

Forum on "The Spratly Islands Issue: Perspective and Policy Responses"

Ateneo De Manila University

Department of Political Science

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Fr. JOSE M. CRUZ, S.J., Dean of the Ateneo's School of Social Sciences

EMINENT PROFESSORS and MEMBERS OF THE FACULTY

Distinguished CO-PANELISTS

Guests,

Dear Students,

Ladies and Gentlemen,

Please allow me to begin by expressing my sincere appreciation to the Ateneo and its Department of Political Science for this opportunity to share my thoughts on recent developments in the West Philippine Sea, and on the policy response of Philippine diplomacy on an issue of fundamental and of great importance to our nation.

May I also thank all the distinguished panelists who have spoken before me, for their very illuminating and stimulating perspectives, all of which further enrich our collective understanding of the West Philippine Sea issue. At the same time, they have also duly illustrated the complexity, if not the enormity, of the task that confronts us in protecting our territorial integrity in the western maritime frontiers of our nation.

The multifaceted character and decades-long history of this issue provide many possible starting points for any presentation. Let me begin mine by going back to two weeks ago, when I had the honour of representing the Philippines in the 18th ASEAN Regional Forum in Bali, the concluding event of a week-long affair under the auspices of the annual ASEAN Ministerial Meeting and its related meetings.

The ASEAN Regional Forum, as many of you know, is a Philippine initiative that began in 1994 to foster dialogue, consultation, confidence-building, preventive diplomacy and conflict resolution. It has since grown to become the premiere regional security forum in the region, with 27 members that include the U.S., China, Russia and the EU. [\[1\]](#)

In recognition of the ASEAN Regional Forum's role in advancing preventive diplomacy and averting the escalation of tensions into serious conflict, we made the choice to focus our statement wholly on our experience in the West Philippine Sea to our ASEAN Regional Forum partners. I delivered a pointed statement which I will read to you in full so that all of you can have a clear appreciation of the message:

"In the interest of utilizing preventive diplomacy measures as a means of averting the escalation of tensions into serious conflict, the Philippines would like to share our experience in the last five months in the West Philippine Sea, also known as the South China Sea.

The Philippines have suffered at least seven (7) aggressive intrusions since late February into where we maintain we have sovereign rights. These intrusions happened within 85 nautical

miles from the nearest Philippine island of Palawan and nearly 600 nautical miles from the nearest coast of China.

When the Philippines protested these intrusions, the response was a denial that no such intrusions occurred because of China's 9-dash line claim over the entire South China Sea.

The Philippines contends that the 9-dash claim of China has no validity under international law, specifically the United Nations Convention on the Law of the Sea or UNCLOS.

If Philippine sovereign rights can be denigrated by this baseless claim, many countries should begin to contemplate the potential threat to freedom of navigation in the South China Sea.

The preventive diplomacy solution as advocated by ASEAN Regional Forum may be achieved in either of two ways: one, through a process of segregating the disputed features from the non-disputed waters which will have to be vetted by the ASEAN maritime legal experts scheduled to meet in September in Manila; two, in the alternative, the Parties may wish to consider subjecting the 9-dash line to validation in accordance with UNCLOS.

The Philippines believes that a rules-based approach is the only legitimate way in addressing disputes in the South China Sea."

Many of our ASEAN Regional Forum and ASEAN partners were no doubt taken aback by the directness of my intervention, and yet in the Philippines' view, our assertion could not have been phrased otherwise. The imperative to speak frankly was borne out of an enormous sense

of exigency and urgency, and a newfound resolve to seek a multilateral resolution to one of the greatest threats to the stability of our progressive Southeast Asian neighbourhood.

Recent Intrusions

What prompted us to speak as frankly as we did was derived from a sense of alarm about increasingly aggressive and more frequent intrusions into areas where we have sovereign rights. Let me cite to you a few of these incidents:

- On February 25, two (2) Chinese missile frigates intimidated Philippine fishing vessels at the vicinity of Quirino (Jackson) atoll in the Kalayaan Islands Group, by firing warning shots into the water.

- On March 2, the seismic survey vessels of Forum Energy Philippines Corporation (FEPC) were harassed by Chinese marine surveillance vessels. Forum Energy has long been operating in the Recto Bank (Reed Bank) area - which the Philippines maintains is NOT disputed - in connection with prospective service contracts.

- On May 24, a China Marine Surveillance vessel and People's Liberation Army Navy vessels unloaded building materials, erected posts, and placed a buoy in the vicinity of the Iroquois Reef-Amy Douglas Bank. The area is well within the Philippines' 200-nautical mile Exclusive Economic Zone.

These are but a sampling of at least seven (7) aggressive intrusions we experienced in areas where we maintain we have sovereign rights in the West Philippine Sea, since late February, or around the time I assumed the reins of the DFA.

These intrusions happened within 85 nautical miles from the nearest Philippine island of Palawan and nearly 600 nautical miles from the nearest coast of China. The Philippines, naturally, protested these intrusions.

Unfortunately, the response was no such intrusions occurred because of China's 9-dash line claim over the whole West Philippine Sea.

The 9-dash line, also known as the 9-dotted line - or the "ox-tongue" line to the Vietnamese - represents the nine dashes that mark China's claim in the entire West Philippine Sea.

The Philippines contends that the 9-dash claim of China, which it submitted to the United Nations on May 7, 2009, is, to put it plainly, illegal. It is arbitrary and bereft of any basis or validity under international law, specifically the United Nations Convention on the Law of the Sea or UNCLOS.

We have thus protested it before the United Nations, joining Vietnam, Indonesia and Malaysia. At the same time, Singapore has asked that China define and clarify its 9-dash line position.

Notwithstanding, China persists in asserting full sovereignty.

Challenging Baseless Claims Through A Rules-Based Approach

Ladies and Gentlemen,

If left unchallenged, China's baseless 9-dash line claim over the entire West Philippine Sea would not only adversely affect our sovereign rights and jurisdiction but it would also potentially threaten the freedom of navigation and unimpeded commerce of many other nations.

As I have stated many times before, a rules-based approach is the only legitimate way in addressing disputes in the West Philippine Sea. The rule of law is the bedrock of peace, order and fairness in modern societies, and it has been the great equalizer in global affairs. Rules should buttress national claims and assertions. Where there are disputes, rules provide an effective and authoritative tool for peaceful and fair resolution.

The Declaration on a Code of Conduct (DoC)

The year 2002 gave us cause for optimism that a rules-based approach would eventually prevail in the West Philippines Sea. That year, ASEAN and China adopted the ASEAN-China Declaration on the Conduct of Parties in the South China Sea (DoC), a Philippine initiative.

Under the DoC, the Parties declared that they will exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability in the West Philippine Sea.

In Bali this July, the long awaited "Guidelines on the Implementation of the Declaration on the Conduct of Parties in the South China Sea" was adopted.

While this is progress, China's official pronouncement in the United Nations in May 2009 of its 9-dash line claim - nine years after the adoption of the DoC - presents a game changer.

We see 9-dash as the crux of the problem. For how can we exact conduct from a party which claims full sovereignty over everything?

Furthering A Rules-Based Approach

Ladies and Gentlemen,

To make the DoC and its implementing guidelines more practical and viable, it is important to understand that there exists disputed relevant features and non-disputed waters.

In advancing the preventive diplomacy solution advocated by the ASEAN Regional Forum, the Philippines is therefore advocating two avenues:

FIRST, we have already tabled in ASEAN a cooperative framework for managing disputes that will be vetted by the ASEAN maritime legal experts scheduled to meet this September in Manila.

We call this framework the ASEAN-China Zone of Peace, Freedom, Friendship and Cooperation, or ZoPFFC.

Under the ZoPFFC, we propose that the disputed relevant features in the West Philippine Sea be segregated from the undisputed waters in accordance with international law, specifically the UNCLOS. The undisputed areas could be developed in accordance with domestic laws, while the disputed areas could be transformed into areas for joint cooperation and development. instance, Recto (Reed) Bank is part of the continental shelf of the western coast of Palawan Province in the Philippines. It is about 85 nautical miles from the nearest coast of Palawan and therefore well within the 200 nautical miles Continental Shelf of the Philippine archipelago under UNCLOS. In contrast, it is roughly 595 nautical miles from the nearest coast of China. This means that the Philippines has unequivocal sovereign rights over Recto (Reed) Bank. Since the Recto (Reed) Bank is ours, it can only be exclusively developed by the Philippines. The Philippines may however invite foreign investors to assist in developing the area in accordance with Philippine laws.

The disputed features, on the other hand, can be transformed into a Joint Cooperation Area for joint development and the establishment of a marine protected area for biodiversity conservation.

Submission to International Tribunals and other International Fora

The **SECOND** avenue we are advocating involves having other Parties join the Philippines in

subjecting China's 9-dash line to validation, in accordance with UNCLOS.

Along these lines, in fact, the Philippines has invited China to join us in seeking recourse to the International Tribunal on the Law of the Sea or other dispute settlement mechanisms.

Indeed, our present advocacy means that all the parties must be prepared to have their respective claims brought before appropriate international tribunals, so that these could be validated.

The validation of the competing claims before the competent international body is a path that Parties cannot forever avoid. It affords the only path to finally calming the troubled waters of the West Philippine Sea.

CLOSING

In closing, the promotion of national security, one of three key pillars of Philippine foreign policy, rests first and foremost on establishing, defining and safeguarding our national territory, both terrestrial and maritime. Sovereignty and territory are fundamental requirements for the existence and continued survival of any nation-state.

We are resolved to hold sacrosanct the primacy of international law, which levels the playing field between strong and weak countries.

This is in keeping with no less than the very same principles that underpin our democratic Republic:

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

The community of nations must be governed by rules, and we hope that you will lend your unwavering support to your Department of Foreign Affairs, to your Philippine Government, as we enlist our partners' support in this undertaking.

Thank you.

[\[1\]](#) The current participants in the ARF are as follows: all ASEAN members, Australia, Bangladesh, Canada, China, EU, India, Japan, DPRK, ROK, Mongolia, New Zealand, Pakistan, Papua New Guinea, Russia, East Timor, U.S. and Sri Lanka.