

# Antarctica and the West Philippine Sea: Exploring a “Cold” Policy Option to Address “Hot” Contentions to Philippine Rights in its Western Maritime Domain



## ABSTRACT

*This research discuss a policy option for the Philippines to reduce the intensity of “hot” disputes over its sovereignty and sovereign rights to protect and manage the fisheries and other resources in the West Philippine Sea (WPS). (The authors define “hot” disputes as contentions involving belligerent assets used to assert disputants’ interests, and which could turn lethal; this, in contrast to “cold” disputes which those with no disputant using belligerent assets to assert its interests.) gleaned an option from three lessons learned from the Antarctic Treaty System (ATS): shared ecological interests are given greater emphasis than any nation’s political interests; creating a scientific community and an environment of free exchange of scientific knowledge undergird common benefits to the Treaty’s Contracting Parties and the world at large; and a military option to settle disputes does not always provide the best returns to disputing countries’ efforts. The Philippines may continue with its current WPS policy of containing the disputes or take the option of opening a global science and conservation program in the West Philippine Sea along the model of the ATS, to strengthen and sustain the seascape’s heritage value to Filipinos and others in the larger South China Sea (SCS) basin and beyond.*

**Keywords:** “Hot” and “cold” disputes; Antarctica Treaty; West Philippine Sea; scientific cooperation; collaboration on conservation; heritage value; global commons.

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## INTRODUCTION

This study focused on what the Philippine Government might do to protect and sustain the fisheries and other resources in the West Philippine Sea (WPS) amidst contentions to its rights to do so by the People’s Republic of China (PRC) and Vietnam (**Figure 1**). The contentions, linked to wider South China Sea (SCS) territorial and jurisdictional disputes involving many States with diverse interests in the region (*Raymond and Welch 2022* and *Center for Preventive Action 2023*), are creating hot disputes in the WPS because, while carefully calibrated to involve mostly Coast Guard, militia, and civilian assets, some armed assets are involved; these assets belligerently confront each other, risking lethal consequences (*The Economic Times 2023*).

The authors ask the question: how might the Philippines- as a sovereign state that can’t impose itself on other sovereign states, or dissuade them from acting against the Philippines’ interests if they choose to do so- protect and preserve the living and non-living resources in the WPS, considering belligerent challenges to its rights in the seascape? This paper reviewed publicly available documents and literature on the Antarctica Treaty System (ATS) for lessons on how to protect and preserve natural resources in an area where many States have competing territorial and jurisdictional interests that otherwise could be hot disputes but largely contained and reduced in levels of belligerence by a policy of collaboration among the disputants (to together protect and preserve the resources in the area).<sup>1</sup>

<sup>1</sup>There has been an earlier discussion of lessons learned from Antarctica in relation to the multi-State maritime disputes in the SCS (*Scott 2018*). It assesses the viability of the Antarctica Treaty System (ATS) as a model for resolving the conflicts in the SCS. It discusses how the ATS is a product of power-centric competition and resolution of multi-State conflicts over access to natural resources in a large body of water and how the dynamics of power shaped by a dominant powerful State could create legal regimes to ease conflicts in oceans like the Antarctica and the SCS. In contrast, this paper looks at lessons learned from the ATS (including those discussed in Scott) to derive some basis for a policy with which the Philippines, as a sovereign State that has internationally recognized and arbitrated rights over the WPS (unlike other claims elsewhere in the SCS), could govern and manage the seascape’s fisheries and other resources considering that other States continue to contest its rights. Philippine authority over the WPS and its natural resources is premised on law and not power and dominant power dynamics as discussed in Scott. Only two State contestants of Philippine authority in the WPS are discussed in this paper in contrast to the multi-State region-wide SCS conflict discussed in Scott.



[https://understandhistorynow.files.wordpress.com/2012/06/20120428\\_asm906.png](https://understandhistorynow.files.wordpress.com/2012/06/20120428_asm906.png)

Figure 1. Overlapping territorial and jurisdictional claims of the Philippines, the PRC, and Vietnam in the West Philippine Sea (the Philippines' territorial and Extended Economic Zone (EEZ) as per UNCLOS and PCA 2016).

### Hot WPS Disputes

**Setting.** The WPS is a seascape in the western seaboard of the Philippines stretching from Batanes in the north to the southern tip of Palawan in the south (**Figure 2**). It encompasses “maritime areas on the western side of the Philippine archipelago” including “the Luzon Sea as well as the waters around, within and adjacent to the Kalayaan Island Group and Bajo De Masinloc, also known as Scarborough Shoal.” (*EO 29 2012*). It has an area of some 740,000 km<sup>2</sup>, or about a third of the country's 2.2 M km<sup>2</sup> maritime domain;<sup>2</sup> it comprises 20% of the 3.8 M km<sup>2</sup> area of the South China Sea (SCS) and is among the country's important biogeographic area (*Gavilan 2021; Baviera and Batongbacal 2013; Yano 2020; DENR-BMB 2021; Arceo 2021; Quimpo et al. 2019 c.f. Aliño et al. 1994; Morton and Blackmore 2001*). Its ecosystem services offer a complex of ecological, economic, and social values that are a natural heritage of and are a benefit to Filipinos and others in the SCS and beyond (*Malayang et al. 2023*).

**Disputes.** The WPS disputes relate to contentions against

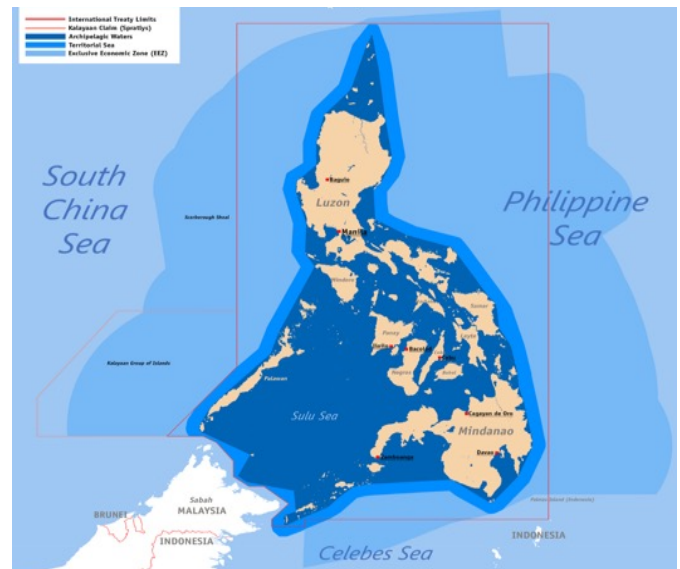


Figure 2. The West Philippine Sea Source: *Yano 2020; EO 29 s. 2012*. Photo by: Ruel Balingit (2020).

the Philippines' internationally recognized sovereignty and sovereign rights over the area and its maritime features (*Permanent Court of Arbitration [PCA] 2016*). The PRC and Vietnam are claiming that they have territorial and/or EEZ rights in parts of the WPS. The claims are said to be based on historical precedence. The claims, however, were not actively pursued before 1978 when the Philippines established in the Spratlys the municipality of Kalayaan as part of the Province of Palawan (*Baviera and Batongbacal 2013*). They were pursued only after the PRC and Vietnam had signed the United Nations Convention on the Law of the Sea [UNCLOS] in 1982.<sup>3</sup>

In the early 1990s, the PRC began building structures in the Spratlys (which it said were shelters for fishers). The PRC building activity later escalated to include converting shallow atolls and reefs into artificial islands, based on its “nine dash line” claim over much of the SCS.<sup>4</sup> (Vietnam also has some structures inside the Philippine EEZ, but much smaller and fewer than the PRC's.) The Philippines, PRC, and Vietnam have names of major islands and atolls in the WPS.<sup>5</sup>

In 2009, the Philippines enacted a law (Republic Act 9522) setting the country's archipelagic baselines that determine the metes and bounds of the country's maritime jurisdiction consistent with UNCLOS. In

<sup>2</sup>Includes the country's territorial waters, Exclusive Economic Zone (EEZ) and Extended Continental Shelf (ECS)

<sup>3</sup>*Xie Feng (2022) and Dang Hoang Giang (2022)*. UNCLOS entered into force in 1994 (*UN 1994*).

<sup>4</sup>This “nine dash line” reference first appeared on a map of the SCS of the Republic of China [ROC] in 1947, two years before the PRC was created by declaration of Mao Zedong on October 1, 1949 (*Beech 2016*).

<sup>5</sup>Naming a place with one's language does not necessarily cement a claim (see Reports of International Arbitral Awards, Island of Palmas Case (Netherlands, USA), Vol. II pp. 829-871, in *UN 2006*); [Sovereignty] “does not concern the identity of the subject of the dispute” (pp. 835-936); nor does “the fact of [a claimant] having conducted continuing commerce in a place qualify as sovereignty” (p. 838); nor does “contiguity to a territory” (p. 837). It is one thing to make a territorial claim, yet another to establish continuing “exclusive competence of the State” over a place (p. 838), or “continuous and peaceful display of the functions of State within a given region” (p. 840).

2012, the area within the western baselines of the country was named “West Philippine Sea” by Executive Order (EO) 12 of Philippine President Benigno Simeon C. Aquino III. These Philippine actions were immediately (and continue to be) protested by the PRC and Vietnam.

**Arbitration.** To validate its jurisdiction over the WPS, and following the dispute resolution mechanism of UNCLOS, the Philippines on January 22, 2013, submitted the matter for arbitration. It questions the legality of PRC’s nine dash line claims. (It did not include Vietnam’s claims.) On July 12, 2016, the Permanent Court of Arbitration (PCA) ruled, among others, that the PRC’s nine dash line has no basis in international law and that the PRC has no valid overlapping entitlements with the Philippines’ over the WPS, except in Bajo de Masinloc where fishers from other countries have been recognized by the Tribunal to have been “traditionally fishing” (PCA 2016). The PRC rejected the Arbitral Award and has instead intensified its belligerent actions in the WPS (Tuyay 2023; Rocamora 2023; Fomoso 2023).

### Present Philippine Policy in the WPS

Following the 2016 Arbitral Award and the continuing challenges to its rights, the Philippines pursued a three-prong policy in the WPS. The policy maintains its rights to protect and manage the fisheries and other resources in the area and to contend with belligerent behaviors of contesting States (Amador III and Ibarra 2016). The three prongs of the policy are:

**Presence.** The Philippines has been densifying the artifacts of its authority and presence in the WPS. This is in addition to having a functioning local government in the Kalayaan Island Group (KIG) (Baviera and Batongbacal 2013). It has expanded the presence of its Coast Guard and other government-contracted assets to maintain and supply existing government facilities in certain islands and features in the area like in the Ayungin Shoal and Pagasa Island (Punongbayan 2023). It has been deploying more maritime assets to secure people and resources in the WPS (Manabat 2023). It has placed navigational buoys in many parts of the WPS (BenarNews staff 2023) and has included the WPS in its system of 12 Fisheries Management Areas (FMAs) (BFAR-DA 2020). It has been inviting more tourists to visit the WPS through the country’s destination gateways (Manahan 2023).

**Placate.** The Philippines considers contestants of its rights in the WPS as friends. They’re economic and cultural

partners. It seeks to extend its friendship to them (like expanding bilateral trade and investments), without conceding its position that it has legitimate authority over the WPS (Zhou 2019). It looks at ties with contending countries at a wider angle of mutual gains from commerce, tourism, cultural exchanges, and sports (Wong 2014). This policy of friendship sets the rationale for going out of its way to accommodate a contestant’s hard issues with it (like their continuing intrusions into Philippine waters; Manahan 2023). It seeks to manage its responses to contestants’ actions for mutual gains without conceding anything about its rights in the WPS. It seeks to act and collaborate with regional initiatives on easing tensions in the larger SCS (including on implementing the Declaration of the Conduct of the Parties [DOC] and to adopt a Code of Conduct [COC] in the SCS)<sup>6</sup>, but insists on its sovereignty and jurisdictional rights in the WPS. Some see this policy as an unacceptable concession and putting a disputant’s interest over its own (Rowand 2020; Heydarian 2019; Atienza 2023), but despite the discomforts, the Philippines is doing a balancing act of cognizance of contesting claims and non-concession of rights as part of its repertoire of responses to the disputes in the WPS.

**Persist.** Despite the actions of contesting parties, the Philippines insists on its rights over the entire WPS. Whatever any contesting country does, be it by show or deployment of belligerent forces (Philstar 2023), by generous offer of economic assistance (DOF 2023; Tabbada and Pacho 2021), or by agreeing to a protocol of conduct to ease tensions (Flores 2023), the Philippines is not conceding its rights in the WPS (Del Rosario 2023; Geducos 2023). It continues to confront countries contesting its rights in the area (Gomez 2023).

While this policy has so far allowed the Philippines to assert its rights in the WPS and to continue managing and accessing fisheries and other resources in the area, it does so with still high risks of being disrupted and engaged by belligerent behaviors of foreign assets in the area. The policy does not entirely cool down the hot disputes in the WPS because it involves the Philippines itself deploying assets to challenge and confront foreign presence in the WPS, in ways considered belligerent by others (Royandoyan 2023).

### The Antarctic Treaty and the cold competition for control and influence in the South Pole

**History.** The Antarctic Treaty was signed on December 1,

<sup>6</sup>The Philippine President declared these commitments in the 2023 ASEAN Summit (PCO 2023).



1959, in Washington DC. There were twelve (12) signatories including 7 countries claiming territories in the continent (Argentina, Australia, Chile, France, New Zealand, Norway, and the United Kingdom) and five others that expressed scientific and commercial interests in the South Pole (Belgium, Japan, the Union of South Africa, the Union of Soviet Socialist Republics [now the Russian Republic], and the United States). The signatories are called the “Parties to the Antarctic Treaty.” Other countries that had likewise expressed scientific and commercial interests on the continent have since joined the Treaty, now known as the ATS. There are now 56 member States to the ATS (referred to as “Contracting Parties” or CPs): 29 (including the original 12 signatories) have “consultative status” or voting rights. (*Antarctic Treaty 1959; Secretariat of the Antarctic Treaty n.d.*)<sup>7</sup>

The Treaty establishes a rules- and rights-based governance of Antarctica. It is anchored on the signatories’ common recognition that “... it is in the interest of all mankind that Antarctica shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord”. It acknowledges that “international cooperation in scientific investigation in Antarctica” and “freedom of scientific investigation” produce “substantial contributions to scientific knowledge” that would benefit the global community (see Preamble, The Antarctic Treaty). Antarctica is to be accessible to all countries. Contracting Parties (CPs) have a right to inspect each other’s facilities in the continent to verify compliance to the Treaty (*US Dept of State n.d.*).

**Foundational Doctrines of the Antarctic Treaty.** The Treaty advances three basic doctrines:

a. **Scientific cooperation over territorial contentions.** The CPs agree to engage in scientific cooperation rather than in territorial contentions. They commit to “promote international cooperation in scientific investigation in Antarctica” (Art III para 1) and agree that “scientific investigations and cooperation” (Art II) are a “peaceful purpose” for Antarctica (Art I). They further agree that the pursuit of scientific investigations is conjunctive to the suspension of any CP’s “asserted rights of or claims to territorial sovereignty in Antarctica”. The CPs’ territorial contentions and claims to territorial rights in Antarctica are respected but set aside in favor of cooperating in scientific endeavors. They agree that engaging in scientific cooperation would not touch on nor disturb individual CPs’ territorial claims, if any. They agree that “Nothing contained in the present Treaty shall

be interpreted as “a renunciation” of any CPs’ asserted rights or claims; “a renunciation or diminution” of any CPs’ “basis of claim to territorial sovereignty”; and prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State’s right of or claim or basis of claim to territorial sovereignty in Antarctica.” (Art. IV para 1 sections a to c). Further, they agree that “No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.” Art IV para 2). Asserted rights are respected but set aside; instead, rules for engaging in scientific cooperation are put in place.

b. **The ascendancy of preserving and conserving “living resources”.** The CPs agree that among their obligations under the Treaty is the “preservation and conservation of living resources in Antarctica.” (Art IX para 1 section f). In the context of the Preamble of the Treaty, this obligation is central to the “peaceful purpose” of a rules- and rights-based governance of Antarctica, “in the interest of all mankind”; it is also to be the core intent of their scientific cooperation. Two Conventions and a Protocol adopted under the Antarctic Treaty all pertain to the conservation of marine living resources in the particular environmental setting of the Antarctic and its surrounding seas (the “Southern Ocean”). These Conventions and Protocols include the *Convention for the Conservation of Antarctic Seals (1972)*; *Convention on the Conservation of Antarctic Marine Living Resources (1980)*; and the *Protocol on Environmental Protection to the Antarctic Treaty (1991)*.

c. **Military activities are not allowed.** Consistent with the Treaty’s core intent that Antarctica is to be used for peaceful purposes only, military activities and facilities are to be prohibited. The Treaty explicitly provides that “There shall be prohibited, inter alia, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.” (Article 1 para 1). However, affirming the primordial importance of scientific activities and cooperation, it also provides that it “shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.” (Article 1 para 2). The CPs are “to exert appropriate efforts, consistent with the Charter of the United Nations,

<sup>7</sup>Scott (2018) for earlier discussions on the ATS and its intents and principles following the Arbitral Decision on Philippine vs. China.

to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.” (Article X).

**Outcomes.** These doctrines basically bifurcate territorial and jurisdictional contentions over Antarctica, as a place for one or other country’s enjoyment, and as a “life system” for all humanity. This bifurcation has allowed Antarctica to become a hub of international collaborative scientific and conservation activities that have benefitted humankind. For instance, the early identification of the causes of human-threatening loss of the ozone layer were from studies done in Antarctica, and which has since guided subsequent efforts to reduce the use of hydrocarbons that has now allowed the ozone layer to recover (*EEA 2023*). Other human-benefitting science activities in Antarctica include astronomy, geology, biology, marine sciences, atmospheric sciences, earth science, environmental science, oceanography, glaciology, and geophysics. Conservation activities focus on penguins, seals, whales, birds, and fisheries. (*NSF 2013; BAS n.d., Chu 2014*). Being not owned by anyone, many are taking care of Antarctica as a place and as a life system that serves as a global commons (*Cool Antarctica n.d.*).

So far, the Antarctic Treaty and the observance of its doctrines are holding. The Antarctica continues to be a continent of peaceful pursuits. Competing interests are largely playing out in this cold, cooperative arena. This flows from that collective understanding that to turn the situation to a hot one is potentially both risky and costly. For example, the costs of pursuing scientific and conservation efforts in Antarctica are in millions of US dollars a year (e.g., the US budget for its operations in 2022 was US\$206.02 M [*NSF 2022*; Australia’s was A\$190 M in 2020-2021 [*Feiger and Wilson 2020*]; the British was £47 M in 2022 [*BAS 2022*]; and the PRC and Russia, which have been only recently active in Antarctica, are believed to be spending more, even if no amounts have been publicly reported [*Runde and Zeimer 2023; Robertson 2018; Brady 2014, 2018*]). In comparison, the cost of engaging in hot disputes is potentially much higher, with benefits difficult to estimate. In the Antarctic, where hot disputes would likely need major naval deployments, their high costs (especially if escalating as hot disputes often require) would be in the long term costlier and highly unsustainable than the costs of peaceful pursuits. The average cost to operate one aircraft carrier is about US\$1.18 B a year; its maintenance cost is about US\$2-4 B per 32-month maintenance cycle (*Executive Flyers n.d.*). One Arleigh Burke destroyer costs US\$140 M to operate in a year (*The Maritime Post n.d.*). A hot dispute in Antarctica would likely give low (if not a loss of)

beneficial returns for the disputing countries and to others affected by the disputes (*Siriban and Mendoza 2016*). Clearly, engaging in the cold pursuit of interests in Antarctica remains the better (and “cool”) option for all involved nations.

**Lessons learned.** Three lessons could be learned from Antarctica:

- a. A shared interest in keeping life systems intact is a lynchpin for cooling down what could have been hot disputes. The CPs’ recognition that the Antarctic living resources and ecosystems are a global commons, a source of diverse and substantial scientific value that benefit them and others, and a safe and cost-effective means to manage hot disputes, has eased belligerence among them.
- b. Creating a community of free exchange of scientific knowledge provided a platform that allowed the CPs to showcase the benefits of cooperation. Example: their collaborative studies of the ozone layer that led to the reversal of a serious threat to peoples in the planet. Another example: endangered whales have been better protected that their numbers have now begun to recover (*WWF n.d.*).
- c. The pursuit of hot disputes deprives the world a wealth of benefits to be gained from peaceful cooperation. Collaborating on science and conservation has generated interest in the heritage values of the commons, which has simultaneously dampened the use of more expensive aggressive tools in managing the area. The cost-benefit of hot and cold disputes easily favor the other. Simply put, Antarctica has shown the world a working model for avoiding violence while pursuing peace with benefits.

### **The Antarctic Treaty as basis for a Philippine policy option in the WPS**

While there are differences in the disputes in Antarctica and in the WPS (mainly, that there’s collaborative effort to prevent hot events in the former while the territorial and jurisdictional rights of a party in the latter has been established by arbitration), the doctrines of the Antarctic Treaty could serve as a framework for a unilateral Philippine WPS policy that stresses common regional and global interest on life systems and ecosystem services in the area.

**Science collaboration as a policy option.** Following the lessons from Antarctica, the Philippines could consider initiating an open science and conservation program in the WPS to increase the seascapes’s heritage value to humankind. In this policy option, the Philippines may

consider taking six key actions:

- a. It could declare that the ecosystem services in the WPS are a global commons of high heritage value and benefit to Filipinos and to the rest of the world, and that they're a priority science and conservation concern of the Philippines. This would provide the foundational imperative of the policy.
- b. It could declare that the WPS EEZ shall be governed and managed as a "nature heritage site" (NHS) where life systems, ecological processes, and their complex of ecological, economic, and social values shall be protected, strengthened, and sustained as the country's ascendant policy in the area.
- c. It could open the WPS NHS to global cooperation and collaborations on a science and conservation program focusing on sustaining living resources, ecosystem services, and important habitats in the WPS (i.e., coral reefs, sandy bottoms, seagrass meadows, and island and islets that are transient sites of migratory birds or are used as fishers' shelter).<sup>9</sup> Toward this end, it could declare itself ready to welcome States and international organizations that may want to enter into multilateral or bilateral cooperation agreements with it on an open science and conservation program in the WPS NHS, adopt common rules for respecting UNCLOS, and collaborate with its pertinent government agencies and private organizations on doing science and in situ conservation of living resources and ecosystem services in the WPS-NHS. Cooperation on conservation could include harmonizing the resource access regulations of coastal States to sustain the living resources across the SCS (*Ablan-Lagman 2019; Scott 2018*).
- d. It could allow aerial, surface, and sub-surface assets of other countries and international organizations to freely operate in the WPS NHS, but only if used for agreed joint science and conservation activities (that are understood to be concurred to by, and jointly operated with, the Government of the Philippines). None are to be armed.
- e. It could invite other countries (in the region and from elsewhere) to join it in an open public declaration that the WPS NHS is to be free of the presence of unauthorized military forces and armed assets. Any nation would be free to seek permission from the Philippines for innocent passage of their armed assets in the area consistent with existing international law.

- f. In the spirit of mutual trust and building mutual confidence among countries participating in its open science and conservation program in the WPS, it may invite their Coast Guard and civilian maritime safety assets and personnel to participate in the Philippines' maritime safety and conservation enforcement patrols in the area.

**The benefits of collaboration.** It is likely that these six actions would be met with skepticism and deemed unacceptable to countries contesting Philippine rights in the WPS. But with sufficient enthusiasm and show of good faith, the Philippines, unilaterally and as an exercise of sovereignty), could seek international support to begin a regional and global dialogue on promoting collaborative scientific studies and conservation in the WPS. The intrinsic high costs of risky and hot pursuits of territorial and jurisdictional interests (as noted earlier) may make nations see benefits in the six actions and choose to support them. The emphasis on collaborative gains from scientific cooperation (over costlier "hot" pursuits of interests) has the potential to transform the present "hot" framing of issues in the WPS (and in the larger SCS) to something like the cold ATS model. Also, the emphasis on cooling down disputes – but without yielding rights – is consistent with the Philippine Constitution that stipulates a renunciation of war as a State policy.<sup>10</sup>

## CONCLUSION AND RECOMMENDATION

The current Philippine WPS policy is pursued under a hot environment of contending actions and rhetoric against its rights to the seascape and to its natural resources (*Flores 2023*). The country continues to stand its ground in the area while also participating in wider regional collaborative efforts to ease tensions in the SCS. It pursues a policy that explicitly manifests non-countenance of (and resistance to) actions and rhetoric of parties contesting its rights in the WPS.

The disputes in the WPS are complexed by the more expansive "great powers competition" in the wider SCS and Indo-Pacific region. Many countries with among the biggest economies in the Pacific, Indian Ocean, and the world have contending interests over Taiwan, the critical trade routes in the SCS and nearby seas (where about 23%

<sup>8</sup>These are stressed in Pagtanaw 2050 (*NAST 2021*) and in the Philippine Development Plan 2023-2028 (*NEDA 2023*).

<sup>9</sup>This action would be considered as a country commitment to Part XII of UNCLOS (on protecting marine environments) and its Article 98 (on fishers' safety). A similar concept was earlier advanced by *Ablan-Lagman (2019)* but for the SCS region. Earlier recognizing the "competition over straddling stocks" in EEZs and high seas in the SCS (see *Ablan and Garcés [2005]* p. 143) and the "meso-scale transboundary units for migratory fisheries in the South China Sea" (*Ibid.*, p. 145), *Ablan-Lagman* advances the option of "jointly managed protected areas" in the Spratly Islands, doing scientific cooperation on the biology, ecology, and biodiversity of the area's fisheries and collaborative research on its physical, chemical, and geological oceanography." (*Ablan-Lagman 2019*, pp. 588-590).

<sup>10</sup>Section 2, 1987 Philippine Constitution: "The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations."



of global trade transits; *Malayang et al. 2023*), natural resources, and the strategic value of the islands and seas in the region to their defenses and interests. The entire Indo-Pacific region seems to be the “battle space” for these wider competitions.

If this assessment is correct, contentions against the Philippines’ rights in the WPS would likely extend to broader considerations over the strategic positioning of forces of other States for interests beyond natural resources. Offering a window for cooling down hot disputes in the WPS gives the Philippines an opportunity to take the lead in advancing a global (and highly relevant) narrative that distinguishes universally important life systems and ecosystem services of a body of water like the WPS, from its being an area with military and political value to only some countries. Such policy of the Philippines, should it choose to adopt it, would be consistent with the goals of partnerships, mainstreaming biodiversity, equitable sharing of benefits, and nature-oriented sustainable development intended by the Treaty on the High Seas (*High Seas Alliance 2023*), the Kunming-Montreal Protocol (*CBD 2022*), and UN Sustainable Development Goals 14 and 17 (*UN n.d.*). It would be a policy that would be consistent with the present intent of the Philippine Government to be a “friend to all and enemy to none” (*De Ocampo 2023*, quoting President Ferdinand R. Marcos Jr.).<sup>11</sup>

The authors concluded that the Philippines has two strategic policy options in the WPS: keep to what it is doing now, or engage contestants to its rights in the WPS, and all other coastal States in the SCS, in a policy of collaborative open science and conservation to sustain the WPS as “living waters” of common value to many in the world; this, without the country conceding any of its territorial and jurisdictional rights in the WPS, and without abandoning its option to keep doing what it is doing now, or any other actions it deems needed, whenever and wherever necessary.

This study recommend that the Philippines take the second option.

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