

Bill No. \_\_\_\_

AN ACT IDENTIFYING THE PHILIPPINE MARITIME FEATURES OF  
THE WEST PHILIPPINE SEA, DEFINING THEIR RESPECTIVE  
APPLICABLE BASELINES, AND FOR OTHER PURPOSES\*

EXPLANATORY NOTE

In a few weeks, the country will mark the 5<sup>th</sup> year of the Philippines' victory against China in the South China Sea (SCS) Arbitration. The Arbitral Award declared that China's Nine-Dash Line claim violates the UN Convention on the Law of the Sea (UNCLOS).<sup>1</sup> It declared that the Philippines has an Exclusive Economic Zone (EEZ) and Continental Shelf (CS) in the areas of Panganiban (Mischief) Reef, Ayungin (Second Thomas) Shoal and Recto (Reed) Bank, and that Filipino fishermen have traditional fishing rights, in common with Chinese and Vietnamese fishermen, in the Territorial Sea (TS) of Bajo de Masinloc.

Yet, the Philippines has remained unable to translate its victory into actual exercise of exclusive sovereign rights over fishing and resource exploitation in its recognized EEZ and CS and traditional fishing rights in the TS of Bajo de Masinloc. This proposed new baselines law seeks to break that impasse

Firstly, it identifies by name and coordinates at least 100 features being claimed and occupied by the Philippines. This is an exercise of acts of sovereignty pertaining to each and every feature, consistent with the requirements of international law on the establishment and maintenance of territorial title.

Secondly, it adopts normal baselines around each feature that qualifies as a high-tide elevation. This is to delineate the TS of each of said feature.

Thirdly, it reiterates continuing Philippine sovereignty, sovereign rights and jurisdiction, as appropriate, over these features.

The proposed new baselines law incorporates what we won in the 2016 South China Sea Arbitral Award. Under international law, notably *Nicaragua v. Colombia*<sup>2</sup> and *Burkina Faso v. Mali*,<sup>3</sup> legislation is an act of sovereignty that establishes territorial title.<sup>4</sup> However, under the same precedents, such legislation

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<sup>1</sup> *In re Arbitration Between the Republic of the Philippines and the People's Republic of China*, PCA Case No. 2013-19, Award on Merits (12 July 2016), para. 207-278 [hereinafter, *Philippines v. China*]

<sup>2</sup> *Territorial and Maritime Dispute (Nicaragua v. Colombia)* ICJ Reports 19 November 2012 para. 80-84 35-37

<sup>3</sup> *Frontier Dispute (Burkina Faso/ Mali)*, ICJ Reports 22 December 1986 para. 126 71.

<sup>4</sup> *The Eritrea-Yemen Arbitration (PCA 1996-04)*, Award on Territorial Sovereignty and Scope of the

must specifically pertain to the disputed territory rather than to a general territorial or maritime area. The proposed legislation names the individual features; thus, it constitutes an act of sovereignty in relation to each of these features.<sup>5</sup>

In paragraphs 573 through 575 of the Award in *Philippines v. China*, the Arbitral Tribunal declared that no littoral state, including the Philippines, can claim the Spratly Islands as an archipelago.<sup>6</sup> Thus, it is no longer enough to merely refer to the features as Kalayaan Island Group or Troung Sa or Nansha Qundao.<sup>7</sup> Rather, the relevant features in the Spratly Islands must be treated as individual rocks with individual territorial seas. The bill not only enforces the Award but also ensures that the Philippines is the first claimant to legislate the individual names and baselines of the claimed features.

The Award recognized the EEZ and CS of the Philippines up to the limit of 200 nm from the baselines but beyond the 12 nm TS of High Tide Elevations (HTE) or rocks.<sup>8</sup> As some of these rocks and their TS are occupied by a foreign state, it is necessary to delineate where the contested TS ends and where our uncontested EEZ begins.

This is especially necessary in features such as Bajo de Masinloc and Pag-Asa where Chinese and Vietnamese vessels are always present. Unfortunately, we cannot wait for China or Vietnam or Malaysia to adopt baselines around the rocks that they are occupying. This bill draws baselines around the contested rocks precisely to enable the Philippines to exercise its rights in its uncontested EEZ.

In sum, this bill is the most inexpensive and yet most effective means of enforcing the Arbitral Award and strengthening our territorial and maritime rights in the West Philippine Sea.<sup>9</sup>

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Dispute, Phase I, 9 October 1998, para. 241-71

<sup>5</sup> *Island of Palmas Case (or Miangas)*, United States v Netherlands, Award, (1928) II RIAA 829, ICGJ 392 (Permanent Court of Arbitration 1928), 4 April 1928.

<sup>6</sup> *Philippines v China*, 236-237

<sup>7</sup> Presidential Decree 1596 which created the KIG as an offshore archipelago without naming and identifying the features within has been eviscerated by the Arbitral Award; Republic Act 9522, which enclaved the features in the KIG and Bajo De Masinloc (BDM, also known as Scarborough Shoal) as a regime of islands, also did not name and identify the features in the KIG. Thus this proposed law.

<sup>8</sup> *Philippines v China*, para. 683-275, citing the Philippine Memorial Memorial, para. 6.6; Merits Hearing Tr. (Day 2), 132-134.

<sup>9</sup> The definition of the WPS found in Administrative Order No. 29, series of 2012 refers to maritime areas on the western side of the Philippine archipelago, to include the Luzon Sea, the KIG, and the BDM.

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Be it enacted by the House of Representatives and House of the Senate of the Philippines in Congress assembled.

SECTION 1. This Act shall be known as the Philippine Maritime Features of the West Philippine Sea Act.

SECTION 2. This Act applies to the maritime areas on the western side of the Philippine archipelago collectively named as the “West Philippine Sea” under Administrative Order No. 29, Series of 2012. These areas include the Luzon Sea as well as the waters around, within and adjacent to the Kalayaan Island Group and Bajo De Masinloc, also known as Scarborough Shoal.

SECTION 3. The Philippines has sovereignty, sovereign rights and jurisdiction, as appropriate, over the following identified maritime features in the West Philippine Sea, without prejudice to other such features that will be discovered or established as part of Philippine sovereignty or jurisdiction in the future<sup>10</sup>:

<b>Name</b>	<b>Coordinates</b>
1. Abad Santos Shoal	9°26'N, 111°55'E
2. Aguinaldo Reef <sup>11</sup>	To be supplied (TBS)
3. Alicia Annie Reef	9°22'N, 115°26'E
4. Alison Reef	8°51'N, 114°00'E
5. Amboyna Cay	7°51'N, 112°55'E
6. Ardasier (Antonio Luna) Reef	7°38'N, 113°56'E
7. Bajo De Masinloc (Scarborough Shoal)	TBS

<sup>10</sup> The list of features in Sections 3 and 6 are subject to confirmation by NAMRIA.

<sup>11</sup> Located 7 miles E of E of Rizal Reef, Philippine Coast Pilot (1995) 16-70.

8. Ban Than Jiao	10°24'N, 114°24'E
9. Barque Canada Reef	8°10'N, 113°18'E
10. Baybayin Dagat Bank <sup>12</sup>	(TBS)
11. Binago Island <sup>13</sup>	(TBS)
12. Bisugo Shoal	11°19'N, 114°35'E
13. Bombay Castle	7°56'N, 111°42'E
14. Bonifacio (Jacinto and Diego Silang) Reefs <sup>14</sup>	(TBS)
15. Brown <sup>15</sup>	(TBS)
16. Bulig Shoal	9°20'N, 115°56'E
17. Central Reef	8°55'N, 116°11'E
18. Collins Reef	9°45'N, 114°14'E
19. Commodore (Rizal) Reef	8°21'N, 115°17'E
20. Cornwallis South Reef	8°44'N, 114°11'E
21. Coronation Bank	9°21'N, 111°44'E
22. Cuarteron (Calderon) Reef	8°53'N, 112°51'E
23. Dalag Bank	11°01'N, 117°16'E
24. Dalagang Bukid (Investigator NE Shoal) Bank	9°10'N, 116°25'E
25. Dallas Reef <sup>16</sup>	(TBS)
26. Day Shoal	11°26'N, 114°23'E
27. Del Pilar Reef	10°48'N, 116°52'E

<sup>12</sup> Philippine Coast Pilot (1995) 16-68

<sup>13</sup> Philippine Coast Pilot (1995) 16-73

<sup>14</sup> The two reefs are 5.5 miles apart. Diego Silang Reef is 27 miles SW of Quirino Atoll, Philippine Coast Pilot (1995) 16-69.

<sup>15</sup> A “danger” whose existence is doubtful, charted at 7 miles west of Kahoy Bank, Philippine Coast Pilot (1995) 16-68

<sup>16</sup> 5 miles W of Ardesier Reef, Philippine Coast Pilot (1995) 16-70

28. Dhaulle Shoal	9°32'N, 112°24'E
29. Discovery Great Reef	9°59'N, 113°51'E
30. Discovery Small Reef	10°01'N, 114°01'E
31. Dulong Shoal and Palma Reef <sup>17</sup>	(TBS)
32. East Reef	8°52'N, 112°46'E
33. Eldad Reef	10°21'N, 114°42'E
34. Erica Reef	8°6'N, 114°09'E
35. Fiery Cross Reef	9°37'N, 112°58'E
36. Flat (Patag) Island	10°50'N, 115°49'E
37. Foulerton Reef <sup>18</sup>	(TBS)
38. Gaven Reef (North)	10°13'N, 114°12'E
39. Gitna Reef <sup>19</sup>	(TBS)
40. Gomes Reef	10°16'N, 113°37'E
41. Hirane Shoal <sup>20</sup>	(TBS)
42. Hopkins Reef	10°49'N, 116°06'E
43. Hubo (Handy) Reef <sup>21</sup>	(TBS)
44. Investigator Shoal	08°7'N, 114°29'E
45. Iroquis and Banker Reefs	10°37'N, 116°11'E
46. Irving Reef	10°53'N, 114°56'E
47. Iroquis Ridge <sup>22</sup>	(TBS)
48. Itu Aba (Ligaw Island)	10°23'N, 114°21'E

<sup>17</sup> 25 miles E and SW respectively of Mabini Reef, Philippine Coast Pilot (1995) 16-72

<sup>18</sup> 13 miles W of Kahoy Bank on the E extremity of South Banks, Philippine Coast Pilot (1995) 16-69

<sup>19</sup> Philippine Coast Pilot (1995) 16-72

<sup>20</sup> 18 miles NE of Baker Reef, Philippine Coast Pilot (1995) 16-69

<sup>21</sup> 30 miles SE of Quirino Atoll, Philippine Coast Pilot (1995) 16-69

<sup>22</sup> Philippine Coast Pilot (1995) 16-75

49. Johnson Patch <sup>23</sup>	(TBS)
50. Johnson Reef	9°43'N, 114°18'E
51. Kahoy Bank	10°35'N, 117°10'E
52. Kalantiyaw Cay	7°53'N, 112°55'E
53. Kanduli Shoal	9°03'N, 116°41'E
54. Kingstorm Shoal <sup>24</sup>	(TBS)
55. Kota Bank <sup>25</sup>	(TBS)
56. Kota (Loaita) Island	10°41'N, 114°25'E
57. Hasa Hasa Shoal	8°54'N, 116°16'E
58. Hizon Reef	8°56'N, 113°40'E
59. Jenkin Patches <sup>26</sup>	(TBS)
60. Jubilee Bank	8°30'N, 116°16'E
61. Ladd Reef	8°38'N, 111°40'E
62. Lagos (Spratley) Island	8°39'N, 111°29'E
63. Lansdowne Reef	9°46'N, 114°22'E
64. Lankiam Cay (Panata Island)	10°44'N, 114°31'E
65. Lapu-Lapu Shoal	10°20'N, 117°22'E
66. Lapu-Lapu Reef <sup>27</sup>	(TBS)
68. Lawak Island	10°44'N, 115°48'E
67. Leslie Bank	11°04'N 117° 28' E
68. Little Patches <sup>28</sup>	(TBS)

<sup>23</sup> Philippine Coast Pilot (1995) 16-71

<sup>24</sup> Philippine Coast Pilot (1995) 16-71

<sup>25</sup> Philippine Coast Pilot (1995) 16-73

<sup>26</sup> 1 mile SW of Pugad Island, Philippine Coast Pilot (1995) 16-75

<sup>27</sup> 23 miles SE of Irving Reef, Philippine Coast Pilot (1995) 16-74

<sup>28</sup> 22 miles SW of Foulerton Reef, Philippine Coast Pilot (1995) 16-69

69. Louisa Reef	6°20'N, 113°14'E
70. Mabuhangin Shoal	11°02'N 117° 39' E
71. Mahiwagang Diwata	10°38'N 117° 39' E
72. Malvar Reef	10°21'N 114° 42' E
73. Maralie Reef	9°13'N 113° 40' E
74. Maria Louise Bank <sup>29</sup>	11°55'N 116° 47' E
75. Mariano Cay <sup>30</sup>	(TBS)
76. Mariveles Reef	7°59'N, 113°50'E
77. Mascardo Reef	8°04'N, 113°12'E
78. Menzies Reef	11°09'N, 114°48'E
79. Mischief (Panganiban) Reef	9°55'N, 115°32'E
80. Namyit	10°11'N, 114°22'E
81. Nanshan (Lawak Island)	10°45'N, 115°49'E
82. Nares Bank	11°16'N, 116°03'E
83. North Danger Reef	11°N 114°21'E
84. Northeast Shoal <sup>31</sup>	(TBS)
85. Northeast Cay (Parola island)	11°28'N, 114°21'E
86. Orleana Shoal <sup>32</sup>	(TBS)
87. Osmeña Reef	8°57'N, 114°11'E
88. Owen Shoal <sup>33</sup>	(TBS)
89. Pagkakaisa Banks and Reef <sup>34</sup>	(TBS)

<sup>29</sup> 30 miles NNW of the 21meter-shoal of Recto Bank, Philippine Coast Pilot (1995) 16-69

<sup>30</sup> Philippine Coast Pilot (1995) 16-72

<sup>31</sup> Philippine Coast Pilot (1995) 16-71

<sup>32</sup> Philippine Coast Pilot (1995) 16-71

<sup>33</sup> Philippine Coast Pilot (1995) 16-71

<sup>34</sup> 30 miles NE from Mabini Reef, Philippine Coast Pilot (1995) 16-72. This consists of several features that are already listed. The same is true for Tizard Bank, Reed Bank and other similar areas. These features are

90. Paredes Reef	10°01'N, 113°52'E
91. Parola Island	11°27'N, 114°21'E
92. Parola Island Light	11°27'N, 54''N, 114°21' 26''E
93. Pearson Reefs	8°58'N, 113°41'E
94. Petley Reef	10°24'N, 114°34'E
95. Pigeon Reef	8°52'N, 114°39'E
96. Pugad Island <sup>35</sup>	(TBS)
97. Quezon Reefs <sup>36</sup>	(TBS)
98. Quirino Atoll	(TBS)
99. Rajah Soliman Reef	9°36'N, 116°10'E
100. Recto Bank <sup>37</sup>	(TBS)
101. Rifleman Bank <sup>38</sup>	(TBS)
102. Rizal Reef	8°21'N, 115°18'E
103. Royal Charlotte Reef	6°56'N, 113°36'E
104. Rurok Island	9°53'N, 114°20'E
105. Sabina Patches <sup>39</sup>	(TBS)
106. Sabina Shoal <sup>40</sup>	(TBS)
107. Sand Cay	10°23'N, 114°28'E
108. Sandy Cay	(TBS)
109. Second Thomas Shoal (Ayungin Shoal)	18° 23'N, 110 2'E

included for purposes of identification and to establish continental shelf unity preparatory to filing an extended continental shelf submission.

<sup>35</sup> 1.7 miles SW of Parola Island, Philippine Coast Pilot (1995) 16-74

<sup>36</sup> Philippine Coast Pilot (1995) 16-71

<sup>37</sup> 30 miles NW of N extremity of Dalag Bank, Philippine Coast Pilot (1995) 16-69

<sup>38</sup> 75 miles W of Kalantiyaw Cay

<sup>39</sup> SE end of North Danger Reef, 3 miles SE of Pugad Island, Philippine Coast Pilot (1995) 16-75

<sup>40</sup> 60 miles SW of Sikatuna Shoal



110. Shinko Shoal <sup>41</sup>	(TBS)
111. Sikatuna Shoal	10°06'N, 117°22'E
112. Silangan Reef <sup>42</sup>	(TBS)
113. Sin Cowe	9°52'N, 114°19'E
114. South Reef	11°23'N, 114°18'E
115. Southern Bank	10°41'N, 116°50'E
116. Southwest Cay	11°26'N, 114°20'E
117. Spratly	8°38'N, 114°25'E
118. Stag Shoal <sup>43</sup>	(TBS)
119. Subi Reef	10°54'N, 114°06'E
120. Swallow Reef	7°23'N, 113°48'E
121. Tatlong Tulis Shoal <sup>44</sup>	(TBS)
122. Tennent Reef	8°50'N, 114°36'E
123. Thitu (Pag-Asa Island)	11°03'N, 114°17'E
124. Tizard Bank <sup>45</sup>	10°16'59.33"N, 114°26'37.81"E
125. West Reef	8°52'N, 112°15'E
126. West York (Likas Island)	11°05'N, 115°01'E
127. Whitson Reef (Julian Felipe Reef)	10°00'N, 114°43'E
128. Zamora Reef	10°74'N, 114°06'E

<sup>41</sup> The last data on this is from 1941, Philippine Coast Pilot (1995) 16-69

<sup>42</sup> Philippine Coast Pilot (1995) 16-72

<sup>43</sup> Philippine Coast Pilot (1995) 16-71

<sup>44</sup> 2 miles N Bisugo Shoal, Philippine Coast Pilot (1995) 16-75

<sup>45</sup> Philippine Coast Pilot (1995) 16-73

SECTION 4. The breadth of the territorial sea adjacent to the coast of each island shall extend to a distance of twelve nautical miles measured seaward from the baselines.

SECTION 5. The breadth of the contiguous zone shall extend to a distance of 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

SECTION 6. The Philippines adopts the following baselines of each identified offshore rock or high tide feature within the West Philippine Sea, without prejudice to the determination of the baselines of other such maritime features over which the Philippines has sovereignty and jurisdiction in the future:

<b>Name</b>	<b>Baselines</b>
1. Abad Santos Shoal	
2. Alicia Annie Reef	
3. Bajo De Masinloc	
4. Baybayin Dagat Bank	
5. Binago Island	
6. Commodore (Rizal) Reef	
7. Cuarteron (Calderon) Reef	
8. Flat (Patag) Island	
9. Fiery Cross (Kagitingan) Reef	
10. Gaven Reef (North)	
11. Hasa Hasa Shoal	
12. Investigator Shoal	
13. Itu Aba (Ligaw Island)	
14. Jacinto Reef	
15. Johnson (Mabini) Reef	

16. Kota Bank	
17. Kota (Loaita) Island	
18. Lagos (Spratley) Island	
19. Lapu Lapu Shoal	
20. Malvar Reef	
21. Mckennan Reef	
22. Nanshan (Lawak Island)	
23. Northeast Cay (Parola Island)	
24. Paredes Reef	
25. Parola Island Light	
26. Quirino Atoll	
27. Royal Charlotte Reef	
28. Rurok Island	
29. Sabina Shoal	
30. Sandy Cay	
31. Sin Cowe Island	
32. Swallow Reef	
33. Tennent Reef	
34. Thitu (Pag-Asa Island)	
35. West York (Likas Island)	

SECTION 7. The rights of the Philippines over the territorial sea and contiguous zone of each maritime feature identified in this Act, as may be applicable, shall be exercised in accordance with Philippine laws and international law, particularly the United Nations Charter and the United Nations Convention on the Law of the Sea (UNCLOS), as interpreted in the Award dated 12 July 2006

rendered by the Arbitral Tribunal in *In re Arbitration Between the Republic of the Philippines and the People's Republic of China*, PCA Case No. 2013-19.

SECTION 8. The provisions of Presidential Decree No. 1596, Republic Act No. 9522 and Republic Act No. 3046, as amended by Republic Act No. 5446, and all other laws, decrees, executive orders, rules, judgments, and issuances inconsistent with this Act are hereby amended or modified accordingly.

SECTION 9. The National Mapping and Resource Information Authority (NAMRIA) shall produce and publish charts and maps of the Philippines reflecting this Act, within six (6) months of the effectivity of this Act.

SECTION 10. All departments, subdivisions, agencies, and instrumentalities of the Government shall use and employ the designations of the maritime features named and identified in this law in all communications, messages and public documents, to popularize the use of such designations in the general public, both domestically and internationally.

SECTION 11. All departments, subdivisions, agencies, and instrumentalities of the Government shall henceforth use the official Philippine maps and charts produced and published by NAMRIA in accordance with this Act.

For this purpose, the Department of Education (DepEd), the Commission on Higher Education (CHED), and state universities and colleges (SUCs) shall issue circulars requiring the use of said official Philippine maps in relevant subjects, researches and instructional materials, such as, among other things, text books, instructional materials, electronic, web, social media, and audio-visual presentations.

SECTION 12. The NAMRIA shall ensure compliance with this Act, pursuant to Department of Environment and Natural Resources Administrative Order (DENR-AO) No. 31 (s. 1988) and other pertinent laws, rules and regulations.

SECTION 13. The Government, through the Department of Foreign Affairs (DFA), and in consultation with NAMRIA and other appropriate government agencies, shall deposit, within six months of its effectivity, a copy of this Act, enclosing the official maps and charts of the Philippines reflecting the aforementioned maritime features, their coordinates, baselines, territorial sea and where applicable, their contiguous zone, with the Secretary-General of the United Nations and notify accordingly relevant international organizations, such as the International Hydrographic Organization and the United Nations Conference on the Standardization of Geographical Names.

SECTION 14. The Heads of Agencies Concerned Shall Include in their Programs the Implementation of this Act in their Programs, the funding of which shall be included in the Annual General Appropriations Act.

SECTION 15. Should any part or provision of this Act be held unconstitutional or invalid, the other parts or provisions not affected thereby shall continue to be in full force and effect.

SECTION 16. This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in any two (2) newspapers of general circulation.