

SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES
H.B. No. 2281

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	<u>01 AUG 2016</u>
TIME:	<u>2:00 PM</u>
BY:	<u>[Signature]</u>
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Introduced by Representative Herminio Harry L. Roque Jr.

EXPLANATORY NOTE

On July 12, 2016, the Permanent Court of Arbitration (PCA) issued a landmark ruling in the case formally known as *In the Matter of the South China Sea Arbitration*, striking down as without any legal basis the Chinese Nine-Dash Line Claim eating up most of the area, including a sizeable part of Philippine territorial and maritime claims there.

The Arbitral Court also clarified in favor of the Philippines the status of many features in the contested Spratly islands and Scarborough Shoal with both scientific and legal criteria, in relation to a resource-rich Exclusive Economic Zone (EEZ) and Continental Shelf.

In particular, in the Spratly islands, Mischief Reef (Panganiban Reef) and Second Thomas Shoal (Ayungin) –these being low-tide elevations as we had argued– are part of the Philippines' Exclusive Economic Zone and Continental Shelf. Thus, China cannot prevent the Philippines from exercising its sovereign rights over waters and features found within its EEZ.

The other features in the Spratlys, namely Fiery Cross Reef, Johnson Reef, McKeenan Reef, and Gaven Reef (North) were held to be rocks unable to independently sustain human habitation or economic life and entitled only to a 12-nautical mile territorial sea. Meanwhile, Hughes Reef, Gaven Reef (South) and Subi Reef were held to be low-tide elevations not capable of appropriation by China. Thus, both sets of reefs do not and cannot generate any EEZ for China. The Arbitral Court also ruled that none of the high-tide features in the Spratlys –including our Pag-asa (Thitu) island in the Kalayaan island group — can sustain human habitation or economic life on their own in their natural condition.

The Court rejected the Chinese position that the Spratlys is one archipelago generating as a whole its own territorial sea, contiguous zone, continental shelf and EEZ. This may prove to be an important factor if and when the question of who owns which island in the island chain is actually submitted to another international arbitration proceeding, this time, under principles of general international law. It bears noting that in its 2009 Baselines Law, Republic Act 9522, the Philippines also treated the islands in the Spratlys under its control as belonging to a regime of islands under Art. 121 of the UNCLOS.

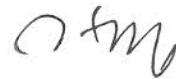
It must also be stressed that the PCA ruling acknowledged the extremely adverse effects of certain Chinese activities in the area, holding that China had engaged in irreversibly destructive island-building activities at Cuarteron Reef, Fiery Cross Reef, Gaven Reef (North), Johnson Reef, Hughes Reef, Subi Reef and Mischief Reef. These acts and omissions violated China's obligations under UNCLOS to protect the marine environment.

While territorial claims in the same area have remained unresolved, the country's EEZ there, now recognized in no uncertain times by an international tribunal, is at the center of a rich though fragile maritime environment. This comes into sharper focus when it is realized that consistent with the fundamental right of all peoples to self-determination, which international law recognizes to be a right of *jus cogens* character (a peremptory norm from which there can be no derogation and which demands universal recognition from the international community), the Filipino people have the right to freely pursue their economic, social, and cultural development and freely dispose of their natural wealth and resources. But left unprotected, the future of such a rich resource and heritage for generations of Filipinos is uncertain.

Thus, pending the final resolution of the conflict of territorial claims in the South China Sea – including areas that we have clustered within what we now call as the West Philippine Sea – there is a grave and urgent need to protect the environmental integrity of the Spratlys island group, more so because we now have an impregnable legal basis for our claims to sovereign rights over the EEZ and the Continental Shelf.

In competing claims of territory, international law looks at the exercise of sovereign acts as the basis to decide title. In anticipation of future arbitration against other claimant States, the Philippines should immediately bolster its claim through a peaceful and continuous display of sovereign activities. One of the strongest proofs of sovereignty is legislation over territory as well as the exercise of governmental control over the claimed area. This is one among a series of bills being filed by the author in order to strengthen the Philippines' claim of sovereignty and sovereign rights over the Spratly group of islands (also known as the Kalayaan group of islands) and its maritime areas.

Thus, to prevent the further denigration of the marine and environmental resources within the island group, the State must establish the Spratlys as a protected area, granting it both the mantle of protection under Philippine laws and the Constitution, to allow the government to properly assess and administer the area, consistent with the PCA's ruling the *South China Sea Arbitration* case.



HERMINIO HARRY L. ROQUE JR.

HOUSE OF REPRESENTATIVES

H. No. ~~2281~~

Introduced by Representative Herminio Harry L. Roque Jr.

AN ACT

DECLARING THE SPRATLY GROUP OF ISLANDS AS A PROTECTED AREA UNDER
THE NATIONAL INTEGRATED PROTECTED AREAS SYSTEM ACT OF 1992.

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

SECTION 1. *Short Title.* – This Act shall be known as the “Act Declaring The Spratly
Group of Islands A Protected Area.”

SECTION 2. *Declaration of Policy.* – Cognizant of the profound impact of man’s
activities on all components of the natural environment particularly the effect of increasing
population, resource exploitation and industrial advancement and recognizing the critical
importance of protecting and maintaining the natural biological and physical diversities of the
environment notably on areas with biologically unique features to sustain human life and
development, as well as plant and animal life, it is hereby declared the policy of the State to
secure for the Filipino people of present and future generations the perpetual existence of all
native plants and animals through the establishment of a comprehensive system of integrated
protected areas within the classification of national park as provided for in the Constitution.

SECTION 3. *Declaring the Spratly group of islands as a Protected Area* – Pursuant to
and in accordance with the NIPAS Act of 1992, the Spratly group of islands, a group of land
features located within the West Philippine Sea, forming part of the public domain, are hereby
declared as protected area under the category of RESOURCE RESERVE, the public lands
therein within the land classification of NATIONAL PARK, and its peripheral areas as BUFFER
ZONE, subject to ground verification. It shall be known as the SPRATLY ISLANDS
RESOURCE RESERVE.

1 It shall be under the administrative jurisdiction of the Department of Environment and
2 Natural Resources (DENR) and shall be administered by the Protected Area Management Board
3 (PAMB) as constituted pursuant to Republic Act 7586 otherwise known as the NIPAS Act of
4 1992 and its implementing rules and regulations.

5 The purpose for the establishment of the Resource Reserve is to protect and conserve the
6 biological diversity and protect nationally significant species, biotic communities or physical
7 features of the environment.

8 In so far as the rules and regulations over national parks are consistent with the
9 provisions of the NIPAS Act, they shall continue to apply until Congress shall otherwise declare.
10 All other applicable laws shall remain in full force and effect.

11 The DENR shall prioritize the implementation of the General Management Planning
12 Strategy (GMPS), boundary relocation and appointment of the Protected Area Staff in the area
13 covered.

14 A person qualifying for tenured migrant status as of the effectivity of the NIPAS Act
15 shall be eligible to become a steward of a portion of land within the appropriate management
16 zones of the protected area and from which he may derive subsistence.

17 The PAMB shall perform such powers and duties as specified in the NIPAS Act. All
18 decisions made pursuant to these rules and regulations shall have the force and effect of acts of a
19 final PAMB under the NIPAS Act.

20 The technical descriptions provided hereunder is based on Presidential Decree 1596 and
21 is subject to ground survey and verification to be conducted by the DENR, for which additional
22 funds are to be requested for the purpose from the Department of Budget and Management.

23 The Spratly group of islands

24 From a point [on the Philippine Treaty Limits] at latitude 7°40' North and
25 longitude 116°00' East of Greenwich, thence due West along the parallel of 7° 40'
26 N to its intersection with the meridian of longitude 112°10' E, thence due north
27 along the meridian of 112°10' E to its intersection with the parallel of 9°00' N,
28 thence northeastward to the inter-section of the parallel of 12°00' N with the

1 meridian of longitude 114° 30' E, thence, due East along the parallel of 12°00' N
2 to its intersection with the meridian of 118°00' E, thence, due South along the
3 meridian of longitude 118° 00' E to its intersection with the parallel of 10°00' N,
4 thence Southwestwards to the point of beginning at 7°40' N, latitude and 116° 00'
5 E longitude.

6 SECTION 4. *Separability Clause.* - If any provision is held invalid or unconstitutional,
7 the remainder of the law or the provision not otherwise affected shall remain valid and
8 subsisting.

9 SECTION 5. *Repealing Clause.* - Any law, presidential decree or issuance, executive
10 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
11 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

12 SECTION 6. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
13 publication in at least two (2) newspapers of general circulation.

Approved,