



NHSMUN

ICJ

UPDATE PAPER

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**Sofia Velasco**

**Renata Venzor**

Dear Judges,

I'm Paula Bonequi, and it's an absolute honor and joy to extend a heartfelt welcome to you all to the International Court of Justice for NHSMUN 2025! Suren Clark and I have the privilege of acting as Assistant Directors for the first time for this year's conference, with Suren supporting Session II and myself in Session I.

I'm from Mexico City, where I was born, raised, and continue to live. I'm in my first year at ITAM, studying Economics and Law. As for my hobbies, I'm passionate about films, analog photography, and traveling the world to explore new places, cultures, and ideas. I deeply love learning new languages. I'm fluent in French and Italian, currently learning Mandarin, and speak Spanish and English. I'm also a black belt in Tae Kwon do and have practiced Irish Dance for around 15 years. If you want to practice a language, share interests, or chat, don't hesitate to reach out!

I've always been captivated by how law, economics, and foreign policy intersect—a passion that first took shape when I started with MUN in middle school and deepened through the years of participating as both a delegate and an organizer. For the past two NHSMUNs, I've had the chance to sit exactly where you'll be this March, participating in the ICJ. It can initially feel overwhelming, but the experience is unique. If you have any doubts regarding legal research or any preparations, feel free to contact us—we'll be more than happy to help! Whether it's your first time in a court model or not, I'm confident you'll leave with a deeper appreciation for this fantastic format.

We're excited to see the thoughtful perspectives and exceptional work you'll bring to this committee, and we are thrilled to hear all your ideas during the discussions. To support you during your research, your directors Nico and Aurora have written a Background Guide setting the stage for meaningful debate. Suren and I have also compiled this Update paper with recent developments to help you guide your decisions during sessions. With all these resources, you are ready to make this committee special!

See you in March!

Paula M. Bonequi Palestino  
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International Court of Justice  
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Dear Delegates,

I welcome you to the International Court of Justice for NHSMUN 2025. My name is Suren Clark and I am excited to serve as the Assistant Director for Session II. This will be my first year on NHSMUN's staff, though I participated as a delegate for all four high school years. During my latter two years, I served on courts, including the ICJ last March. If you have any questions regarding Model U.N., the courts at NHSMUN, or our committee, please contact me!

Until moving away for university, I lived for my entire life in Lancaster, Pennsylvania, a semi-rural area in south-central Pennsylvania. If you have heard of the Amish, you have probably learned of Lancaster. They are spread throughout our communities, including a few being my neighbors! I am a first-year at Yale University in New Haven, Connecticut. I am studying economics and applied mathematics with the hope of conducting research in econometrics and macroeconomics. Recently, I began to study Chinese and hope to continue my studies in China this summer. Outside class, I participate in economic writing, political advocacy, math tutoring, and leading our YMUN conference. I enjoy playing tennis, skiing, hiking, running, and doing anything outside in my free time. I also love traveling, playing the piano, and doing almost anything with friends.

After going through my fair share of conferences, I understand the difficulty of preparation and the stress many feel leading up to the conference. This is perfectly normal, and we are here to support you. Working behind the scenes has shown me how much goes into ensuring that this conference becomes a lifelong memory, as we have designed this committee to maximize your enjoyment and learning experience. Through engaging in discussions, meeting judges from around the world, and innovating on international law, I do not doubt that you will all emerge as better researchers, speakers, and, most importantly, thinkers. In addition, please do not fret if you have not served on a court before. We will make all nuances clear to you throughout the committee, but if you find any questions at the forefront of your mind before March, please send an email, and we would be more than happy to clarify your concerns!

Paula and I have compiled some recently-published resources into this Update Paper. This should help ensure you are familiar with recent developments guiding your final decision. With all of this at your fingertips, we cannot wait to see the probing position papers and outstanding research you prepare. We are confident that you each will make this committee the best it can be.

See you soon,

Suren Clark  
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International Court of Justice  
Assistant Director, Session II





ICJ

NHSMUN 2025

# TOPIC A: EGYPT V. ETHIOPIA

Photo Credit: NASA/METI/AIST/Japan Space Systems, and U.S./Japan ASTER Science Team

## Introduction

For 13 years, the Grand Ethiopian Renaissance Dam (GERD) has sparked heated debates about resource control and the role of renewable energy for shared waterways.<sup>1</sup> These debates have sharply increased tensions between Ethiopia and Egypt, two countries that greatly benefit from the Nile. Ethiopia believes that the GERD will boost their economy and raise millions out of poverty. Egypt fears that the GERD's potential impacts could harm the livelihood of their citizens.<sup>2</sup> Both have alleged that they have made many diplomatic efforts to no avail. Recently, they have begun to bring other countries into their respective spheres of influence. This has heightened tensions further. Beyond just rhetoric, militaristic buildup threatens a worsening of this conflict.<sup>3</sup>

As both countries become frustrated with the ineffectiveness of their prior diplomatic efforts, new data has come out on the Nile River and the political tensions that can help guide the Court to its decision. This data suggests new recommendations the Court could encourage as they consider the countries' evolving opinions, increasing polarization, and bias. As regional dynamics intensify and scholars delineate new trends that can shape more amicable policy, the Court's decision will carry significant impacts on many Nile Basin countries. The increasing complexity of the dispute is due to multiple factors. The intertwined economic, environmental, and political stakes make it increasingly challenging to reach a decision that satisfies all parties concerned. The Court's potential to navigate these challenging situations could be crucial. It may determine whether a more cooperative or combat-ridden destiny lies around the Nile.

## Increasing Regional Tensions, United Nations Involvement, and Potential for Militaristic Actions

Over the past few months, there has been little change in efforts between Ethiopia and Egypt to resolve the GERD

conflict. Both countries have expressed that they have tried numerous times to resolve the dispute through diplomacy.<sup>4</sup> Each sees the other country as the one that is stopping further progress from being made.

The halted progress of the GERD has led both countries to expand their circles of allies. This is done to gain more regional influence and benefit from external opinions on the GERD. In January 2024, for example, Ethiopia signed a letter of understanding with Somaliland (Somalia's breakaway neighbor). This established formal political ties between the two countries. Moreover, it opened up space for Ethiopian naval operations along Somaliland's coast.<sup>5</sup> In response, Somalia declared Ethiopia as an enemy of the state. The country began rallying internal opposition to the letter.

Since the beginning, Egypt has made its objection to the letter clear, standing up for Somalia. Meanwhile, the two countries have begun their formal relationship. Earlier this year, they signed a security agreement. On August 27, 2024, Egypt sent its first shipment of troops, equipment, and weapons to Somalia. This was the first movement that many saw as a buildup of their military in the Horn of Africa.<sup>6</sup> It has been difficult for intermediate countries like Sudan to avoid these

1 Yohannes Woldemariam and Genevieve Donnellon-May, "The politics of the Grand Ethiopian Renaissance Dam," *Climate Diplomacy*, last modified February 2, 2024, <https://climate-diplomacy.org/magazine/conflict/politics-grand-ethiopian-renaissance-dam>.

2 United Nations Security Council, Letter dated 1 September 2024 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council, S/2024/646, 7, Sep. 3, 2024, <https://digitallibrary.un.org/record/4060649?v=pdf&ln=en>.

3 Kalkidan Yibeltal, "Ethiopia hits out at Egypt as Nile dam row escalates," *BBC*, last modified September 9, 2024, <https://www.bbc.com/news/articles/cp3d9x36gn5o>.

4 United Nations Security Council, Letter dated 6 September 2024 from the Permanent Representative of Ethiopia to the United Nations addressed to the President of the Security Council, S/2024/659, 6-7, Sep. 3, 2024, <https://digitallibrary.un.org/record/4060649?v=pdf&ln=en>.

5 Maxwell Webb, "Nine months later: The regional implications of the Ethiopia-Somaliland MOU," *Atlantic Council*, last modified October 2, 2024, <https://www.atlanticcouncil.org/blogs/africasource/nine-months-later-the-regional-implications-of-the-ethiopia-somaliland-mou/>.

6 Webb, "Nine months later: The regional implications of the Ethiopia-Somaliland MOU."

tensions. Sudan’s Foreign Minister recently suggested war with Ethiopia if no resolution was made on the GERD. This caused Ethiopia to withdraw its ambassador to Sudan. Amid internal conflict, South Sudan has remained relatively neutral but is the subject of many of Ethiopia’s calls for updated Nile usage agreements.<sup>7</sup>

Egypt and Ethiopia have become increasingly upset with each other. They both wrote to the United Nations Security Council, calling for its aid in mediating the conflict. In Egypt’s letter, they state that they have taken all possible measures to resolve “Ethiopian resistance.” They ask the Security Council to stop Ethiopia from continuing construction on the GERD until further negotiation is completed. Notably, they reiterate their willingness to use the military if no progress is made.<sup>8</sup>

In response, Ethiopia also wrote to the Security Council. Ethiopia highlighted its efforts in negotiation and its view that Egypt is “only interested in perpetuating its self-claimed monopoly over the Nile River.” Ethiopia grows worried by Egypt’s aggressive rhetoric and requests that the Security Council encourage Egypt to pursue peaceful resolution tactics.<sup>9</sup> Thus far, the Security Council has taken no action.

<sup>7</sup> “Ethiopia summons Sudanese envoy over Nile dam war threat,” Sudan Tribune, accessed December 10, 2024, <https://sudantribune.com/article293305/>.

<sup>8</sup> S/2024/646, 4, 8.

<sup>9</sup> S/2024/659, 6-10.

<sup>10</sup> United Nations, “Convention on the Law of the Non-Navigational Uses of International Watercourses,” May 21, 1997, United Nations Treaty Series, vol. 2999, p. 77.

Both countries’ intentional expansion of political tensions should undoubtedly be a factor in the Court’s decision. One of the pillars of Egypt’s claim of Ethiopian violations is their failed duty to cooperate, defined by Article VIII of the 1997 Convention on the Law of Non-Navigational Uses of International Watercourses. Article VIII states that “Watercourse States shall cooperate based on sovereign equality, territorial integrity, mutual benefit, and good faith [...] in order to attain optimal utilization and adequate protection of an international watercourse.”<sup>10</sup> Ethiopia denies this violation by claiming that it has used numerous remediation methods. However, the stalled state of negotiations and potential for military action should invite judges to reconsider whether this claim is valid and how this affects the obligations of both parties.

Both countries requesting aid from the Security Council should add to the list of actions taken by both countries towards a peaceful solution. Judges should also consider whether the Court has jurisdiction based on the principle of exhaustion of local remedies. The Court’s role in promoting peaceful resolution gains importance by invoking numerous



GERD Negotiations in Washington D.C. in 2019  
Credit: The White House from Washington, DC

other states into this conflict, heightening regional tensions, and hindering the ability for productive negotiations about the GERD.

While the Court and codified international law have established no concrete obligation to negotiate, Article 33 of the U.N. Charter does state, “The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.”<sup>11</sup>

Judges should consider whether these regional alliances, which were created as a means of ending this conflict, actually threaten international security. There must be clarification on how countries should be held accountable without blocking their ability to engage in normal bilateral relations. In the context of the letters to the Security Council, it is important to clarify whether Egypt and Ethiopia’s militaristic buildups are related to the GERD. If so, the Court should take action to fulfill its vested interest in international peace and security. The Court’s assessment of this matter will also have significant implications for any violations of international law.

## New Research and Claims about the GERD

While judges should note the extensive information concerning claims about GERD’s environmental impacts, new research has been published that could influence the judges’ decisions. First is a new study on the GERD’s has implications for both the Ethiopian grid and Egyptian droughts. The authors claim, supported by data, that the GERD will be able to generate nearly optimal electricity even during temporary drought flow conditions without a noticeable impact on Egypt’s flow.

During periods of drought, the authors find that GERD can have a more intense impact.<sup>12</sup> Notably, the authors suggest flexible GERD limits to stabilize downstream water flows.

The authors analyze seven prospective policies, three of which were proposed during the negotiation rounds. They find that most policies that do not significantly reduce GERD water levels during drought have the potential to cause severe economic effects. The costs of the drought can range from six to 22 billion USD per year, depending on the severity of the policy. Compared with the maximum GERD economic loss of 0.725 billion USD under the most restrictive policy, the impacts on the northern Nile are significantly higher. Moreover, this study found that a reduction of just one billion cubic meters of Egypt’s water flow could reduce agricultural land in the country by 123,480 hectares, affecting about 290,000 farmers.<sup>13</sup> The Nile Basin is rapidly growing, with a 14 percent population increase being seen over six years, so judges should assess how these impacts could change with demographic shifts and climatic changes.<sup>14</sup>

The authors suggest maximizing the GERD generation during wet and regular seasons while allowing flexibility during periods of drought to minimize effects on the Aswan High Dam and Egyptian agricultural output. Judges can consider this policy when recommending remediation in the context of relevant international law. Modeling of the Nile and accounting for the prevention of negative impacts led the authors to conclude that GERD will only be able to operate at full capacity for about three months each year. Due to the calculation that eight of the 13 turbines will be idle in non-flood seasons, they find multiple smaller dams as more effective.<sup>15</sup>

Some of the authors’ conclusions have already been validated by observations in Egypt following the fifth filing of the GERD in July and August 2024. Scientists found that the filling, totaling 19 billion cubic meters, led Nile water to arrive

11 United Nations General Assembly, United Nations Charter, 1 UNTS XV, 1 (June 26, 1945), <https://www.un.org/en/about-us/un-charter/chapter-6>.

12 Essam Heggy, Abotalib Abotalib, Jongeun You, Emmanuel Hanert, and Mohamed Ramah, “Grand Ethiopian Renaissance Dam can generate sustainable hydropower while minimizing downstream water deficit during prolonged droughts,” *Communications Earth & Environment* 5, no. 757 (2024), <https://doi.org/10.1038/s43247-024-01821-w>.

13 Heggy, Abotalib, You, Hanert, and Ramah, “Grand Ethiopian Renaissance Dam can generate sustainable hydropower while minimizing downstream water deficit during prolonged droughts.”

14 *State of the River Nile Basin* (Entebbe: Nile Basin Initiative Secretariat, 2021), [https://nilebasin.org/sites/default/files/2023-09/State%20of%20the%20River%20Basin%20Report%202021\\_0.pdf](https://nilebasin.org/sites/default/files/2023-09/State%20of%20the%20River%20Basin%20Report%202021_0.pdf).

15 Heggy, Abotalib, You, Hanert, and Ramah, “Grand Ethiopian Renaissance Dam can generate sustainable hydropower while minimizing downstream water deficit during prolonged droughts.”



about one month late into Egypt. This has fueled further calls by Egyptian authorities for the closure of the dam based on their perception of its negative impacts.<sup>16</sup> While a temporary delay did not significantly affect agriculture, judges should recognize the potential effects of more prolonged droughts. By contrast, scholars found no noticeable impact on Egyptian and Sudanese reserves during earlier GERD fillings. Authors concluded that this was likely due to the present floods during this process.<sup>17</sup> Judges must consider the variable nature of Nile Basin seasons that can profoundly affect precipitation and hydroelectricity's role.

In addition to new research, the third and fourth turbines of the GERD have begun operation, leading Ethiopia to continue hailing the dam for its supposed revolutions to improve the quality of life of many of its citizens. Amplifying these claims is South Sudan's recent ratification of the Nile Basin Cooperative Framework Agreement (CFA), which promotes what Ethiopia sees as an "equitable and reasonable utilization of the river." Ethiopia has led the development of the CFA as an alternative to the Nile Water Agreements. While there are still not enough parties for the CFA to enter into force, Ethiopia believes this is a crucial step towards

cooperation. Due to the limitations of its claims on the Nile, Egypt vehemently contests this agreement. The Court should consider the CFA's role in their decision given these factors.<sup>18</sup>

As restlessness continues, both countries have grown farther apart in ideology. A recently published study shows that Ethiopian and Egyptian news sources display significant polarization and bias when discussing the GERD issue. This makes it increasingly tricky for diplomats and citizens to support a more moderate resolution. Given the sources' perspectives and backgrounds, judges should be wary of all information they assess.

This new information gives the Court plenty of topics to consider. Chiefly, the Court must evaluate the trade-offs of the optimal GERD operation and Ethiopia's increased usage of the Nile against Egypt's hydroelectric generation, water flow, and claims of negative agricultural impacts. Using data behind their claims could make the Court's decision more acceptable to both parties. Using the first scholarly article, the Court can also formulate specific GERD policies that can be used to preserve fairness. For instance, by requiring GERD water releases during certain climatic events, the Court could

<sup>16</sup> Noha El Tawil, "Ethiopian Renaissance Dam causes 1-month delay of Nile water arrival to Egypt," *Egypt Today*, last modified September 16, 2024, <https://www.egypttoday.com/Article/1/134793/Ethiopian-Renaissance-Dam-causes-1-month-delay-of-Nile-water>.

<sup>17</sup> Tawil, "Ethiopian Renaissance Dam."

<sup>18</sup> Million Beyene, "Ethiopia: From Water to Power," *allAfrica*, last modified August 28, 2024, <https://allafrica.com/stories/202408290005.html>.



establish a balancing act between Ethiopia's generation and Egypt's losses. Judges should recognize that one party's gains do not necessitate significant losses to the other if fair policies are pursued.

The scholars include three recommendations to help judges formulate these policies. Judges can evaluate these as they please but should recognize their roots in data. The first recommendation is for the countries to build a mutually beneficial operational framework that will govern water releases, drought conditions, and seasonal behavior for dam operations. The authors stress that this must consider the potential impacts of climate change. This can align with the Court's goal in remediation closely. Moreover, a power-trading agreement is recommended to be formulated that allows Ethiopia, Sudan, and Egypt to support each other during drought or when hydroelectric production is lower. This degree of cooperation could help to lessen tensions and start collaboration on operational activity.<sup>19</sup>

As mentioned above, the final proposed suggestion is flexible operational limits to the GERD to mitigate downstream influences. While multiple smaller dams might have been more effective, GERD limits are the most viable option given the current construction status. These limits must be flexible due to the significant variability in the Nile Basin's water flow during different seasons and climatic periods. This type of regulation could make operation more attractive to both parties, allowing energy production with fewer seasonal changes in the Nile's water flow.<sup>20</sup> Each of these policies will enable judges to interpret what experts recommend in the context of international law.

In addition, judges should consider the most recent information available from Egypt's Nile levels and Ethiopia's assessment of intraregional cooperation to formulate their decision. This issue is rapidly changing, and judges must base their decisions on up-to-date evidence. In addition, Egypt's quantitative evidence on the dam filling and Ethiopia's leadership in collaboration with South Sudan should be evaluated concerning the obligation against significant harm

and the obligation to cooperate, respectively.<sup>21</sup>

Finally, the Court should assess how their solution to this issue can best be implemented given the respective countries' polarization. Any decision will likely be contentious among the states, so judges must heed their words and find an amenable solution that will likely solicit obedience without Security Council intervention.

## Conclusion

If the Court finds that they have jurisdiction, the recent breakdown of negotiations and increased regional tensions make the Court's consideration more pressing. Egypt and Ethiopia tied numerous other parties into their conflict as they prepared their militaries on the allies' territories. Both parties clarified to the Security Council their worries over the inaction of negotiations and the potential for the conflict to escalate violently. With ample evidence of the countries' communications regarding the GERD, the Court should analyze whether they now have jurisdiction and if both countries have fulfilled their obligations to cooperate.

However, the court faces a difficult decision due to the polarization in both states. The Court must carefully navigate how they frame their results to ensure peaceful conflict resolution. By basing their decision in data and factual actions, the Court can assess both parties' role in the construction and what must be done to create mutually beneficial energy usage for years. Judges must consider recent new data about the economic and environmental impacts of the GERD. Military tensions have grown to an extreme lately, so the Court's urgency is required to address the issue. The GERD has the potential to benefit the entire region, but the Court must help balance the scales for this to happen.

In addition, the Court's decision could be a turning point in the GERD war and the broader topic of global water resource management. As climate trade and population booms in the region increase pressure on international resources, the Court's

19 Heggy, Abotalib, You, Hanert, and Ramah, "Grand Ethiopian Renaissance Dam can generate sustainable hydropower while minimizing downstream water deficit during prolonged droughts."

20 Heggy et. al, "Grand Ethiopian Renaissance Dam."

21 Heggy et. al, "Grand Ethiopian Renaissance Dam."

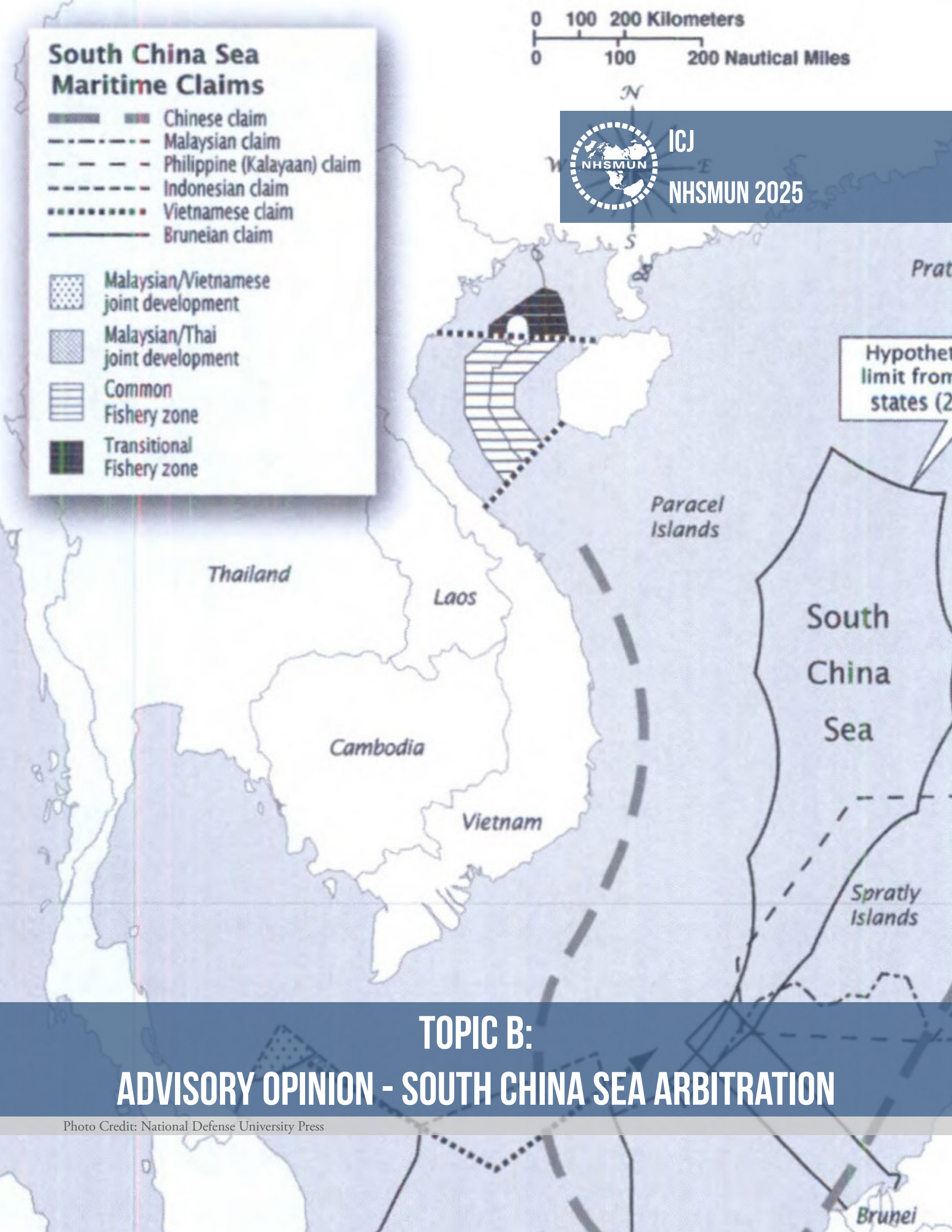
method, in this case, may want to set crucial precedents for managing shared water. A proper, fact-based decision could provide a model for fateful cooperation in water disputes. On the other hand, the failure to achieve a balanced selection should deepen the differences in the area and hinder regional integration efforts. In this way, the Court's position in this example bypasses the resolution of a single dispute. It may shape international law on managing shared natural resources for years.

# South China Sea Maritime Claims

- Chinese claim
- Malaysian claim
- Philippine (Kalayaan) claim
- Indonesian claim
- Vietnamese claim
- Bruneian claim

- Malaysian/Vietnamese joint development
- Malaysian/Thai joint development
- Common Fishery zone
- Transitional Fishery zone

0 100 200 Kilometers  
0 100 200 Nautical Miles



## TOPIC B: ADVISORY OPINION - SOUTH CHINA SEA ARBITRATION

Photo Credit: National Defense University Press

## Introduction

The South China Sea remains a key point of a growing conflict that has been brought to the attention of the ICJ. The region has witnessed a combination of geopolitical, environmental, and legal disputes that have attracted the international community's attention. Sovereignty disputes, driven by Chinese militarization and territorial claims, threaten the stability of an important area for global commerce. The rise in militarization increases the likelihood of conflict and reduces the adherence to UNCLOS. This consequently undermines institutional authority.<sup>1</sup>

The economic implications of the conflict are serious and could last a long period. The area makes up much of global maritime trade, and conflict exposes it to potential disruptions. This could increase shipping costs, destabilize energy markets, and release a wave of economic volatility worldwide. Meanwhile, the rivalry between China and the United States could escalate into a tense geopolitical standoff. This would only further the diversion of important resources toward the military at the expense of development.<sup>2</sup>

The environmental cost is another alarming issue that the conflict has negatively impacted. Combining the overexploitation of fisheries, dredging activity destroying habitats, and the loss of life from climate change, there has been an increasing amount of damage to the region's food security. This damage has put a strain on diplomatic relations, along with obstructing attempts to collaborate in achieving sustainability.<sup>3</sup>

## Legal Disputes and Baseline Developments

The recent introduction of the Philippine Archipelagic Sea Lanes Act and the Philippine Maritime Zones Act is a significant advancement in the country's efforts to solidify its control in the South China Sea. This legislation strengthens the Philippines' claims over its maritime resources and has broader implications for regional geopolitics and compliance

with international humanitarian law.

Enacted on November 7, 2024, the Philippine Maritime Zones Act formally defines the nation's maritime boundaries, Exclusive Economic Zone (EEZ), territorial waters, and continental shelf in line with UNCLOS and reaffirming the 2016 ruling by the Permanent Court of Arbitration. The act addresses overlapping claims while responding to China's continuous breaking of international law principles and the prior ruling<sup>4</sup>. Meanwhile, the Philippine Archipelagic Sea Lanes Act specifies routes for foreign vessels, protecting national sovereignty and international legal obligations.<sup>5</sup> The Philippines' claim has grown even more substantial with this new barrier.

The international response to these developments has been varied. China, the primary aggressor in the disputed region, strongly criticized the acts and warned the Philippine ambassador of escalation. Beijing argued that the laws infringe on its territorial claims. For its part, Malaysia has expressed doubt over the consequences of its claims to the territory, as they risk crumbling under China's pressure. Likewise, Indonesia's inconsistent stance might suggest a lack of a clear decision to defend its interests.

These responses show the importance of Southeast Asian countries creating a singular position within the confines of the law. The United States Department of State, in contrast, praised the legislation as an essential step in reinforcing the

1 Ikeshima Taisaku, "Book Review of China's Maritime Security Strategy: The Evolution of a Growing Sea Power, by Edward Sing Yue Chan," *Transcommunication* 11, no. 1(Spring 2024): 69-72, [https://waseda.repo.nii.ac.jp/record/2001178/files/Transcommunication\\_11\\_1\\_9.pdf](https://waseda.repo.nii.ac.jp/record/2001178/files/Transcommunication_11_1_9.pdf).

2 Ikeshima Taisaku, "Book Review of China's Maritime Security Strategy"

3 Monica Sato, Harrison Prétat, Tabitha Mallory, Hao Chen, and Gregory, "Deep Blue Scars: Environmental Threats to the South China Sea," [features.csis.org](https://features.csis.org), December 18, 2023, <https://features.csis.org/environmental-threats-to-the-south-china-sea/>.

4 Hannah Fang, "China objects to new Philippine maritime laws," *Jurist*, November 8, 2024, <https://www.jurist.org/news/2024/11/china-objects-to-philippines-new-maritime-laws/>.

5 Ikeshima Taisaku, "Book Review of China's Maritime Security Strategy"



This map illustrates the overlapping territorial and Exclusive Economic Zone (EEZ)

Credit: Voice of America

rule of law in an area with rising tensions.<sup>6</sup>

These laws are crucial for human rights, preventing further escalation of the conflict and protecting coastal communities in the area. By specifying maritime jurisdictions, the risk of violent confrontations decreases. Additionally, the Philippine Archipelagic Sea Lanes Act guarantees safe navigation and the effective delivery of humanitarian aid, which is essential in an area prone to natural disasters.

As emphasized by Edward Sing Yue Chan, a prominent jurist, the ongoing militarization of the South China Sea endangers regional stability and civilian populations' livelihood. In this context, the Philippines' legislative actions present a constructive, law-based approach that reinforces international norms and seeks to foster peace and stability.<sup>7</sup>

The court must evaluate whether these legislative frameworks provide a model for balancing national sovereignty and adherence to international law. The role of ASEAN nations in collectively reinforcing compliance with UNCLOS is another critical factor in strengthening the region's stability. As the

<sup>6</sup> Matthew Miller, "On the Philippines Maritime Zones Act," Press Statement, November 8, 2024, <https://www.state.gov/on-the-philippines-maritime-zones-act/>.

<sup>7</sup> Ikeshima, "Book Review of China's Maritime Security Strategy: The Evolution of a Growing Sea Power," 69-72.

<sup>8</sup> Sebastian Strangio, "China Declares Baselines Around Disputed South China Sea Shoal," *The Diplomat*, November 12, 2024, <https://thediplomat.com/2024/11/china-declares-baselines-around-disputed-south-china-sea-shoal/>.

<sup>9</sup> Alyssa Chen, "South China Sea: Beijing submits Scarborough Shoal baseline documents to UN," *South China Morning Post*, December 4, 2024, <https://www.scmp.com/news/china/diplomacy/article/3289219/south-china-sea-beijing-submits-scarborough-shoal-baseline-documents-un>.

Court examines these laws, it should consider whether they establish a precedent for defining boundaries and protecting national interests without escalating conflict.

China's recent establishment of baselines around the Scarborough Shoal, known in the Philippines as Bajo de Masinloc, made official its claim over the contested areas, directly challenging previous rulings from the Permanent Court of Arbitration and Article 56 of UNCLOS, which recognizes sovereign rights for coastal states within their EEZs. Furthermore, this move also violates the Declaration on the Conduct of Parties in the South China Sea (DOC), disregarding ASEAN-China commitments to peaceful conflict resolution and regional stability.<sup>8</sup>

The Scarborough Shoal provides critical fishing grounds for Philippine communities and is essential for food security. Under the PCA's 2016 ruling, the shoal is classified as a rock under Article 121(3) of UNCLOS, excluding it from generating EEZ or continental shelf rights.<sup>9</sup> In November 2024, the Philippines repeated its sovereignty over Bajo de Masinloc and declared it before the United Nations General

Assembly this same year. By doing this, the Philippines denounced China's actions as inconsistent with international law and a potential threat to regional peace.<sup>10</sup>

This conflict is a central aspect in a broader context of the ongoing "legal war" between the two nations. According to Goldenziel (2024), China and the Philippines employ legal and diplomatic strategies to bolster their respective positions in the conflict<sup>11</sup>. While China has declared baselines in an attempt to legitimize its claims, the Philippines has leveraged international platforms such as the UN, both to expose China's violations of treaties and to defend its EEZ. This "legal war" symbolizes a conflict fought through the key usage of international laws, where both nations seek to poke holes in each other's logic while also judging how effective international policies are at handling such disputes.

Moreover, this dispute extends beyond bilateral implications, bearing significant global ramifications. As one of the most heavily trafficked routes in the world, the South China Sea faces increased risks as China's aggressive decisions threaten freedom of navigation and heighten tensions in the region. These moves have caused concern to the United States, Australia, and other proximate allies such as Japan<sup>12</sup>. In this context, EEZs have become essential not only for economic freedom but also have served as critical parts of national security for the area's shoreline states.<sup>13</sup> For the Philippines, the EEZ encompassing Bajo de Masinloc supports the economy through fishing and is a strategic resource that must be protected from coercion and hostility by China.<sup>14</sup>

The Court should assess whether these claims interfere with the integrity of international laws and how UNCLOS rules

can guide future actions by affected states.

## Military Escalation Between China and the Philippines

Intentional collisions and water cannons against Philippine patrols near the Bajo de Sabina are violations of UNCLOS articles 87 and 94. Such actions seek to oppose the Philippine patrols and establish a dangerous precedent that limits the freedom of navigation in a region used by over 20 percent of global commerce flows<sup>15</sup>. This particular issue is more critical in the International Court of Justice (ICJ) context, given its potential to destabilize international order in the sea as seen in the 1949 Corfu Channel (United Kingdom v. Albania), with the ICJ affirming that states must avoid activities that could create unsafe sailing conditions<sup>16</sup>. Similarly, drawing from the 1984 Gulf of Maine precedent (Canada & United States of America), the ICJ created key principles for separating maritime frontiers and boundaries, showing the importance of peaceful solutions based on international principles<sup>17</sup>.

By applying these precedents, the court could clarify the responsibilities under UNCLOS, reinforce the rule of law to prevent greater disruptions in the area and determine who is responsible for the violations. Article 87 of UNCLOS, for its part, guarantees the freedom of the high seas to all nations, protecting rights to transit such as overflight, navigation, and the laying of submarine infrastructure. This article does not prevent any country from claiming ownership over international waters, protecting free access for the international community<sup>18</sup>. Historically, this principle has been viewed as the foundation of global commerce and

<sup>10</sup> Department of Foreign Affairs, "Philippines Asserts Sovereignty Over Bajo de Masinloc at the United Nations," November 2024, <https://dfa.gov.ph/dfa-news/news-from-our-foreign-service-postsupdate/35900-philippines-asserts-sovereignty-over-bajo-de-masinloc-at-the-united-nations>.

<sup>11</sup> Jill Goldenziel, "Philippines-China Legal Warfare Escalates At Scarborough Shoal," *Forbes*, December 4, 2024, <https://www.forbes.com/sites/jillgoldenziel/2024/11/30/philippines-china-legal-warfare-escalates-at-scarborough-shoal/>

<sup>12</sup> Strangio, "China Declares Baselines Around Disputed South China Sea Shoal."

<sup>13</sup> *The Diplomat*, "Navigating South China Sea Security in 2024," January 2024, <https://thediplomat.com/2024/01/navigating-south-china-sea-security-in-2024/>.

<sup>14</sup> *Center for Strategic and International Studies (CSIS)*, "Manila and Beijing Clarify Select South China Sea Claims," November 2024, <https://www.csis.org/analysis/manila-and-beijing-clarify-select-south-china-sea-claims>.

<sup>15</sup> Thibault Denamiel and Evan Brown, "The State of Maritime Supply Chain Threats," Center for Strategic and International Studies (CSIS), November 4, 2024, <https://www.csis.org/analysis/state-maritime-supply-chain-threats>

<sup>16</sup> "Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)," International Court of Justice (ICJ), accessed January 4, 2025. <https://www.icj-cij.org/case/1>

<sup>17</sup> "Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)," International Court of Justice, accessed January 4, 2025. <https://www.icj-cij.org/case/67>

<sup>18</sup> United Nations, United Nations Convention on the Law of the Sea (UNCLOS), December 13, 1985, accessed December 10, 2024, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

cooperation. However, China’s recent actions, including international collisions and blockades against Philippine vessels, directly violate these rights by interfering with the transit of other states in the South China Sea.<sup>19</sup>

Similarly, Article 94 obligates all states to control vessels flying their flag effectively. This responsibility includes ensuring maritime safety by regulating navigation conditions, preventing collisions, and enforcing adherence to international rules.<sup>20</sup> In contrast to this clause, China’s aggressive tactics—such as deploying water cannons against Filipino vessels— not only pose a direct threat to the area but also represent a systematic failure to fulfill its duties as a flag state, which is the country that has jurisdiction over and responsibility for its registered ships.<sup>21</sup>

In 2016, the ruling of the PCA convened under the power of UNCLOS determined that China’s claims based on the nine-dash line” lacked legal foundation. The tribunal further ruled

that China’s activities had violated the rights of the Philippines within its EEZ.<sup>22</sup> Despite this binding ruling, China continues disregarding the ruling, escalating its actions in the region and undermining the international legal framework.

These tactics endanger regional stability and challenge the basic principles of the global maritime order. The international community must address these violations to uphold established maritime norms and preserve peace in one of the world’s most critical trade routes.

The militarization of disputed islands in the South China Sea has significantly increased regional tensions, impacting stability and international relations. Recent reports confirm that China has deployed its largest naval fleet in nearly three decades, with approximately 90 warships and coast guard vessels operating near Taiwan and in the East and South China seas. This deployment, described by Taiwanese President Lai Ching-te as a direct response to his recent visit

19 Christopher Bodeen, “Chinese and Philippine Vessels Collide at a Disputed Atoll and Governments Trade Accusations,” Associated Press News, August 31, 2024. Bodeen, Christopher. “Chinese and Philippine Vessels Collide at a Disputed Atoll and Governments Trade Accusations.” *Associated Press News*, August 31, 2024. <https://apnews.com/article/china-philippines-us-sea-clash-d08f4532c2a66047c6fa2833b76d7773>

20 United Nations, *UNCLOS*, December 13, 1985, accessed December 10, 2024, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

21 “Philippines Says China Coast Guard Fired Water Cannon, ‘Sideswiped’ Government Vessel,” *Le Monde*, December 4, 2024, [https://www.lemonde.fr/en/international/article/2024/12/04/philippines-says-china-coast-guard-fired-water-cannon-sideswiped-government-vessel\\_6735110\\_4.html](https://www.lemonde.fr/en/international/article/2024/12/04/philippines-says-china-coast-guard-fired-water-cannon-sideswiped-government-vessel_6735110_4.html).

22 Caitlin Campbell and Nargiza Salidjanova, “South China Sea Arbitration Ruling: What Happened and What’s Next?” *U.S.-China Economic and Security Review Commission*, July 12, 2016, [https://www.uscc.gov/sites/default/files/Research/Issue%20Brief\\_South%20China%20Sea%20Arbitration%20Ruling%20What%20Happened%20and%20What%27s%20Next071216.pdf](https://www.uscc.gov/sites/default/files/Research/Issue%20Brief_South%20China%20Sea%20Arbitration%20Ruling%20What%20Happened%20and%20What%27s%20Next071216.pdf).

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to the United States, contradicts the principle of peaceful resolution enshrined in the UN Charter.<sup>23</sup> China's growing technological ability is demonstrated by the recent installation of an advanced radar system on Cuarteron Reef in the South China Sea. This radar, according to published satellite imagery, is primarily designed to counter stealth technologies used by military aircraft and vessels.<sup>24</sup> It significantly improves Beijing's regional surveillance abilities while boosting its ability to detect long-range threats. Additionally, the deployment of advanced defense systems on Triton Bank, located within the crucial Paracel Islands archipelago, includes high-precision radars and long-range missiles.<sup>25</sup>

China's increasing military technological ability forces other nations to improve their defenses. The Philippines, for instance, has announced the usage of medium-range missile systems to safeguard its territory, a move criticized by Beijing as provocative.<sup>26</sup> Simultaneously, Taiwan has increased its military strength by receiving U.S.-supplied weaponry, although delivery delays have limited its immediate response-ability.<sup>27</sup> This volatile situation is only increased by China's recent large-scale military exercises—the most elaborate in decades—which have compelled Taiwan to activate emergency alerts as a precautionary measure.<sup>28</sup> Additionally, the expansion of China's nuclear arsenal, now exceeding 600 operational warheads, has raised significant concerns in Washington. In response, the United States has strengthened its military support for Taiwan, including a USD 571 million assistance package and an approved USD 895 billion defense budget focused on counter-Chinese influence.<sup>29</sup>

These developments seriously affect the United States'

commitment to military intervention if Taiwan is threatened. The combination of Chinese military operations near Taiwan, along with expanding U.S.-led defense alignments, has significantly increased tensions, creating a volatile environment in the conflicted zones<sup>30</sup>. This ongoing "action-reaction" cycle heightens the probability of mistakes in responses, which could detonate a broader conflict involving China and other regional actors such as South Korea, Japan, and Vietnam<sup>31</sup>. The growing military activity in the South China Sea and disputed territories is worsening tensions. This reduces the chance of solving the conflict peacefully through diplomacy and increases the risk of armed conflict in one of the world's most important regions.

The Court should investigate whether military activity in these disputed areas violates international rules under the UN Charter and UNCLOS. It can also suggest ways to reduce tensions and encourage states to cooperate to provide regional peace and security.

## Conclusion

The disputes in the South China Sea need close attention from the International Court of Justice (ICJ) to uphold international maritime order and peace. Recent laws passed by the Philippines, including the Archipelagic Sea Lanes Act and the Maritime Zones Act, are essential steps towards asserting sovereignty and following global rules, especially UNCLOS. However, China's continued challenges to these rules and its growing military presence threaten regional and global security. The ICJ must review the legitimacy of China's territorial claims, including the Scarborough Shoal, in light of

23 Joyu Wang and Austin Ramzy, "China Stages Largest Show of Force in Decades After U.S. Visit by Taiwan's Lai," *The Wall Street Journal*, December 10, 2024. <https://www.wsj.com/world/asia/china-stages-largest-show-of-force-in-decades-after-u-s-visit-by-taiwans-lai-1830fa8b>

24 Rebecca Ratcliffe, "China Building 'Counter-Stealth' Radar on Disputed South China Sea Reef, Satellite Pictures Suggest," *The Guardian*, October 26, 2024. <https://www.theguardian.com/world/2024/oct/26/china-building-counter-stealth-radar-on-disputed-south-china-sea-reef-satellite-pictures-suggest>

25 Asia Maritime Transparency Initiative, "Triton Shoal: New Evidence of Militarization," AMTI, December 2024, <https://amti.csis.org>

26 Ken Moritsugu and Teresa Cerojano, "China dice que es irresponsable el plan de Filipinas de desplegar misiles," *Associated Press News*, December 23, 2024, <https://apnews.com/article/china-filipinas-misiles-d7587d82ac11e59b63e3e3e93c507553>

27 Yimou Lee and Ben Blanchard, "Taiwan Raises Alert as China Deploys 90 Ships in Likely Exercises," *Reuters*, December 9, 2024. <https://www.reuters.com/world/asia-pacific/taiwan-military-sets-up-emergency-response-ahead-chinese-drills-2024-12-09/>

28 Joyu Wang, "Taiwan Is Getting Its U.S. Weaponry—but Years Behind Schedule," *Wall Street Journal*, December 20, 2024.

29 "Biden aprueba \$571 millones en ayuda de defensa para Taiwán," *Reuters*, December 21, 2024. <https://www.reuters.com/world/us/biden-approves-571-mln-defense-support-taiwan-2024-12-21/>

30 Demetri Sevastopulo, "China Is Rapidly Expanding Nuclear Forces, Says Pentagon," *Financial Times*, December 18, 2024, <https://www.ft.com/content/5290c045-09d1-4da1-844b-166bf227584b>

31 Chris Panella, "China's Navy Flexed New Muscles in the South China Sea with Its First Dual Aircraft Carrier Drills," *Business Insider*, October 31, 2024, <https://www.businessinsider.com/chinas-growing-navy-conducts-first-dual-aircraft-carrier-drills-2024-10>



the UNCLOS and prior rulings, including the 2016 selection of the Permanent Court of Arbitration.

Recent clashes between Chinese and Philippine vessels show the need for the ICJ to verify states' rights under UNCLOS, especially regarding freedom of navigation and the safe passage of ships. The court plays a vital role in addressing violations and outlining the responsibilities of nations to ensure maritime security. By promoting peaceful dispute resolution, respect for international law, and support for ASEAN's efforts, the court can contribute to more excellent regional stability.

Finally, the militarization of disputed areas, including the use of advanced naval technologies, increases the risk of conflict and makes finding diplomatic solutions more difficult. The ICJ must consider whether these actions violate international rules under the UN Charter and UNCLOS. It can also explore ways to reduce tensions and build regional cooperative security. The ICJ's advisory opinion could be crucial in lowering the risk of a broader conflict and ensuring that the South China Sea remains a region of peaceful cooperation, free from instability and aggression.

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