direct action, investigation, humanitarian assistance, disaster emergency assistance, relief and rescue, evacuation, unconventional warfare and/or mass base operations) or to provide direct support to other special operations forces and/or conventional forces.

f. **Missile-based capability**, from air, land and sea platforms to increase the firepower. This practical strategy is necessary and will act as a great long distance weapon. It is highly recommended to have personnel with high precision capability for this operation.

g. **Mine warfare capability**, to support other capabilities. Land and sea mines will support other external/territorial defense operations in the sea, infantry and mechanized operations, and others.

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DND’s vision is to synchronize and obtain the equipment listed above so that DND is capable of conducting joint maritime surveillance and defense operation. \(^{114}\) So far, there are total of forty billion pesos (8 billion over five years) has so far been allocated, which will be used to finance up modernization projects. \(^{115}\) As for maritime security awareness, according to Fernando Manalo, Department of National Defense undersecretary for finance, munitions, material and modernization said that, after the delivery of the radar systems, long-range patrol aircraft, close air support, frigates, amphibious assault vehicles, anti-sumbarine helicopters, the rest of the fighter jets and other naval assets, the situation will be much better. \(^{116}\)

### 4.1.3. Philippine’s Military Budget

Therefore, in order to cover the deficiencies that exist in military, the Philippines must also increase the number and quality of weapons and equipment. The thing is that Philippines should raise the defense budget, since it is still relatively small. According to data from the SIPRI (Stockholm International Peace Research Institute), it is recorded that from year to year, the Philippine’s military budget tend to increase. \(^{117}\) This is because China’s movement in the South China Sea made the Philippines uncomfortable and has to increase the military budget to purchase, equip and replace equipment that are outdated.

This is the Philippine’s military budget starting from 2013-2016.

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\(^{116}\) Frances Mangosing, More ships, planes, comba gear for AFP in 2016 01/01/16 http://newsinfo.inquirer.net/751767/more-ships-planes-combat-gear-for-afp-in-2016

\(^{117}\) https://www.sipri.org/databases/milex
The increasing amount of Philippine military budget shows that Philippine is serious in increasing the military quality. Although it is still a long way to go to catch up with China’s military, it still shows that there is effort that Philippine made in order to increase the military quality. With the budget, Philippine can spend it for the necessary military equipment to support the military quality.
CHAPTER V

CONCLUSION

South China Sea dispute has been around and is becoming a hot topic because there are a lot of countries that were involved. The involving countries in this dispute are China, Brunei Darussalam, Philippines, Taiwan, Viet Nam and Malaysia. The overlapping claims between one countries and another made the dispute become harder to be solved. Basically, the involving countries made their claim based on historical rights and the entitlement of their EEZ. Among other countries, China made the biggest claim with its 9-dashed line claim using historical rights.

South China Sea area consists of water and land from two collective groups of islands which are Spratly and Paracels, Macclesfield river bank and the Scarborough Shoal that is located near Singapore, started from Malaka Straits to Taiwan Straits. According to the International Hydrographic Bureau, South China Sea is defined as a sea that extends from the southwest toward the northeast, bordered to the south by 3 degrees south between Sumatra and Kalimantan. In the northern part it is bordered by the Straits of Taiwan from the northern tip of Taiwan towards the coast of Fukien, China. The sea approximately covers the area of 4,000,000 square km. South China Sea itself is a sea that is part of the Pacific Ocean, the continuation of Karimata and Malacca Straits to the Strait of Taiwan, which makes South China Sea is good for trading routes.

Similar to other claimant countries, Philippine made its claim by using the rights for being entitled to Economic Exclusive Zone (EEZ) of 200 nautical miles from the coast. In fighting for the claim, Philippine uses UNCLOS as the legal basis to support the claim. Philippine’s biggest opposing country is China, and both countries are fighting for the claim.

There are three potential that South China Sea has, which are fisheries, oil and gas resources, and trade route. Despite that there are several estimations from different researchers, what is certain is that South China Sea contains a good amount of oil and gas resources. The next is fisheries, it was discovered that there are various kind of fishes in South China Sea. As for trade route, the South China Sea is strategic because it could continue to the Pacific Ocean, and is surrounded by several countries.
To Philippine, the Spratly Islands’ oil and gas resources are a good additional resources to grow the economy. Compared to other countries, Philippine has a low number of oil production, which makes Philippine is low in exporting oil since Philippine need to prioritize and fulfil the demand of the state itself. To add on, as a country that export and produce a lot of fisheries product, fish potential in South China Sea certainly will increase the number of fisheries sector of Philippine. In export activity, Philippine’s top trading partner both in import and export are Japan, US, China, Hong Kong, and Singapore. If the Spratly Islands are part of Philippines’ sovereignty, Philippine could reach the top trade partners through South China Sea and might create shorter routes.

Since China is claiming most of the South China Sea area that in the same time also overlapping with Philippine’s claim, therefore it made Philippine react to it. The responses of Philippine were, trying to get through ASEAN, raising the case to Permanent Court of Arbitration, and Bandwagoning towards China. Philippine, through ASEAN has produced Code of Conduct to ensure that there will be no increasing tension between claimant countries in South China Sea despite the fact that it is not binding. Unfortunately, since CoC is not producing anything necessary for Philippine’s claim, Philippine decided to raise the case to PCA solitarily. In July 2016, PCA released a verdict that consisting of 501 pages, which in it stated that China’s 9-dashed line claim using historical rights is denied. Although PCA’s verdict is not binding, since it is still part of international instrument that needs to be respected. Recently, Duterte declared Philippine’s separation with US in October 2016. Therefore, Philippine chose to bandwagon and make ally with country with the source of threat. If Philippine chose to keep balancing with US, it might become a high risk decision since Obama stated that EDCA it not intended to respond to China. Up until now, it is still not clear yet whether the responses that Philippine has made will affect anything to Philippine’s claim. It is because since the outcome from PCA is rejected by China. China wanted to solve the case bilaterally with Philippine, while what Philippine has done did not show that.
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