

EAST ASIAN OBSERVER

Issue 1: The Case for Interstate Arbitration

ITLOS and Sino-Philippines Territorial Disputes in the South China Sea

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The diplomatic row over maritime sovereignty between the Philippines and the People's Republic of China is only a microcosm of the larger, multilateral dispute over the South China Sea, involving both those States and many others. The Philippine instance is of particular note not only because of its recent escalation, with the deployment of naval assets by both States in the contested maritime area, but also because the dispute has been tendered for interstate arbitration through the International Tribunal on the Law of the Sea ("ITLOS") by one of the parties.¹

The kernel of the maritime sovereignty dispute between China and the Philippines is a small atoll known as the Scarborough Reef (Bajo de Masinloc in the Philippines or Huangyuan Island 黄岩岛 in China).² In April 2012, the dispute escalated when a Philippine naval vessel intercepted several Chinese fishing ships anchored off the Scarborough Reef which had been found to be conducting commercial fishing activities.³ Chinese para-military vessels quickly arrived in force and a standoff ensued, which ended with the withdrawal of Philippine vessels. The standoff was punctuated by an ostensibly punitive raft of measures by China to block Philippine fruit exports from entering the Chinese market⁴ as well as

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¹ See ITLOS Press Release 191, ITLOS, Apr. 25, 2013, available at http://www.itlos.org/fileadmin/itlos/documents/press_releases_english/PR_191_E.pdf (last visited on Sept. 26, 2013).

² K. ZOU, LAW OF THE SEA IN EAST ASIA 61 (2005).

³ For a brief account of antecedent maritime incidents in the South China Sea, see C. Thayer, South China Sea Dispute: ASEAN and China, East Asia Forum, available at <http://www.eastasiaforum.org/2011/07/14/south-china-sea-disputes-asean-and-china> (last visited on Sept. 27, 2013).

⁴ C. Thayer, *Standoff in the South China Sea*, YaleGlobal, available at <http://yaleglobal.yale.edu/content/standoff-south-china-sea> (last visited on Nov. 12, 2013).