

**SETTLEMENT OF DISPUTES REGARDING THE COLLISION INCIDENT
BETWEEN A PHILIPPINE CIVILIAN SUPPLY SHIP AND A CHINESE COAST
GUARD VESSEL IN THE SOUTH CHINA SEA IN 2023**



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Abstract

The South China Sea dispute has emerged as a highly complex issue, marked by various tensions that disrupt regional stability. The collision incident between Philippine and Chinese vessels has further heightened these tensions. This research aims to examine the legal implications of the collision between the Philippine and Chinese ships, to understand the dispute resolution mechanisms under the 1982 UNCLOS, and to assess the application of UNCLOS provisions in the collision incident between the Philippines and China in the South China Sea. The research method used is normative legal research with a case approach. The results indicate that China's actions constitute a violation of provisions under international law. The impact of the collision incident has further exacerbated the contest over territorial claims in the South China Sea.

Keywords: South China Sea, Collision, China, Philippines, Dispute Resolution

INTRODUCTION

The sea, as a means of transportation that connects one place to another, holds great economic importance from the perspective of the movement of goods and services, with ships serving as the primary mode of transport. Although various modes of transportation exist today, maritime transport remains a favored method in trade activities, as well as in facilitating the movement of people over long distances. Nevertheless, sea transportation carries high risks due to the many unpredictable dangers at sea. As such, the use of ships as a means of transport necessitates a comprehensive legal framework to ensure maritime safety and security (Gde et al., 2022).

The South China Sea, in addition to being rich in natural resources, is also a vital waterway as it is one of the busiest shipping routes in the world. Its strategic location has triggered territorial disputes in the form of overlapping claims by several surrounding countries, each asserting maritime boundaries in parts or even the entirety of the South China Sea. Countries such as China, Vietnam, Taiwan, the Philippines, Malaysia, and Brunei each present different justifications to support their respective claims over the area. China, in particular, has been assertive in its territorial claims in the South China Sea through the so-called “ten-dash line,” and has actively carried out various activities, such as deploying coast guard vessels to escort and protect its fishing boats operating in the South China Sea, as well as conducting island reclamation efforts to strengthen its claims over what it considers its sovereign territory (L.Toruan, 2020).

The South China Sea is a marginal sea in the western Pacific Ocean. It is a semi-enclosed sea with its northern part connecting the East China Sea and the Taiwan Strait, its eastern section connecting the Pacific Ocean through multiple straits, and its southwestern part connecting the Indian Ocean via the Strait of Malacca. The northern part of the South China Sea borders China’s provinces of Guangdong, Guangxi, Hainan, Fujian, and Taiwan. To the east and southeast, it borders the Philippines; to the south, it borders Malaysia and Brunei, including the island of Borneo; and to the southwest, it borders Vietnam and the Malay Peninsula. It is surrounded by six coastal countries: Taiwan, the Philippines, Malaysia, Brunei, Indonesia, and Vietnam.

The South China Sea has gained global media attention as a hotspot for territorial and maritime disputes involving China, the Philippines, Brunei, Malaysia, Indonesia, Vietnam, and Taiwan. Conflicts in the South China Sea contribute to political and security destabilization across Southeast Asia. Countries in the region may feel threatened and increase their defense spending, potentially triggering an arms race and elevating the risk of further conflict. Incidents such as ship collisions, shootings, or the detention of fishermen may escalate into larger military confrontations. Such provocations and incidents may occur due to misunderstandings, lack of communication, or deliberate provocations, potentially triggering military responses from the involved nations (Aulawi & Edwina, 2023)

The conflict between the Philippines and China over the Second Thomas Shoal has persisted even after the 2016 ruling by the International Arbitration Tribunal, and tensions have continued to rise both militarily and diplomatically. China is expected to further strengthen its military presence, while the Philippines is likely to seek greater international support, particularly from the United States, to counter China's expansion and defend its sovereignty.

The ongoing dispute in the Second Thomas Shoal between the Philippines and China has led to multiple incidents between the two nations, particularly from 2021 to 2023. Several military-related incidents have taken place at Second Thomas Shoal, with China continuing to deploy coast guard vessels and maritime militia fishing boats to assert its claim. Meanwhile, the Philippines has sought to maintain its position by stationing a military garrison aboard the BRP Sierra Madre, which has been grounded on the reef. These incidents include confrontations between Chinese and Philippine vessels, further intensifying regional tensions.

REVIEW OF LITERATURE

Settlement of International Maritime Disputes

The settlement of international maritime disputes is a legal and diplomatic process aimed at resolving conflicts occurring in disputed maritime areas between two or more countries. According to (Adhistry, 2023), dispute resolution in international law can be achieved through peaceful means such as negotiation, mediation, arbitration, and

adjudication before international courts. In the context of maritime disputes, the main legal instrument used is the United Nations Convention on the Law of the Sea (UNCLOS) 1982, which regulates the rights and obligations of states at sea.

(Tampi, 2017) states that UNCLOS provides mechanisms for member states to resolve disputes through tribunals such as the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ), or ad hoc arbitration. These mechanisms enable states to resolve maritime conflicts legally and peacefully. However, in practice, dispute resolution often involves political and diplomatic considerations, especially when major powers like China are involved.

According to (Widiyanto et al., 2024), incidents in the South China Sea reflect the complexity of dispute resolution, involving overlapping maritime claims, military tensions, and violations of international norms. Incidents such as collisions between civilian ships and coast guard vessels are part of the “grey zone conflict” dynamics, which do not escalate into full-scale war but still create regional tension.

Based on the opinions above, it can be concluded that the settlement of international maritime disputes requires a multidimensional approach, not only through international legal avenues but also through bilateral diplomacy, regional dialogue, and adherence to the principles of UNCLOS. In the context of the 2023 collision incident in the South China Sea between a Philippine civilian supply ship and a Chinese Coast Guard vessel, the resolution of the dispute must consider the principles of sovereignty, maritime safety, and regional stability.

RESEARCH METHOD

This study employs a normative legal research method. The statutory approach used in this context refers to the United Nations Convention on the Law of the Sea (UNCLOS) of 1982. The data sources used in this legal research consist of secondary data, which includes primary, secondary, and tertiary legal materials. The data collection tool utilized in this study is library research. Furthermore, the data analysis technique is carried out qualitatively by selecting relevant theories, principles, norms, doctrines, and articles within the Convention. These elements are then analyzed qualitatively to identify a solution and draw conclusions,

which are subsequently integrated into a coherent analytical framework that is easily understood by others.

RESULTS AND DISCUSSION

Legal Implications of the Collision Incident Between Philippine and Chinese Vessels on Security and Peace Stability in the South China Sea

The collision incident between a Philippine vessel and a Chinese coast guard ship on December 10, 2023, has further exacerbated the ongoing territorial dispute in the South China Sea. The mutual accusations and blame between the two countries have increasingly disregarded routine law enforcement and resulted in minor damage. China's actions not only reflect a disregard for the safety and livelihood of Filipino citizens but also a violation of international law. The International Court ruled in 2016 that the disputed area in the South China Sea is under the jurisdiction of the Philippines. However, China remains adamant in claiming the area as its own, based on the Nine-Dash Line framework. (Kevin Andreas Halomoan Tambunan, 2024)

The consequences of this incident could include the expulsion of the Chinese Ambassador from the Philippines, as the Philippine government summoned the Ambassador in protest of China's actions. The United States also issued a warning, expressing support for the Philippines in confronting China's dangerous conduct and legal violations, which threaten the stability and security of the South China Sea.

The Philippine government also submitted a diplomatic protest note against the Chinese coast guard's actions, considering them a violation of Philippine sovereignty. This incident highlights the fragility of security stability in the South China Sea, disrupting peace and raising the risk of conflict escalation due to the involvement of third-party states.

These developments indicate ongoing tensions between the Philippines and China regarding territorial disputes in the region, contributing to regional instability and complicating peace and conflict resolution efforts in the South China Sea. The ship collision incident has further hindered peaceful resolution attempts and heightened security uncertainty in the region. The worsening tensions risk damaging diplomatic relations between the two countries. Bilateral ties between the Philippines and China could break

down, jeopardizing diplomatic communication. Diplomacy, as a mechanism for official inter-state relations, involves various processes including cooperation, negotiation, and peaceful conflict resolution (Rafi Darajati & Adolf, 2018)

There has also been an increase in joint military exercises with third-party countries supporting the Philippines' claim in the South China Sea, along with strengthened defense cooperation and the enforcement of international law in the region. Meanwhile, China continues to reject the PCA ruling and uphold its territorial claims in the South China Sea, increasing its military presence and reinforcing infrastructure in disputed areas, including building military bases and other facilities.

The conflict at the Second Thomas Shoal is likely to persist and may even escalate. The inability to enforce international legal rulings suggests that both the Philippines and China will continue to assert their claims through military strength and diplomacy. China is likely to further solidify its presence in the region, while the Philippines will seek increased support from its allies to counter China's expansion.

Dispute Settlement Mechanisms under UNCLOS 1982 for Resolving the Collision Incident Between a Philippine Civilian Supply Vessel and a Chinese Coast Guard Ship in the South China Sea

Dispute resolution is governed under Part XV of the United Nations Convention on the Law of the Sea (UNCLOS) 1982, specifically Article 279, which states that State Parties are granted broad freedom to choose their preferred dispute settlement procedures, as long as they are mutually agreed upon. According to Article 33, paragraph 1 of the UN Charter and reflected in UNCLOS, disputes between States Parties should be resolved through peaceful means, both non-litigation and litigation, including (Sugiadnyana et al., 2020):

- a. Non-litigation or diplomatic means, such as negotiation, mediation, and conciliation. Other approaches are also possible, as agreed upon by the parties, such as direct negotiation without third-party involvement or negotiations that include third-party facilitators.
- b. Litigation or legal means, such as arbitration and adjudication. These typically refer to judicial bodies governed by various international organizations, both regional and global in scope.

Article 280 of UNCLOS 1982 further emphasizes that peaceful dispute resolution shall not impair the rights of any State Party in choosing how to settle a dispute. Article 287 in Part XV of UNCLOS offers other procedures in case a peaceful agreement cannot be reached. These procedures result in final and binding decisions, and include:

a) International Tribunal for the Law of the Sea (ITLOS)

ITLOS is headquartered in Hamburg, Germany, and was established by the United Nations. This tribunal serves as a forum to resolve disputes related to maritime zones involving the interpretation and application of UNCLOS 1982. Parties may bring disputes to ITLOS as outlined in Annex VI of UNCLOS 1982. The Tribunal hears cases involving States that have ratified the Convention, as well as other organizations or entities involved in maritime matters. ITLOS decisions are binding upon the State parties to the dispute.

b) International Court of Justice (ICJ)

The ICJ is the principal judicial body of the United Nations, established in June 1945 under the UN Charter and operational since April 1946. Based in The Hague, the ICJ is the only UN body not located in New York. It settles legal disputes submitted by States according to international law and provides advisory opinions on legal questions referred to it by authorized UN bodies and specialized agencies. The ICJ is composed of judges elected for nine-year terms by the UN General Assembly and Security Council, assisted by a Registry. Its official languages are English and French. The ICJ's decisions are final and binding on the parties involved.

c) Arbitral Tribunal

An arbitral tribunal is a process in which disputing parties agree to submit their dispute to an arbitrator. Arbitration under UNCLOS follows specific rules outlined in Annex VII and VIII. The tribunal's decisions are final and binding, providing an alternative legal pathway for resolving maritime disputes between States.

d) Special Arbitration Tribunal

The Special Arbitration Tribunal is formed to resolve disputes specifically related to the interpretation or application of the Law of the Sea Convention, functioning as an alternative to general court proceedings. It is authorized to handle disputes that cannot be resolved through negotiation or mediation. Its decisions are also final and binding.

Although the tensions between the Philippines and China began with territorial disputes in the South China Sea, negotiations between China and affected countries have failed to produce mutual agreement. Consequently, the Philippines resorted to the Permanent Court of Arbitration (PCA) regarding the Second Thomas Shoal in the Spratly Islands as a source of contention. The PCA ruled in favor of the Philippines, rejecting China's claim due to lack of legal basis and violations of the Philippines' sovereign rights in its Exclusive Economic Zone (EEZ), including obstruction of fishing and exploration activities. However, China has firmly refused to recognize or comply with the PCA ruling. (Wirth & Schatz, 2020)

In the context of the collision incident between Philippine and Chinese vessels on October 22, 2023, the Philippines submitted a Diplomatic Protest Note in response to China's escalation involving its coast guard, militia, and navy in the Philippine EEZ. The Philippine government responded firmly, emphasizing its commitment to defending maritime sovereignty and condemning China's illegal actions that violated the Philippines' sovereign rights. Other possible resolutions include peaceful negotiations, whether bilaterally or multilaterally, and regional cooperation, where neighboring countries play a role in mediating between the two parties using platforms such as ASEAN. Despite the protest note issued by the Philippines, the country's economic dependence on China, particularly in terms of investments and trade, limits its diplomatic flexibility and makes it difficult to adopt a firm stance against China.

The Application of UNCLOS 1982 Provisions in the Ship Collision Incident Between the Philippines and China in the South China Sea

The United Nations Convention on the Law of the Sea (UNCLOS) 1982 was established to meet the needs of coastal States seeking legal regulation over maritime zones beyond their sovereign waters. The ship collision incident between the Philippines and China in the South China Sea, specifically within this disputed maritime area, reflects the complexity of applying UNCLOS 1982 in maritime conflict situations. (Tang et al., 2023)

UNCLOS 1982 distinguishes between islands, rocks, and low-tide elevations, as stipulated in Articles 13 and 121. Any sovereignty claims over such features must consider the principle of effective occupation and define the rights and obligations of vessels. The application of UNCLOS 1982 to this ship collision incident is further supported by the 2016

ruling by the Permanent Court of Arbitration (PCA), which favored the Philippines—even though China strongly rejected the outcome. The binding nature of the PCA’s decision is reinforced by Article 59 of the Statute of the International Court of Justice, which affirms that such rulings are final and binding upon the parties to the dispute.

In response to China's consistent rejection of the PCA ruling, this stance can be countered under Article 9 of Annex VII of UNCLOS 1982. The Philippine vessel, which was carrying humanitarian and logistical supplies, exercised its right to innocent passage, as long as it posed no threat to the coastal State’s security. In contrast, the actions of the Chinese vessel—engaging in aggressive maneuvers that led to the collision—violated the principle of “due regard” set forth in Article 58(3) of UNCLOS 1982, which requires respect for the navigation rights of other States. This is further elaborated in Articles 17 to 19 on Innocent Passage.

Moreover, Article 301 of UNCLOS prohibits the threat or use of force, and the use of water cannons by the Chinese Coast Guard—as seen in CCTV footage—could constitute a dangerous maneuver potentially in violation of the International Regulations for Preventing Collisions at Sea (COLREGs), and inconsistent with the obligation to settle disputes by peaceful means (Erwin, 2022)

The Philippines, in turn, is also obligated to avoid provocative actions that could further escalate tensions. This ship collision incident poses additional risks, such as oil spills and coral reef damage, since the crash reportedly caused structural damage to the Philippine vessel’s engine. Both China and the Philippines are bound by the provisions of UNCLOS 1982 concerning marine environmental protection, particularly Articles 192 to 196, which require States to prevent, reduce, and control pollution and to restore marine environments in cases of damage (Supriyo & Rusito, 2023)

Furthermore, China’s claim of sovereignty over the area where the collision occurred contradicts the 2016 PCA ruling, which declared the “nine-dash line” invalid. According to Article 121 of UNCLOS 1982, China must respect the Philippines’ sovereign rights and refrain from taking any actions that hinder or violate these rights.

CONCLUSION

The collision incident between a Philippine vessel and a Chinese coast guard ship has further intensified the territorial dispute in the South China Sea. The repercussions of this incident include the expulsion of the Chinese Ambassador from the Philippines, following the Philippine government's opposition to China's actions. The Philippine government also submitted a diplomatic protest against the conduct of the Chinese Coast Guard, which was considered a violation of the Philippines' sovereignty. This ship collision incident disrupts regional security and holds the potential to escalate into a broader conflict, especially with the possible involvement of third parties.

Article 287 of UNCLOS 1982, under Part XV, provides four mechanisms for dispute settlement: the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice (ICJ), Arbitration, and Special Arbitration. In response to the collision incident between the Philippines and China in the South China Sea, the Philippines filed a diplomatic note of protest against China's escalating actions involving its coast guard, militia, and naval presence within the Philippine Exclusive Economic Zone (EEZ). Another avenue for resolution includes peaceful negotiations, both bilateral and multilateral, with support from neighboring countries through ASEAN mediation platforms.

Sovereignty claims over the disputed area must be assessed based on the principle of effective occupation, and they must also determine the rights and obligations of vessels under international law. The application of UNCLOS 1982 to this ship collision incident refers to the 2016 ruling of the Permanent Court of Arbitration (PCA), which ruled in favor of the Philippines—despite China's firm rejection of the ruling. According to Article 59 of the Statute of the International Court of Justice, PCA decisions are final and binding for the parties involved in the dispute.

The Philippine vessel, which was transporting logistical supplies, was exercising its right to innocent passage, as long as it did not threaten the coastal State's security. On the other hand, the aggressive maneuvers carried out by the Chinese vessel that led to the collision violated the principle of "due regard" under Article 58(3) of UNCLOS 1982, which mandates respect for the navigation rights of other States. This is further supported by Articles 17 to 19 regarding Innocent Passage.

Moreover, the prohibition of the use of force, as stated in Article 301 of UNCLOS 1982, was potentially violated through the use of water cannons, as seen in CCTV footage, and through the dangerous maneuvers conducted by the Chinese vessel. These actions could potentially breach the International Regulations for Preventing Collisions at Sea (COLREGs) and contradict the obligation to settle disputes peacefully.

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