

found the lagoon heavily damaged, possibly due to cyanide fishing by Chinese and Vietnamese fishermen. According to the BFAR, the Filipino fishermen informed them that China was deliberately harming the Bajo de Masinloc to prevent Philippine vessels from accessing the area;²

WHEREAS, in a statement, the Chinese Embassy in Manila dismissed BFAR accusations as sheer fabrications and said that the Philippines' "continuous disinformation has led up to nothing but exacerbation of the maritime tensions and destabilization of bilateral relations".³

WHEREAS, however, this is not the first time that China has been reported to be engaged in activities that are destructive to the rich marine ecosystem in the WPS, in fact, as early as 2019, Dr. Florence Onda from the University of the Philippines' Marine Science Institute (UP-MSI) estimated that the Philippines is "losing about P33.1 billion annually from the damaged reef ecosystems at Panatag (Scarborough) Shoal and the Spratly Islands mainly due to China's reclamation activities and illegal fishing operations"⁴;

WHEREAS, in the 2016 South China Sea Arbitration Award,⁵ the Permanent Court of Arbitration (PCA) found that China's large scale land reclamation and construction of artificial islands at seven features in the Spratly Islands has caused severe harm to the coral reef environment and that China has violated its obligation under Articles 192 and 194 of the Convention to preserve and protect the marine environment with respect to fragile ecosystems and the habitat of depleted, threatened, or endangered species. The PCA also found that Chinese fishermen have engaged in the harvesting of endangered sea turtles, coral, and giant clams on a substantial scale in the South China Sea, using methods that inflict severe damage on the coral reef environment. According to the PCA, Chinese authorities were aware of these activities and failed to fulfill their due diligence obligations under the Convention to stop them;⁶

WHEREAS, the recent research conducted by the Center for Strategic & International Studies (CSIS) on the Environmental Threats to the South China Sea noted China has caused the most reef destruction through dredging and land fill, burying roughly 4,648 acres of reefs, and that approximately 16,535 acres of reef have been damaged by Chinese giant clam harvesting;⁷

WHEREAS, the United Nations Convention on the Law of the Sea stipulates the parties' obligations to preserve and protect the marine environment with respect to fragile ecosystems and the habitat of various species under Articles 192 and 194 respectively, to wit:

²<https://www.gmanetwork.com/news/topstories/nation/897804/bfar-china-deliberately-damaging-bajo-de-masinloc-to-thwart-pinoy-fishers/story/>

³<https://www.philstar.com/headlines/2024/02/20/2334780/china-calls-alleged-cyanide-use-wps-sheer-fabrication>

⁴ <https://www.imoa.ph/cost-of-china-damage-to-ph-reefs-p33b-a-year/>

⁵ PCA Case No. 2013-19, July 12, 2016

⁶ <https://pcacases.com/web/sendAttach/1801>

⁷<https://features.csis.org/environmental-threats-to-the-south-china-sea/#group-section-IV-The-Future-of-the-South-China-Sea-1WfPPmirvf>

“Article 192 of UNCLOS, States have the obligation to protect and preserve the marine environment.”

“Article 194 of UNCLOS, States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavor to harmonize their policies in this connection.”⁸

WHEREAS, the Philippines, as a party to the Convention of Biological Diversity signed in 1992, is obligated to guard against the unsustainable use of coastal and marine resources which includes the country’s commitment in addressing the threat of cyanide use and its impact to coastal biodiversity;⁹

WHEREAS, Section 92 of Republic Act No. 10654, entitled “An Act to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Amending Republic Act No. 8550, otherwise Known As “The Philippine Fisheries Code of 1998” provides that **“It shall be unlawful for any person to catch, take or gather or cause to be caught, taken or gathered fish or any fishery species in Philippine waters with the use of explosives, noxious or poisonous substance such as sodium cyanide, which will kill, stupefy, disable or render unconscious fish or fishery species”**;

WHEREAS, the use of cyanide or other noxious or poisonous substance is a clear case of illegal, unreported and unregulated fishing (IUU)¹⁰ which undermines the sustainability not only of the marine environment but also the marine ecosystem not only of Philippine’s waters but globally;

WHEREAS, Section 4 of Republic Act No. 11479, otherwise known as the Anti-Terrorism Act of 2020 provides that:

SEC. 4. Terrorism. - Subject to Section 49 of this Act, terrorism is committed by any person who, within or outside the Philippines, regardless of the stage of execution:

(a) xxx

xxx

xxx

xxx

(e) **Release of dangerous substances¹¹, or causing fire, floods or explosions**

⁸ <https://earthjournalism.net/stories/china-condemned-for-massive-coral-reef-destruction>

⁹ <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1611&context=sdlp>

¹⁰ <https://www.philstar.com/headlines/2024/02/18/2334256/bfar-foreign-fishers-using-cyanide-bajo-de-masinloc>

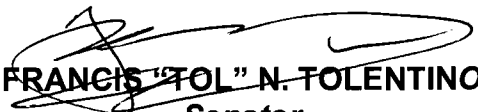
¹¹ "Dangerous substances" shall refer to substances that: (a) cause destruction, such as by fire, flood, or explosion; (b) those whose manufacture, production, processing, possession, storage, distribution, transfer, acquisition, use, importation, or exportation is regulated or prohibited by the State, in view of their destructive nature, such as under Republic Act No. 6969 or the "Toxic Substances and Hazardous

when the purpose of such act, by its nature and context, is to intimidate the general public or a segment thereof, create an atmosphere or spread a message of fear, to provoke or influence by intimidation the government or any international organization, or seriously destabilize or destroy the fundamental political, economic, or social structures of the country, or create a public emergency or seriously undermine public safety, shall be guilty of committing terrorism and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592, otherwise known as "An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code;

WHEREAS, despite the issuance of a denial by the Chinese government through China's Foreign Ministry spokesperson Mao Ning calling the said allegations as "sheer fabrication"¹², it is incumbent upon the Republic of the Philippines to investigate the said allegations not only because the same causes the destruction of our marine ecosystem but also undermines the territorial integrity and sovereignty of the Philippines ; **Now, Therefore,**

BE RESOLVED, AS IT IS HEREBY RESOLVED, to direct as it hereby directs the appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the reported alleged cyanide fishing of Chinese and Vietnamese fishermen in Bajo de Masinloc (Scarborough Shoal);

Adopted,


FRANCIS "TOL" N. TOLENTINO
Senator

and Nuclear Wastes Control Act of 1990" and Republic Act No. 5207 or the "Atomic Energy Regulatory and Liability Act of 1968"; and/or (c) those that endanger a person's life.

¹²<https://www.philstar.com/headlines/2024/02/20/2334780/china-calls-alleged-cyanide-use-wps-sheer-fabrication>