



The Republic of the Philippines vs. The People's Republic of China

Case No. 2013-19 in the Permanent Court of Arbitration
Before the Arbitral Tribunal constituted under UNCLOS Annex VII
12 July 2016
Mensah (President), Wolfrum, Pawlak, Cot, Soons, *Arbitrators*.



SUMMARY OF FINDINGS ON PHILIPPINE CLAIMS

PH Submission	Ruling	Basis
1. China's maritime entitlements in the SCS, like those of the PH, may not extend beyond those permitted by UNCLOS	Granted	¶261 ^a , ¶262 ^b
2. China's claims to sovereign rights and jurisdiction, and to "historic rights" with respect to the maritime areas of the SCS encompassed by the so-called "nine-dash line" are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the UNCLOS.	Granted	¶246 ^c , ¶247 ^d
3. Scarborough Shoal generates no entitlement to an exclusive economic zone (EEZ) or continental shelf (CS).	Granted: rock	¶554 ^e , ¶556 ^f
4. Mischief Reef, Second Thomas Shoal, and Subi Reef are low-tide elevations that do not generate entitlement to a territorial sea, EEZ or CS, and are not features that are capable of appropriation by occupation or otherwise. (3 claims)		
a. Mischief Reef	Granted: LTE	¶377 ^g , ¶378 ^h
b. Second Thomas Shoal	Granted: LTE	¶380 ⁱ , ¶381 ^j
c. Subi Reef	Granted: LTE	¶368 ^k , ¶373 ^l
5. Mischief Reef and Second Thomas Shoal are part of the EEZ and CS of the PH. (2 claims)		
a. Mischief Reef	Granted: LTE	¶290 ^m , ¶646 ⁿ , ¶647 ^o
b. Second Thomas Shoal	Granted: LTE	¶290 ^p , ¶646 ^q , ¶647 ^r
6. Gaven Reef and McKennan Reef (including Hughes Reef) are LTEs that do not generate entitlement to a TS, EEZ or CS, but their low-water line may be used to determine the baseline from which the breadth of the TS of Namyit and Sin Cowe, respectively, is measured. (2 claims)		
a. Gaven Reef (North)	Denied: High Tide Feature	¶365 ^s
b. Gaven Reef (South)	Granted- LTE	¶366 ^t
c. McKennan Reef	Denied	¶353 ^u
d. Hughes Reef	Granted- LTE	¶358 ^v
7. Johnson Reef, Cuarteron Reef, and Fiery Cross Reef generate no entitlement to an EEZ or CS. (3 claims)		
a. Johnson Reef	Granted	¶644 ^w
b. Cuarteron Reef	Granted	¶644 ^x
c. Fiery Cross Reef	Granted	¶644 ^y
8. China has unlawfully interfered with the enjoyment and exercise of the sovereign rights of the PH with respect to the living and non-living resources of its EEZ and CS.	Granted	¶716 ^z
9. China has unlawfully failed to prevent its nationals and vessels from exploiting the living resources in the EEZ of the PH.	Granted	¶756 ^{aa} , ¶757 ^{bb}
10. China has unlawfully prevented PH fishermen from pursuing their livelihoods by interfering with traditional fishing activities at Scarborough Shoal and at Mischief Reef and Second Thomas Shoal.	Granted	¶812 ^{cc} , ¶813 ^{dd} , ¶814 ^{ee}
11. China has unlawfully prevented PH fishermen from pursuing their livelihoods by interfering with traditional fishing activities at Scarborough Shoal and at Mischief Reef and Second Thomas Shoal. (3 claims)		
a. Scarborough Shoal	Granted	¶964 ^{ff}
b. Second Thomas Shoal.	Granted	¶964 ^{gg}

12. China's occupation and construction activities on Mischief Reef (a) violate the provisions of the Convention concerning artificial islands (b) violate China's duties to protect and preserve the marine environment under the Convention, and (c) constitute unlawful acts of attempted appropriation in violation of the Convention. (3 claims)		
a. China's occupation and construction activities on Mischief Reef violate the provisions of the Convention concerning artificial islands	Granted	¶1043 ^{hh}
b. China's occupation and construction activities on Mischief Reef violate China's duties to protect and preserve the marine environment under the Convention	Granted	¶992 ⁱⁱ , ¶993 ^{jj}
c. China's occupation and construction activities on Mischief Reef constitute unlawful acts of attempted appropriation in violation of the Convention	Granted	¶1040 ^{kk} , ¶1042 ^{ll}
13. China has breached its obligations under the Convention by operating its law enforcement vessels in a dangerous manner causing serious risk of collision to PH vessels navigating in the vicinity of Scarborough Shoal.		
14. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things (a) interfering with the PH rights of navigation in the waters at, and adjacent to, Second Thomas Shoal (b) preventing the rotation and resupply of PH personnel stationed at Second Thomas Shoal, and (c) endangering the health and well-being of PH personnel stationed at Second Thomas Shoal, and conducting dredging, artificial island building and construction activities at Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef, and Subi Reef (10 claims)		
a. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things interfering with the PH rights of navigation in the waters at, and adjacent to, Second Thomas Shoal	No Ruling - No Jurisdiction	¶1161 ^{oo} , ¶1162 ^{pp}
b. . . . preventing the rotation and resupply of PH personnel stationed at Second Thomas Shoal	No Ruling - No Jurisdiction	¶1161 ^{qq} , ¶1162 ^{rr}
c. . . . endangering the health and well-being of PH personnel stationed at Second Thomas Shoal	No Ruling -No Jurisdiction	¶1161 ^{ss} , ¶1162 ^{tt}
d. . . . conducting dredging, artificial island building and construction activities at Mischief Reef	Granted	¶1181 ^{uu}
e. Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things conducting dredging, artificial island building and construction activities at Cuarteron Reef	Granted	¶1181 ^{vv}
f. . . . conducting dredging, artificial island building and construction activities at Fiery Cross Reef	Granted	¶1181 ^{ww}
g. . . . conducting dredging, artificial island building and construction activities at Gaven Reef	Granted	¶1181 ^{xx}
h. . . . conducting dredging, artificial island building and construction activities at Johnson Reef	Granted	¶1181 ^{yy}
i. . . . conducting dredging, artificial island building and construction activities at Hughes Reef	Granted	¶1181 ^{zz}
j. . . . conducting dredging, artificial island building and construction activities at Subi Reef	Granted	¶1181 ^{aaa}
15. China shall respect the rights and freedoms of the PH under the Convention, shall comply with its duties under the Convention, including those relevant to the protection and preservation of the marine environment in the SCS, and shall exercise its rights and freedoms in the SCS with due regard to those of the PH under the Convention.		

^a Par. 261. For all of the reasons discussed above, the Tribunal concludes that China's claim to historic rights to the living and non-living resources within the 'nine-dash line' is incompatible with the Convention to the extent that it exceeds the limits of China's maritime zones as provided for by the Convention. This is apparent in the text of the Convention which comprehensively addresses the rights of other States within the areas of the exclusive economic zone and continental shelf and leaves no space for an assertion of historic rights. It is

also reinforced by the negotiating record of the Convention where the importance of adopting a comprehensive instrument was manifest and where the cause of securing the rights of developing States over their exclusive economic zone and continental shelf was championed, in particular, by China.

^b Par. 262. Accordingly, upon China's accession to the Convention and its entry into force, any historic rights that China may have had to the living and non-living resources within the 'nine-dash line' were superseded, as a matter of law and as between the Philippines and China, by the limits of the maritime zones provided for by the Convention. This should not be considered exceptional or unexpected. The Convention was a package that did not, and could not, fully reflect any State's prior understanding of its maritime rights. Accession to the Convention reflects a commitment to bring incompatible claims into alignment with its provisions, and its continued operation necessarily calls for compromise by those States with prior claims in excess of the Convention's limits.

^c Par. 246. China has stated its view that its "relevant rights in the South China Sea, formed in the long historical course" are "protected under international law including the United Nations Convention on the Law of the Sea (UNCLOS)."233 Insofar as China's relevant rights comprise a claim to historic rights to living and non-living resources within the 'nine-dash line', partially in areas that would otherwise comprise the exclusive economic zone or continental shelf of the Philippines, the Tribunal cannot agree with this position. The Convention does not include any express provisions preserving or protecting historic rights that are at variance with the Convention. On the contrary, the Convention supersedes earlier rights and agreements to the extent of any incompatibility. The Convention is comprehensive in setting out the nature of the exclusive economic zone and continental shelf and the rights of other States within those zones. China's claim to historic rights is not compatible with these provisions.

^d Par. 247. The Tribunal considers the text and context of the Convention to be clear in superseding any historic rights that a State may once have had in the areas that now form part of the exclusive economic zone and continental shelf of another State. There is no ambiguity here that would call for the Tribunal to have recourse to the supplementary means of interpretation set out in Article 32 of the Vienna Convention. Nevertheless, in light of the sensitivity of the matters at issue in these proceedings, the Tribunal considers it warranted to recall the origin of and purpose behind the Convention's provisions on the exclusive economic zone and continental shelf.

^e Par. 554. In the Tribunal's view, Scarborough Shoal is a "rock" for purposes of Article 121(3).

^f Par. 556. On any account, the protrusions above high tide at Scarborough Shoal are minuscule. This is confirmed by photographs in the record.⁵⁸⁹ They obviously could not sustain human habitation in their naturally formed state; they have no fresh water, vegetation, or living space and are remote from any feature possessing such features. Scarborough Shoal has traditionally been used as a fishing ground by fishermen from different States, but the Tribunal recalls that economic activity in the surrounding waters must have some tangible link to the high-tide feature itself before it could begin to constitute the economic life of the feature (see paragraph 503 above). There is no evidence that the fishermen working on the reef make use of, or have any connection to, the high-tide rocks at Scarborough Shoal. Nor is there any evidence of economic activity beyond fishing. There is, accordingly, no evidence that Scarborough Shoal could independently sustain an economic life of its own.

^g Par. 377. Despite the absence of any reference to a high-tide feature at Mischief Reef, the Tribunal notes the reference to a drying rock with a height of five feet above Mean Low Water Springs in HMS Herald's description of the reef. China's Chart No. 18500 similarly depicts a height of one metre above Mean Sea Level in the location of that rock. Either measurement would at least be close to the expected level of high water. The Tribunal notes, however, that it does not have direct evidence of tidal conditions at Mischief Reef and concludes that the clear evidence from direct observations—to "drying rocks" by HMS Herald and to rocks exposed "during half- tide" in the Chinese sailing directions—is more convincing. In light, in particular, of the amount of time spent by HMS Herald in surveying Mischief Reef and the knowledge of tidal conditions apparent in the above description, the Tribunal considers it inconceivable that a high-tide rock or feature could have been overlooked or gone unmentioned.

^h Par. 378. Accordingly, the Tribunal concludes that Mischief Reef is a low-tide elevation.

ⁱ Par. 380. The Tribunal notes in particular the description of rocks that "are almost certain to be visible at low water" and takes this as an indication that no rocks on the reef would be visible at high water. The Tribunal is also unaware of any more recent evidence suggesting a high-tide feature on Second Thomas Shoal, including in Chinese Chart No. 18500 or the Chinese Navy Headquarters sailing directions...

^j Par. 381. Accordingly, the Tribunal concludes that Second Thomas Shoal is a low-tide elevation.

^k Par. 368. The same conclusion follows from the depiction of Subi Reef in U.S. Defense Mapping Agency Chart No. 93061, although the Tribunal notes that this chart is a reissued version of U.S. Hydrographic Office Chart No. 2786, which was simply a copy in 1911 of British Admiralty Chart No. 1201, which was in turn based the 1867 survey data. No high-tide feature on Subi Reef is depicted on British Admiralty Chart No. 1201 either, and the Tribunal is unable to identify any source suggesting a rock or cay above high water on Subi Reef. Accordingly, the Tribunal concludes that Subi Reef is a low-tide elevation.

^l Par. 373. With respect to satellite imagery, the Tribunal remains unconvinced that reliable conclusions can be drawn from EOMAP's satellite-derived bathymetry. Moreover, in contrast to a rock or coral boulder, it is possible that a sand cay may be dispersed by storm action and reform in the same location after a short while. The absence of a sand cay at a particular point in time is thus not conclusive evidence of the absence of a high-tide feature. In this instance, the Tribunal considers that the strong historical evidence of a sand cay on the reefs west of Thitu is to be preferred, even if the presence of Sandy Cay over time is intermittent. As Subi Reef lies within 12 nautical miles of the reef on which Sandy Cay is located, it could serve as a basepoint for the territorial sea of Sandy Cay. The Tribunal also notes, however, that even without a high-tide feature in the location of Sandy Cay, Subi Reef would fall within the territorial sea of Thitu as extended by basepoints on the low-tide elevations of the reefs to the west of the island. Accordingly, the significance of Sandy Cay for the status of Subi Reef is minimal.

^m Par. 290. Mischief Reef and Second Thomas Shoal are both coral reefs located in the centre of the Spratly Islands, to the east of Union Bank and to the south-east of Tizard Bank. Mischief Reef is known as "Meiji Jiao" (美济礁) in China and "Panganiban" in the Philippines. It is located at 09° 54' 17" N, 115° 31' 59" E and is 125.4 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 598.1 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan. Second Thomas Shoal is known as "Ren'ai Jiao" (仁爱礁) in China and "Ayungin Shoal" in the Philippines. It is located at 09° 54' 17" N, 115° 51' 49" E and is 104.0 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 616.2 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan.

ⁿ Par. 646. Based on the considerations outlined above (see paragraphs 374 to 381), the Tribunal concludes that Mischief Reef and Second Thomas Shoal are both low-tide elevations that generate no maritime zones of their own. The Tribunal also concludes that none of the high-tide features in the Spratly Islands are capable of sustaining human habitation or an economic life of their own within the meaning of those terms in Article 121(3) of the Convention. All of the high-tide features in the Spratly Islands are therefore legally rocks for purposes of Article 121(3) and do not generate entitlements to an exclusive economic zone or continental shelf. There is, accordingly, no possible entitlement by China to any maritime zone in the area of either Mischief Reef or Second Thomas Shoal and no jurisdictional obstacle to the Tribunal's consideration of the Philippines' Submission No. 5.

^o Par. 647. With respect to the Philippines' Submission No. 5, the Tribunal concludes that both Mischief Reef and Second Thomas Shoal are located within 200 nautical miles of the Philippines' coast on the island of Palawan and are located in an area that is not overlapped by the entitlements generated by any maritime feature claimed by China. It follows, therefore, that, as between the Philippines and China, Mischief Reef and Second Thomas Shoal form part of the exclusive economic zone and continental shelf of the Philippines.

^p See above.

^q See above.

^r See above.

^s Par. 365. The Tribunal therefore considers that it is faced not with uniform evidence concerning the status of Gaven Reef (North), but with a 20th century Japanese survey depicting a sand cay on the reef and a 19th century British survey indicating no such feature. As between the two, the Tribunal considers that the Japanese evidence is to be preferred and sees no more recent evidence that would disprove the existence of a sand cay on Gaven Reef (North). Accordingly, the Tribunal concludes that Gaven Reef (North) is a high-tide feature.

^t Par. 366. The Tribunal has seen no evidence in any of the sources discussed above that would suggest the existence of a high-tide feature on Gaven Reef (South) and notes the description to the contrary in the Chinese sailing directions. The Tribunal concludes that Gaven Reef (South) is a low-tide elevation.

^u Par. 353. The Philippines argues that the "[c]harts produced by China, the Philippines, the UK and U.S. and Japan all depict McKennan Reef as a low-tide elevation." The Tribunal notes, however, that this statement is not wholly correct. China's Chart No. 18400 depicts

Union Bank at 1:250,000 scale, but does not support the position advocated by the Philippines. Although the chart does not include any symbol for a rock or island on the reef platform of McKennan Reef itself, a height of “(2.3)” metres above Mean Sea Level is indicated directly adjacent to McKennan Reef, with a notation that corresponds to that used on Chinese charts for features that do not cover at high water. Such a height would be well above high water against any datum. While the absence of any symbol on the reef platform itself might, at first glance, call this height into question, the Tribunal notes that the same pattern of notation (an apparently bare reef platform with an adjacent height) is used on the same chart to depict Namyt Island on Tizard Bank, where a high-tide feature unequivocally does exist, and also Johnson Reef on Union Bank. The source key to Chart No. 18400 indicates that certain areas of the Chart were surveyed by China between 1989 and 2001 and that the data for Union Bank were derived from “1984, 1982 version of nautical chart.”

^v Par. 358. In light of all of the evidence, the Tribunal concludes that Hughes Reef is a low-tide elevation. Although the Japanese chart does appear to indicate a high-tide feature, no height is given for this feature (in contrast to the depiction of a sand cay on Gaven Reef (North) on the Japanese chart of Tizard Bank) and the observation is not corroborated by any other evidence before the Tribunal. Nor does it appear in the most recent Chinese chart.

^w Par. 644. Based on the considerations outlined above (see paragraphs 335 to 351), the Tribunal finds with respect to the Philippines’ Submission No. 7 that Johnson Reef, Cuarteron Reef, and Fiery Cross Reef contain, within the meaning of Article 121(1) of the Convention, naturally formed areas of land, surrounded by water, which are above water at high tide. However, for purposes of Article 121(3) of the Convention, the high-tide features at Johnson Reef, Cuarteron Reef, and Fiery Cross Reef are rocks that cannot sustain human habitation or economic life of their own and accordingly shall have no exclusive economic zone or continental shelf.

^x See above.

^y See above.

^z Par. 716. Based on the considerations outlined above, the Tribunal finds that China has, through the operation of its marine surveillance vessels with respect to M/V Veritas Voyager on 1 to 2 March 2011 breached Article 77 of the Convention with respect to the Philippines’ sovereign rights over the non-living resources of its continental shelf in the area of Reed Bank. The Tribunal further finds that China has, by promulgating its 2012 moratorium on fishing in the South China Sea, without exception for areas of the South China Sea falling within the exclusive economic zone of the Philippines and without limiting the moratorium to Chinese flagged vessels, breached Article 56 of the Convention with respect to the Philippines’ sovereign rights over the living resources of its exclusive economic zone.

^{aa} Par. 756. The obligation to have due regard to the rights of the Philippines is unequivocally breached when vessels under Chinese Government control act to escort and protect Chinese fishing vessels engaged in fishing unlawfully in the Philippines’ exclusive economic zone.

^{bb} Par. 757. Based on the considerations outlined above, the Tribunal finds that China has, through the operation of its marine surveillance vessels in tolerating and failing to exercise due diligence to prevent fishing by Chinese flagged vessels at Mischief Reef and Second Thomas Shoal in May 2013, failed to exhibit due regard for the Philippines’ sovereign rights with respect to fisheries in its exclusive economic zone. Accordingly, China has breached its obligations under Article 58(3) of the Convention.

^{cc} Par. 812. In the Tribunal’s view, it is not necessary to explore the limits on the protection due in customary international law to the acquired rights of individuals and communities engaged in traditional fishing. The Tribunal is satisfied that the complete prevention by China of fishing by Filipinos at Scarborough Shoal over significant periods of time after May 2012 is not compatible with the respect due under international law to the traditional fishing rights of Filipino fishermen. This is particularly the case given that China appears to have acted to prevent fishing by Filipinos, specifically, while permitting its own nationals to continue. The Tribunal is cognisant that April and May 2012 represented a period of heightened tensions between the Philippines and China at Scarborough Shoal. China’s dispute with the Philippines over sovereignty and law enforcement at Scarborough Shoal, however, was with the Philippine Government. The Tribunal does not see corresponding circumstances that would have justified taking action against Filipino fishermen engaged in their traditional livelihood or that would have warranted continuing to exclude Filipino fishermen from Scarborough Shoal for months after the Philippines had withdrawn its official vessels. The Tribunal notes, however, that it would have reached exactly the same conclusion had the Philippines established control over Scarborough Shoal and acted in a discriminatory manner to exclude Chinese fishermen engaged in traditional fishing.

^{dd} Par. 813. With respect to the Philippines' claim that China's actions at Scarborough Shoal represented a specific failure to fulfil its duties pursuant to Article 2(3) of the UN Charter and Article 279 of the Convention to settle disputes by peaceful means, the Tribunal notes that both Parties found fault with the other in their handling of the standoff and that both found cause to allege breaches of the UN Charter. The Tribunal does not find the record before it sufficient to support such a claim in respect of either Party.

^{ee} Par. 814. Based on the considerations outlined above, the Tribunal finds that China has, through the operation of its official vessels at Scarborough Shoal from May 2012 onwards, unlawfully prevented Filipino fishermen from engaging in traditional fishing at Scarborough Shoal. The Tribunal records that this decision is entirely without prejudice to the question of sovereignty over Scarborough Shoal.

^{ff} Par 964. Despite the reference to "legitimate fishing activities", the photographic evidence of endangered species, including giant clams and sharks, on board the vessels in question indicates China must have known of, and deliberately tolerated, and protected the harmful acts. Similarly, with respect to the May 2013 incident in the vicinity of Second Thomas Shoal, the Tribunal accepts, on the basis of the photographic and contemporaneous documentary evidence, that Chinese naval and CMS vessels were escorting Chinese fishing vessels in gathering clams. The Tribunal therefore has no hesitation in finding that China breached its obligations under Articles 192 and 194(5) of the Convention, to take necessary measures to protect and preserve the marine environment, with respect to the harvesting of endangered species from the fragile ecosystems at Scarborough Shoal and Second Thomas Shoal.

^{gg} See above.

^{hh} Par. 1043. The Tribunal finds that China has, through its construction of installations and artificial islands at Mischief Reef without the authorisation of the Philippines, breached Articles 60 and 80 of the Convention with respect to the Philippines' sovereign rights in its exclusive economic zone and continental shelf. The Tribunal further finds that, as a low-tide elevation, Mischief Reef is not capable of appropriation.

ⁱⁱ Par 992. The Tribunal finds that China has, through its toleration and protection of, and failure to prevent Chinese fishing vessels engaging in harmful harvesting activities of endangered species at Scarborough Shoal, Second Thomas Shoal and other features in the Spratly Islands, breached Articles 192 and 194(5) of the Convention.

^{jj} Par 993. The Tribunal further finds that China has, through its island-building activities at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, Subi Reef and Mischief Reef, breached Articles 192, 194(1), 194(5), 197, 123, and 206 of the Convention.

^{kk} Par 1040. The Tribunal recalls, first, that Mischief Reef is incapable of appropriation. As the Tribunal has already concluded at paragraphs 307 to 309 above, low-tide elevations "do not form part of the land territory of a State in the legal sense." Rather, such features form part of the submerged landmass of a State and, in the case of Mischief Reef, fall within the legal regime for the continental shelf. In consequence, low-tide elevations, as distinct from land territory, cannot be appropriated. As the Tribunal has now found, Mischief Reef is a low-tide elevation; it follows from this that it is incapable of appropriation, by occupation or otherwise.

^{ll} Par. 1042. Having established that Mischief Reef is not capable of appropriation and addressed the effect of China's actions on the Philippines' sovereign rights, the Tribunal sees no need to address Submission No. 12(c).

^{mmm} Par. 1105. The Tribunal considers China to have repeatedly violated the Rules of the COLREGS over the course of the interactions described by the crew of the Philippine vessels and as credibly assessed in the two expert reports. Where Chinese vessels were under an obligation to yield, they persisted; where the regulations called for a safe distance, they infringed it. The actions are not suggestive of occasional negligence in failing to adhere to the COLREGS, but rather point to a conscious disregard of what the regulations require. The various violations are underscored by factors such as the large disparity in size of the Chinese and Philippine vessels, the shallow waters in which the incidents took place, and the creation of a two metre-high wake causing additional risk to the Philippines' crews.

ⁿⁿ Par. 1109. Based on the considerations outlined above, the Tribunal finds that China has, by virtue of the conduct of Chinese law enforcement vessels in the vicinity of Scarborough Shoal, created serious risk of collision and danger to Philippine vessels and personnel. The Tribunal finds China to have violated Rules 2, 6, 7, 8, 15, and 16 of the COLREGS and, as a consequence, to be in breach of Article 94 of the Convention.

^{oo} Par. 1161. The Tribunal finds that the essential facts at Second Thomas Shoal concern the deployment of a detachment of the

Philippines' armed forces that is engaged in a stand-off with a combination of ships from China's Navy and from China's Coast Guard and other government agencies. In connection with this stand-off, Chinese Government vessels have attempted to prevent the resupply and rotation of the Philippine troops on at least two occasions. Although, as far as the Tribunal is aware, these vessels were not military vessels, China's military vessels have been reported to have been in the vicinity. In the Tribunal's view, this represents a quintessentially military situation, involving the military forces of one side and a combination of military and paramilitary forces on the other, arrayed in opposition to one another. As these facts fall well within the exception, the Tribunal does not consider it necessary to explore the outer bounds of what would or would not constitute military activities for the purposes of Article 298(1)(b).

^{pp} Par. 1162. Accordingly, the Tribunal finds that it lacks jurisdiction to consider the Philippines' Submissions No. 14(a) to (c).

^{qq} See above.

^{rr} See above.

^{ss} See above.

^{tt} See above.

^{uu} Par. 1181. Based on the considerations outlined above, the Tribunal finds that China has in the course of these proceedings aggravated and extended the disputes between the Parties through its dredging, artificial island-building, and construction activities. In particular, while these proceedings were ongoing:

(a) China has aggravated the Parties' dispute concerning their respective rights and entitlements in the area of Mischief Reef by building a large artificial island on a low-tide elevation located in the exclusive economic zone of the Philippines.

(b) China has aggravated the Parties' dispute concerning the protection and preservation of the marine environment at Mischief Reef by inflicting permanent, irreparable harm to the coral reef habitat of that feature.

(c) China has extended the Parties' dispute concerning the protection and preservation of the marine environment by commencing large-scale island-building and construction works at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, and Subi Reef.

(d) China has aggravated the Parties' dispute concerning the status of maritime features in the Spratly Islands and their capacity to generate entitlements to maritime zones by permanently destroying evidence of the natural condition of Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, and Subi Reef.

^{vv} See above.

^{www} See above.

^{xx} See above.

^{yy} See above.

^{zz} See above.

^{aaa} See above.

^{bbb} Par 1201. The Tribunal considers it beyond dispute that both Parties are obliged to comply with the Convention, including its provisions regarding the resolution of disputes, and to respect the rights and freedoms of other States under the Convention. Neither Party contests this, and the Tribunal is therefore not persuaded that it is necessary or appropriate for it to make any further declaration.