

## TOPIC: China Coast Guard Regulation No. 3

### BOTTOM LINE

- China Coast Guard (CCG) Regulation #3 raises **significant legal concerns**.
- The regulation is **set to take effect on 15 June 2024** and will authorize CCG commanders to **detain foreign vessels and persons** in “waters under China’s jurisdiction” for up to 60 days.<sup>i</sup>
- Moreover, the regulation appears to implement the 2021 CCG Law, and therefore **suffers from the same legal deficiencies as the 2021 CCG Law**, including vague language on geographic application (e.g., “waters under China’s jurisdiction”) and the potential to use force (e.g., “other law enforcement actions”).<sup>ii</sup>
- Concern regarding the scope of geographic application is underpinned by the **legally baseless dashed-line claim** within which the People’s Republic of China’s (PRC) asserts “indisputable sovereignty.”<sup>iii</sup>
- The PRC’s sweeping maritime and territorial claims across the South China Sea provide **pretext for unlawful enforcement of CCG Regulation #3** on the high seas and in foreign exclusive economic zones (EEZ) where all nations enjoy high-seas freedoms of navigation, overflight, and other lawful uses of the sea.<sup>iv</sup>
- CCG Regulation #3 is **the latest example of the PRC’s increasingly assertive behavior** coupled with its use of domestic law and regulation as an **instrument of coercion**.

### WHY THIS MATTERS

- CCG Regulation #3’s potential to escalate regional tensions, infringe on coastal state sovereign rights, and impede high-seas freedoms guaranteed to all nations makes it **a matter of significant international concern**
- CCG regulation #3 is a **vehicle for the PRC to impose domestic jurisdiction on foreign flagged vessels and foreign persons** beyond its lawful territorial sea, and possibly across the entirety of its sweeping maritime claims.
- Implementation of the regulation would be **escalatory and detrimental to regional peace and security**.
- The PRC could use the 2021 CCG Law and CCG Regulation #3 to justify **continued and increasingly forceful interference with lawful activities by the Philippines** in the Philippine EEZ.
- The regulation’s **vague language on fisheries enforcement** in “important fishery waters” coupled with the PRC’s annual fishing moratorium across the South China Sea **increases uncertainty for coastal states** that rely on fisheries rights for economic sustenance.<sup>v</sup>
- CCG Regulation #3 **does not exempt warships and other sovereign immune vessels** from its scope, leaving open the possibility of enforcement against public vessels in a manner contrary to international law.
- If the PRC’s use of domestic law and regulations as an instrument of coercion is left unchallenged, the **PRC could be emboldened** to take further coercive action against the Philippines and other countries.
- The PRC’s **disregard of the binding 2016 Arbitral Tribunal** award and customary international law reflected in the United Nations Convention on the Law of the Sea (UNCLOS) **threatens the rule of law** across the region.
- Upholding international law is fundamental to the **rules-based international order** that benefits all nations.



# DETAILED DISCUSSION



## 1. Background

- The CCG Bureau was established in March 2013 by consolidating four maritime law enforcement agencies.<sup>vi</sup>
- In July 2018, the Bureau was transferred to the Peoples Armed Police Force under the unified command of the Central Military Commission. It now consists of the North, East and South China Sea Sub-bureaus.<sup>vii</sup>
- After the 2018 reorganization, **collaboration increased between the People's Liberation Army (PLA) and the CCG** in terms of organization, personnel, and equipment, as evidenced by the transfer of retired PLA Navy ships to the CCG and appointment of former PLA Navy officers to major CCG positions.<sup>viii</sup>
- The CCG now has more than 200 vessels and aircraft (fixed-wing and rotary-wing).<sup>ix</sup>
- Enactment of the CCG Law in January 2021 exemplified and reinforced the CCG's growing strength, militarization, and forward posture.**<sup>x</sup>
- The CCG Law contains ambiguous and undefined language on the scope of geographic application and authority to use weapons, among other problematic provisions.<sup>xi</sup>
- On 15 May 2024, the CCG announced that CCG Regulation #3 (i.e., "Decree No. 3" or the "Regulations on Administrative Law Enforcement Procedures for Coast Guard Agencies") would **come into effect on 15 June 2024**.
- The new regulation appears to **implement the 2021 CCG Law**.<sup>xii</sup>
- According to the PRC's Ministry of Foreign Affairs, the purpose of the regulation is to standardize administrative law enforcement procedure and build on two criminal procedure regulations issued in 2023.<sup>xiii</sup>
- The new regulation is **the first known CCG policy that explicitly authorizes detention of foreign vessels and individuals** for "trespass" in "waters under China's jurisdiction."<sup>xiv</sup>
- News of the regulation broke with the arrival of a 100-boat convoy of Philippine civilians on 15 May 2024 at Scarborough Shoal. The convoy reportedly delivered food and fuel to Philippine fisherman and installed buoy markers despite the presence of CCG, maritime militia, and PLA Navy vessels.<sup>xv</sup>



### 中国海警局制定出台《海警机构行政执法程序规定》

2024-05-15 17:17:48 浏览量: 2806

为深入贯彻落实《海警法》，规范海警机构行政执法程序，2024年5月15日，中国海警局发布第3号令，公布《海警机构行政执法程序规定》（以下简称《程序规定》），自2024年6月15日起施行。《程序规定》是继中国海警局2023年连续出台两部刑事程序规章后，又一部专门规范海警机构行政执法程序的主干规章，对于规范和保障海警机构依法履行职责，保护公民、法人和其他组织的合法权益具有重要意义。

《程序规定》共16章281条，包括总则、管辖、回避、期间与送达、现场监督检查、立案、调查取证、听证程序、行政处理决定等内容，涵盖海上行政执法的各个领域和环节，是海警机构开展行政执法工作的基本规范。

《程序规定》明确了海警机构开展海上行政执法工作的基本原则，确立了海上行政案件管辖原则和管辖争议的解决方法，规定了回避的适用条件、程序及救济措施。

《程序规定》明确了海警机构开展现场监督检查的范围、方法和措施，确立了调查取证的原则和要求，规范了询问、勘验（查）、检查、鉴定、辨认、查询、抽样取证等调查措施和行政强制措施的实施程序，完善了听证程序、简易程序、行政案件快速办理的相关规定，明确了违法行为追究时效和案件办理期限，规定了海上治安调解的适用范围和调解原则，明确了涉案财物保管、处置要求，规范了罚款和行政拘留执行等内容。

Image: Screenshot of the CCG's 15 May 2024 announcement of CCG regulation #3

Details as at 24 May 2024, 05:15

CHINACOASTGUARD5901

China Coast Guard

Different AIS and IMO details

China, Law enforcement,  
MMSI: 413482360, IMO: 9756028  
16.9067 N, 114.6217 E  
(from 24 May 2024, 04:58)  
Orientation 285°, Speed 15kn

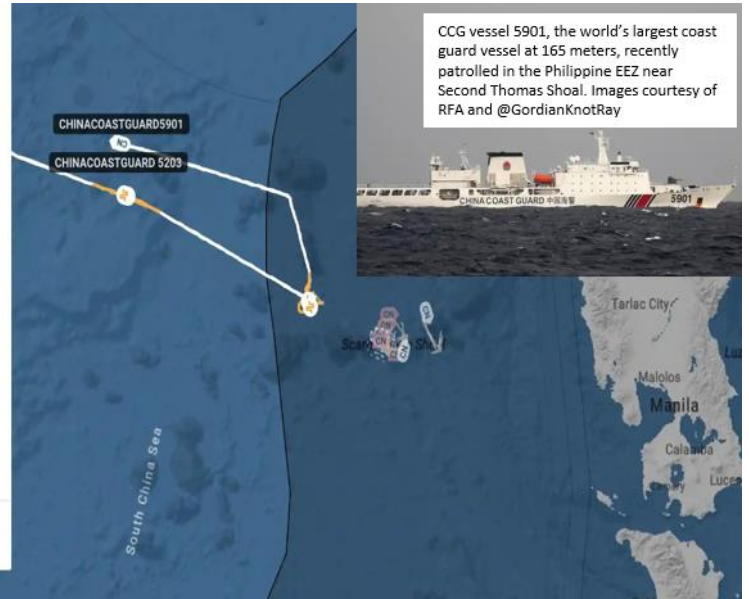
CHINACOASTGUARD 5203

China Coast Guard

China, Law enforcement,  
MMSI: 413875403, IMO: 413875403  
16.9117 N, 114.5917 E  
(from 24 May 2024, 05:00)  
Orientation 283°, Speed 15kn

Show past tracks

Actions



CCG vessel 5901, the world's largest coast guard vessel at 165 meters, recently patrolled in the Philippine EEZ near Second Thomas Shoal. Images courtesy of RFA and @GordianKnotRay



- The new regulation consists of 92 pages, 16 chapters, and 281 articles. While some of the 281 articles are administrative in nature, **articles 11, 35, 105, 257, 263, and 266 present a more troubling picture.**<sup>xvi</sup>
- Articles 11, 105, 257, and 266 function together to authorize the CCG to detain foreign vessels and persons.
  - **Article 11** outlines **broad CCG jurisdiction** over “administrative cases” involving an “illegal violation” in waters considered to be “under the jurisdiction of our country [PRC].” Such waters are not defined in the regulation or in the 2021 CCG Law.<sup>xvii</sup>
  - **Article 105** describes CCG authority to **detain foreign ships** that illegally enter “territorial waters” [“territorial waters” are not defined in the regulation or in the 2021 CCG Law].<sup>xviii</sup>
  - **Article 257** outlines **the circumstances, offenses, and length of time that the CCG can detain foreign nationals** for “violating exit and entry management.” The article authorizes detention if “further investigation is required,” subject to approval by the cognizant CCG area commander. The article lists offenses for which foreign nationals can be detained, including “illegal entry and exit into the country [China]”; “assisting others to illegally exit and enter the country”; and “endangering national security interests, disrupting social and public order, or engaging in other illegal and criminal activities.” **Detention up to 60 days may be authorized** if the case is “complicated.”<sup>xix</sup>
  - **Article 266** requires the responsible “CCG organ” to provide **specific information on detained foreign nationals and vessels**, such as name, sex, identity documents, the ship’s registration, name, the case’s circumstances, and the legal basis for detention to higher headquarters. The provincial-level CCG bureaus are required to notify the relevant diplomatic mission and “foreign affairs department” of a foreign national’s detention within 48 hours.<sup>xx</sup>
- **Article 35** implements Article 25 of the 2021 CCG Law, which authorizes the CCG to “delimit temporary maritime security zones,” including for “military use of the sea” and “safety and use of maritime military facilities.”<sup>xxi</sup>
- In addition to restating the purposes for establishing maritime security zones listed in the CCG Law, **Article 35 authorizes establishing maritime security zones “involving important fishery waters”** if related to “fishery production operations.”<sup>xxii</sup>
- **Article 263** purports to **prohibit “unauthorized” surveying and mapping** in “waters under China’s jurisdiction,” and warns that such circumstances are considered “grave or serious.”<sup>xxiii</sup>
- CCG Regulation #3 **does not exempt warships and other sovereign immune vessels from its scope** or acknowledge the doctrine of sovereign immunity under international law.<sup>xxiv</sup>
- The regulation does not specifically address the use of weapons like the 2021 CCG Law, but it does **expressly reference the CCG Law and use vague language on authorized activities** (e.g., “other law enforcement actions”) that **could be construed to encompass the use of force** in accordance with the CCG Law.<sup>xxv</sup>

第十一条 我国管辖海域发生的行政案件，依法由海警机构管辖的，由违法行为对应的海警机构管辖；如果由违法行为人居住地、登陆地或者涉案船舶的船籍港所在地海警机构管辖更为适宜的，可以由该海警机构管辖。

违法行为地包括违法行为发生地和违法结果发生地。违法行为发生地，包括违法行为的实施地以及开始地、途经地、结束地等与违法行为有关的地点；违法行为有连续或者继续状态的，违法行为连续或者继续实施的地方都属于违法行为发生地。违法结果发生地，包括违法对象被侵害地、违法所得的实际取得地、藏匿地、转移地、使用地、销售地以及损害结果发生地。

居住地包括户籍所在地、经常居住地。经常居住地是指公民离开户籍所在地最后连续居住一年以上的地方，但在医院住院就医的除外。单位登记的住所为其居住地。主要营业地或者主要办事机构所在地与登记的住所不一致的，主要营业地或者主要办事机构所在地为其居住地。

登陆地是指违法行为人自行上岸或者被押解、扭送上岸的地点。

Translation of Article 11. Source: Atlas News

Article 11 When an administrative case in waters under the jurisdiction of our country [China] will be under the jurisdiction of the coast guard according to the law; it shall be under the jurisdiction of the coast guard agency corresponding to the place where the illegal act is committed; if it is more appropriate for the jurisdiction of the coast guard body where the offender lives, where he landed, or where the registered port of the ship involved is located, it may be under the jurisdiction of that coast guard body.

The place of the illegal violation includes the place where the illegal violation occurred and the place where the illegal result occurred. The place where the illegal act occurred, including the place where the illegal act is committed, as well as the place where the illegal act began, passed through, ended, and other place related to the illegal act; where the illegal act has a continuous or continuing state, the place where the illegal act is continuous or continuously committed shall be the place where the illegal act occurred. The place where the illegal result occurred includes the place where the illegal object is infringed upon, the place where the illegal proceeds are actually obtained, the place where it is hidden, the place where it is transferred, the place where it is used, the place where it is sold and the place where the damage result occurred.

The place of residence includes the place of household registration and habitual residence. Habitual residence refers to the place where a citizen has last resided continuously for more than one year continuously, except for hospitalization in a hospital for medical treatment. The registered residence by the unit is the resident's place of residence. Where the principal place of business or the principal office is not the same as the registered place of residence, the principal place of business or the principal office shall be the place of residence.

Landing refers to the place where the offender goes ashore by himself or is escorted or sent ashore.

第二百六十六条 对外国人作出行政拘留、拘留审查或者其他限制人身自由、限制活动范围，以及对外国船舶作出扣押、暂时性控制财物的决定后，作出决定的海警机构应当在四十八小时内将外国人的姓名、性别、入境时间、护照或者其他身份证件号码、船籍、船名、船号、案件发生的时间、地点及有关情况，违法的主要事实、已采取的措施及其法律依据等情况层报中国海警局；省级海警局应当在规定的期限内，将有关情况通知该外国人所属国家的驻华使馆、领馆，并通报相应人民政府外事部门。当事人要求不通知使馆、领馆，且我国与该当事人国籍国未签署双边协

Translation of Article 266. Source: Atlas News

Article 266 After making administrative detention, detention for investigation, or other restrictions on personal freedom, and scope of activities of foreigners, and decision to seize foreign ships or temporary control of property, the coast guard organ that makes the decision shall, within 48 hours, provide the name, sex, time of entry, passport or other identity document number, ship's registration, ship's name, ship's number, time, location, and relation registration of foreign nationals, and relevant circumstance of the case, the main facts of the violation, the measures taken and the legal basis taken shall be reported to CCG station; the coast guard bureau at the provincial level shall, within the prescribed time limit, notify the embassy or consulate of the country to which the foreigner belongs, and notify the foreign affairs department of the corresponding people's government. If the party concerned request not to notify the embassy or consulate, and our country [China] and the party concerned [the country of national of the parties] have not signed a bilateral agreement requiring notification, they may not notify but shall submit a written request by itself.

## 2. Analysis

- The timing of the CCG's announcement may be intended to **intimidate the Philippines from exercising navigational rights and freedoms in its EEZ**, particularly near Second Thomas Shoal and Scarborough Shoal.<sup>xxvi</sup>
  - A Philippine government official responded to CCG's issuance of the regulation by condemning "China's blatant escalation of tensions in the West Philippine Sea."<sup>xxvii</sup>
  - The Philippines Department of Foreign Affairs said that, "the regulations are issued on the basis of the 2021 Coast Guard law which also illegally expanded the maritime law enforcement powers of China's Coast Guard. China would be in direct violation of international law should it enforce these new regulations in the waters and maritime features within the illegal, null and void, and expansive 10-dash line, which would effectively cover areas of the West Philippine Sea where the Philippines has sovereignty, sovereign rights and jurisdiction, or in the high seas."<sup>xxviii</sup>
  - See USINDOPACOM's [TACAID](#) page for more information on events surrounding Second Thomas Shoal.
- The PRC's **sweeping maritime and territorial claims presage potential unlawful enforcement of CCG Regulation #3** on the high seas and in foreign EEZs where all nations enjoy freedoms of navigation, overflight, and other lawful uses of the sea.<sup>xxix</sup>
  - In submitting its **legally baseless dashed-line claim** to the UN General Assembly in 2009, the PRC declared that it has "indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof."<sup>xxx</sup>
  - In 2013, the Philippines exercised its right under UNCLOS to seek legal arbitration to contest the PRC's claims. The Permanent Court of Arbitration (Arbitral Tribunal) **firmly and unanimously rejected the PRC's claims** in 2016.<sup>xxxi</sup>
  - The Arbitral Tribunal found that PRC's claims to "historic rights" or other sovereign rights with respect to the maritime areas of the SCS encompassed by the so-called "nine-dash line" are **contrary to UNCLOS and without lawful effect**.<sup>xxxii</sup> Likewise, the PRC's dashed-line claim **does not provide a basis for any entitlement by the PRC to exercise domestic law enforcement jurisdiction**.<sup>xxxiii</sup>
  - Despite the binding Arbitral Tribunal award, the PRC persists in perpetuating its dashed-line claim and territorial claims to maritime features.<sup>xxxiv</sup>
  - In the Spratlys alone, the PRC's claim to sovereignty over "Nansha Qundao" (南沙群岛) encompasses approximately 40 islands and 150 low-tide elevations.<sup>xxxv</sup> Many of these features are in the Philippine EEZ.<sup>xxxvi</sup>
- CCG Regulation #3's potential to **escalate regional tensions, infringe on coastal state sovereign rights, and impede high-seas freedoms** guaranteed to all nations make it **a matter of significant international concern**.
  - For example, the regulation could be used as pretext to enable the PRC to increase **pressure on Japan** in

### OFFICE OF THE SPEAKER OFFICIAL STATEMENT 18 MAY 2024



China's aggressive pronouncements are a blatant escalation of tensions in the West Philippine Sea. These unilateral actions flagrantly violate international law and the established norms that guide the Philippines and other law-abiding nations with claims in the South China Sea.

China must respect international rulings and act as a responsible member of the global community, rather than imposing its own laws unilaterally and bullying other nations.

The House of the Filipino People will not tolerate any arrests of our citizens or fishermen within our own Exclusive Economic Zone (EEZ). We will fiercely defend our sovereignty and ensure the safety and rights of our people.

SPEAKER FERDINAND MARTIN G. ROMUALDEZ  
19<sup>TH</sup> CONGRESS | HOUSE OF REPRESENTATIVES



Statement by Philippine House Speaker Martin Romualdez condemning the CCG's new regulations  
(Photo: X, @SpeakerMartinPH)



relation to the Senkaku Islands; **to deny Vietnamese or Malaysian sovereign rights** in the EEZ; or to enforce the PRC's newly enacted excessive **straight baseline claims in the Gulf of Tonkin**.<sup>xxxvii</sup>

- The regulation's **ambiguous and broad language** (e.g., "endangering national security and interests") provide a veil of flexibility for the CCG to detain foreign vessels and persons engaged in lawful activities beyond the territorial sea of any state.<sup>xxxviii</sup>
- The **failure to exempt warships and other sovereign immune vessels from the regulation's scope** leaves open the possibility of enforcement against any nation's public vessels in a manner contrary to the doctrine of sovereign immunity under international law.
- The circumstances when force may be used under the 2021 CCG Law are left vague in the new regulation, and thus will continue to **fuel uncertainty and risk of miscalculation** during maritime interactions.
- The regulation's **vague language on fisheries enforcement** in "important fishery waters" coupled with the PRC's recent announcement of its annual fishing moratorium across the South China Sea **increases uncertainty for coastal states** that rely on fisheries rights for economic sustenance.<sup>xxxix</sup>
- Like all nations, the PRC enjoys freedoms of navigation, overflight, and other internationally lawful uses of the sea in waters beyond the territorial sea of any state, but such freedoms must be exercised with **due regard for the rights of other states**.<sup>xl</sup>
- CCG Regulation #3 is the **latest example of PRC's increasingly assertive behavior** in the South China Sea.<sup>xli</sup>

## PROPOSED COUNTER-LAWFARE APPROACH

*\*\*This section offers a summary of suggested language and key points for incorporation into communication strategies\*\**

- **CCG Regulation #3 raises significant legal concerns.** Enforcement would be highly escalatory and detrimental to regional peace and security.
- **CCG regulation #3 exemplifies the PRC's use of domestic law as an instrument** to assert excessive maritime claims that were unanimously rejected in the legally binding determination of the 2016 Arbitral Tribunal.
- The PRC's use of **ambiguous and undefined language** in CCG Regulation #3 affords flexibility for excessive enforcement of Chinese domestic law in conflict with high-seas freedoms enshrined in international law.
- The PRC's **legally baseless dashed-line claim** renders CCG Regulation #3 inconsistent on its face with customary international law reflected in UNCLOS.<sup>xlii</sup>
- The PRC's **sweeping maritime and territorial claims** across the South China Sea provide pretext for excessive enforcement of CCG Regulation #3 on the high seas and in foreign EEZs where all nations enjoy freedoms of navigation, overflight, and other lawful uses of the sea.
- The international community should **expose and oppose any efforts by the PRC to unlawfully enforce domestic jurisdiction** under the guise of CCG Regulation #3.
- **Upholding international law and the rules-based international order** is an enduring interest for the international community and one that is vital to peace, security, and prosperity throughout the region.
- Consistent with U.S. policy, **USINDOPACOM unequivocally rejects the PRC's sweeping and unlawful maritime claims** in the South China Sea, as determined by the Arbitral Tribunal's legally binding decision in July 2016.
- The PRC's disregard of the 2016 Arbitral Tribunal award and customary international law reflected in UNCLOS **threatens the rule of law across the region**.
- The United States has urged the PRC – and all claimants – to **comport their maritime claims with international law** as reflected in UNCLOS.<sup>xliii</sup>
- **The PRC continues to undermine international law and the rules-based international order**, as exemplified by its coercion and intimidation in the South China Sea.
- USINDOPACOM supports and defends a **free and open Indo-Pacific** underpinned by peace, stability, and freedom of the seas in accordance with international law.

---

<sup>i</sup> China's Coast Guard Regulations on Administrative Law Enforcement Procedures for Coast Guard Agencies, <https://ccg.gov.cn/mhenu/>

<sup>ii</sup> *Id.* at Art. 2.

<sup>iii</sup> United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, Limits in the Seas, No 143 Maritime Claims in the South China Sea, available at <https://www.state.gov/wp-content/uploads/2019/10/LIS-143.pdf>

<sup>iv</sup> *Id.* See also U.S. DoS LIS No. 150, People's Republic of China: Maritime Claims in the South China Sea, Jan. 2022, <https://www.state.gov/wp-content/uploads/2022/01/LIS150-SCS.pdf>.

<sup>v</sup> *Supra* note 1 at Art. 35. See Philippines protests China's Annual Fishing Ban, Reuters, 26 May 2024, available at <https://www.reuters.com/world/asia-pacific/philippines-protests-chinas-annual-fishing-ban-2024-05-27/>.

<sup>vi</sup> See [https://www.mod.go.jp/en/d\\_act/sec\\_env/ch\\_ocn/index.html](https://www.mod.go.jp/en/d_act/sec_env/ch_ocn/index.html).

<sup>vii</sup> *Id.*

<sup>viii</sup> *Id.*

<sup>ix</sup> *Id.*

<sup>x</sup> An English translation of the CCG Law is available at: [https://www.airuniversity.af.edu/Portals/10/CASI/documents/Translations/2021-02-11\\_China\\_Coast\\_Guard\\_Law\\_FINAL\\_English\\_Changes\\_from\\_draft.pdf?ver=vrjG35ymdQsmidONF66uTA=](https://www.airuniversity.af.edu/Portals/10/CASI/documents/Translations/2021-02-11_China_Coast_Guard_Law_FINAL_English_Changes_from_draft.pdf?ver=vrjG35ymdQsmidONF66uTA=).

<sup>xi</sup> See <https://amti.csis.org/how-chinas-coast-guard-law-has-changed-the-regional-security-structure/>.

<sup>xii</sup> *Supra* note 1 at Art. 1. See also Joaquin Camarena, New Regulations Indicates China Will Detain Individuals Illegally Entering Maritime Territory, Atlas News, 20 May 2024, available at <https://theatlnews.co/latest/2024/05/20/new-regulations-indicates-china-will-detain-individuals-illegally-entering-maritime-territory/>.

<sup>xiii</sup> Ministry of Foreign Affairs of the People's Republic of China, 15 May 2024, available at [https://www.mfa.gov.cn/mfa\\_eng/](https://www.mfa.gov.cn/mfa_eng/).

<sup>xiv</sup> Michael Punongbayan, China Coast Guard empowered to detain South China 'trespassers', The Philippine Star, 18 May 2024, <https://www.philstar.com/headlines/2024/05/18/2356034/china-coast-guard-empowered-detain-south-china-trespassers>

<sup>xv</sup> Jim Gomez, 100-Boat Convoy of Filipino Fishers, Activists, Sets Sail to Disputed Shoal in South China Sea, <https://time.com/6978216/philippines-boats-fishermen-activists-south-china-sea/>.

<sup>xvi</sup> China's Coast Guard Regulations on Administrative Law Enforcement Procedures for Coast Guard Agencies, <https://ccg.gov.cn/mhenu/>.

<sup>xvii</sup> *Id.* at Art. 11.

<sup>xviii</sup> *Id.* at Art. 105

<sup>xix</sup> *Id.* at Art. 257

<sup>xx</sup> *Id.* at Art. 266

<sup>xxi</sup> *Id.* Art. 35

<sup>xxii</sup> *Id.*

<sup>xxiii</sup> *Id.* at Art. 263.

<sup>xxiv</sup> See U.S. Navy NWP 1-14M ("As a matter of customary international law, all State public property is protected against the exercise of jurisdiction or control by another State under the doctrine of State immunity. All manned and unmanned vessels and aircraft owned or operated by a State—and used, for the time being—only on government, noncommercial service are entitled to sovereign immunity under this doctrine. This means such vessels and all other U.S. Government public property—wherever located—are immune from arrest, search, inspection, or other assertions of jurisdiction by a foreign State.")

<sup>xxv</sup> *Supra* note 1 at Art. 1 and 2.

<sup>xxvi</sup> Michael Punongbayan, China Coast Guard empowered to detain South China 'trespassers', The Philippine Star, 18 May 2024, <https://www.philstar.com/headlines/2024/05/18/2356034/china-coast-guard-empowered-detain-south-china-trespassers>.

<sup>xxvii</sup> Joaquin Camarena, New Regulations Indicates China Will Detain Individuals Illegally Entering Maritime Territory, Atlas News, 20 May 2024, available at <https://theatlnews.co/latest/2024/05/20/new-regulations-indicates-china-will-detain-individuals-illegally-entering-maritime-territory/>.

<sup>xxviii</sup> See <https://dfa.gov.ph/dfa-news/statements-and-advisories/update/34766-dfa-statement-on-the-new-china-coast-guard-regulations>.

<sup>xxix</sup> United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, Limits in the Seas, No 143 Maritime Claims in the South China Sea, available at <https://www.state.gov/wp-content/uploads/2019/10/LIS-143.pdf>.

<sup>xxx</sup> PCA Case No 2013-19, In the Matter of The South China Sea Arbitration, 12 July 2016, available at <http://www.pcacases.com/pcadocs/PH-CN%20-%2020160712%20-%20Award.pdf>.

<sup>xxxi</sup> See generally *id.*

<sup>xxxii</sup> *Id.* at ¶ 1203.

<sup>xxxiii</sup> *Id.* at ¶ 631.

<sup>xxxiv</sup> United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, Limits in the Seas, No 143 Maritime Claims in the South China Sea, available at <https://www.state.gov/wp-content/uploads/2019/10/LIS-143.pdf>

<sup>xxxv</sup> See generally U.S. Dep't of State (DoS), Limits in the Sea (LIS) No. 143, China: Maritime Claims in the South China Sea, Dec. 5, 2014, <https://www.state.gov/wp-content/uploads/2019/10/LIS-143.pdf>; U.S. DoS LIS No. 150, People's Republic of China: Maritime Claims in the South China Sea, Jan. 2022, <https://www.state.gov/wp-content/uploads/2022/01/LIS150-SCS.pdf>.

<sup>xxxvi</sup> *Id.*

<sup>xxxvii</sup> See USINDOPACOM TACAID on the PRC's excessive straight baselines in the Gulf of Tonkin, available at <https://www.pacom.mil/Contact/Directory/J0/J06-Staff-Judge-Advocate/>.

<sup>xxxviii</sup> *Supra* note 29.

<sup>xxxix</sup> *Supra* note 5.

<sup>xl</sup> *Supra* note 30 at ¶ 741.

<sup>xli</sup> U.S. Department of State, China's Military Aggression in the Indo-Pacific Region, available at <https://2017-2021.state.gov/chinas-military-aggression-in-the-indo-pacific-region/#:~:text=Beijing%20uses%20intimidation%20to%20undermine,of%20access%20to%20their%20livelihoods>.

<sup>xlii</sup> Article 89, Invalidity of Claims of Sovereignty over the High Seas, United Nations Convention on the Law of the Sea, [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).

<sup>xliii</sup> Congressional Research Service, China Primer: South China Sea Disputes, 21 August 2023, available at <https://crsreports.congress.gov/product/pdf/IF/IF10607>.