

# UST LAW JOURNAL

THE OFFICIAL PUBLICATION OF THE UST GRADUATE SCHOOL OF LAW



**VOLUME 3**

DECEMBER 2025



# **UST LAW JOURNAL**

**Volume 3, Issue No. 3**

**December 2025**

## **EDITORIAL BOARD**

**JACQUELINE O. LOPEZ-KAW, DCL**

Editorial Adviser

**IRENE D. VALONES, DCL, DPA**

Editor-In-Chief

**MARIA LIZA LOPEZ-ROSARIO, DCL**

Associate Editor

**GENER M. GITO, DCL**

Associate Editor

**LEIDY MAY G. ALNAJES, LPT, MA**

Managing Editor

**MARI-LEN M. TUANGCO**

Circulation Manager

**MAR CHRISTIAN DARREN C. RAMOS**

Website Manager



**UST LAW JOURNAL (ISSN)** is the official publication of the  
UST Graduate School of Law Program

### **EDITORIAL OFFICE**

4F Buenaventura García Paredes O.P. Building  
University of Santo Tomas, España, Boulevard,  
Sampaloc Manila 1008, Philippines

*The UST Law Journal* welcomes papers that explore pressing legal issues, address socio-economic and international topics with significant legal dimensions, and make meaningful contributions to these critical discussions. It is a peer-reviewed academic publication that aims to publish scholarly articles in its pursuit of legal scholarship and academic excellence. Papers are published through a double blind peer review process undertaken by the Board of Editors and reviewers.

The Journal's mission is to cultivate an environment that values intellectual diversity, legal analytical precision, and the pursuit of impactful research. Each issue features contributions that bridge theoretical and practical approaches, drawing from comparative, international, and domestic perspectives. It presents legal scholarship that interrogates traditional doctrines, dissects contemporary legal challenges, and proposes innovative frameworks for understanding the complexities of law in an interconnected world.

The articles published in *The UST Law Journal* do not necessarily represent the views of the Board of Editors. The articles are representative of the views of the author/s alone, and the author/s are responsible for the views expressed therein.



## EDITOR'S NOTE

Welcome to the 2025 3<sup>rd</sup> Volume, 3<sup>rd</sup> Edition of the *UST Law Journal*. This year's volume reflects our ongoing commitment to producing rigorous, forward-looking, and socially relevant legal scholarship that addresses the evolving challenges of our national, regional, and global legal landscape. As we expand our digital platform, the Editorial Board remains committed to our goal of providing accessible, high-quality research that fosters informed dialogue among scholars, practitioners, policymakers, and graduate students. We thank our contributors and readers for their trust and engagement as we usher in another year of meaningful discourse. In this Volume, the first article, "*Securing Maritime Navigations: Establishment of the Philippine Archipelagic Sea Lanes in Compliance with the United Nations Convention on the Law of the Sea (UNCLOS)*," offers a timely and prescient examination of one of the Philippines' most vital yet understudied maritime governance issues. Written prior to the passage of Republic Act No. 12065 (*An Act Providing For The Establishment Of Archipelagic Sea Lanes In The Philippine Archipelagic Waters, Prescribing The Obligations Of Foreign Ships And Aircraft Exercising The Right Of Archipelagic Sea Lanes Passage Through The Designated Archipelagic Sea Lanes, And For Other Purposes*) on November 7, 2024, the piece captures a critical moment in the Philippines' legal and geopolitical development when the country stood on the cusp of institutionalizing its first Archipelagic Sea Lanes (ASLs) framework in accordance with the standards of UNCLOS. In retrospect, the article serves not only as a scholarly analysis but also as a forward-looking commentary that anticipated many of the policy directions later embodied in RA 12065. It contextualizes the Philippines' archipelagic character within international law, articulates the importance of balancing national security with navigational rights, and underscores the urgent need for a comprehensive legislative and regulatory regime to govern the passage of foreign vessels through our waters. The author's insights on maritime security, environmental safeguards, and the complexities of archipelagic sea lane designation proved remarkably aligned with the subsequent statutory developments.



As RA 12065 now provides the legal architecture for the establishment, management, and enforcement of Philippine ASLs, this article stands as a valuable scholarly benchmark for understanding how far the nation has progressed and how much more remains to be done. It reminds us that maritime governance in the Philippines is not merely a technical or navigational concern, but a core component of sovereignty, regional stability, and the rule of law under the UNCLOS framework. This article contributes to the continuing discourse on maritime law and national sovereignty, serves as a historical scholarship, and a guidepost for future developments in Philippine maritime governance.

**IRENE D. VALONES, DCL, DPA**  
Editor-In-Chief



# SECURING MARITIME NAVIGATIONS: ESTABLISHMENT OF THE PHILIPPINE ARCHIPELAGIC SEA LANES IN COMPLIANCE WITH THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)

By:

DR. MILDRED D. MARTINEZ-TRIA,DCL

## ABSTRACT

The Philippines is at the forefront of the recognition of archipelagic state status, and its relentless efforts came into fruition as the Archipelagic Doctrine now forms part of International Law under the United Nations Convention on the Law of the Sea (UNCLOS), which includes the right granted to archipelagic states to designate their archipelagic sea lanes (ASL).

This research focuses on the interpretation and adoption of UNCLOS rules for ASL, taking into consideration Indonesia's "partial" ASL, which was adopted by the International Maritime Organization (IMO). It also includes the study of the pertinent maritime laws of the Philippines for the regulation and protection of the archipelagic waters, as well as maritime navigation.

Eighty percent of global trade is transported by sea, of which sixty percent passes through the Asia-Pacific region and the South China Sea (SCS); thus, the importance of the SCS in global trade cannot be ignored, as it plays a vital role in the economies of the world. The Philippines is in proximity to vital international navigational routes, and the establishment of ASL is a crucial aspect in addressing the challenges faced in securing maritime navigation to ensure the safe and efficient movement of vessels through sea routes. This research is conducted using the Black-letter Law methodology, utilizing a doctrinal legal approach and comparative legal method. To fully utilize the rights and privileges appurtenant to an archipelagic state, the Philippines must exercise its right to designate its "complete" ASL, adhering to the provisions of UNCLOS and the guidelines of IMO, considering that the existing laws of the country are inadequate to regulate and secure the archipelagic waters for maritime navigation. The complete ASL designation will further promote and protect the territorial integrity and sovereignty of the Philippines. This study will provide a deeper understanding of our country's crucial role in international maritime navigation, which will inform our lawmakers' efforts to ensure that both our sovereign rights as an archipelagic state and the freedom of navigation rights of user states are adequately protected.

**Key words:** archipelagic sea lanes, archipelagic waters, maritime navigation, IMO, UNCLOS



# 1. INTRODUCTION

## 1.1 Background of the Study

The Philippines, a Southeast Asian archipelago consisting of over 7,000 islands, occupies a strategically critical location in the maritime region of the Indo-Pacific. Its geographical position, lying between the South China Sea and the Pacific Ocean, makes the country a central maritime passage for global trade, regional security, and geopolitical interests. This strategic geography necessitates a robust legal and institutional framework to manage and safeguard its maritime domain. The Philippines is internationally recognized as an archipelagic state under the United Nations Convention on the Law of the Sea (UNCLOS), a recognition that confers both rights and responsibilities regarding its maritime zones, including the power to designate Archipelagic Sea Lanes (ASLs).

As an archipelagic state, the Philippines is granted the authority to draw straight baselines connecting the outermost points of its islands, within which it exercises sovereignty over internal waters, the territorial sea, the contiguous zone, and the exclusive economic zone (EEZ).<sup>1</sup> The concept of archipelagic states was long advocated by the Philippines and Indonesia, particularly during the Third United Nations Conference on the Law of the Sea (UNCLOS III), which culminated in the formalization of this regime in Part IV of the Convention. Through the adoption of UNCLOS in 1982, the legal status of archipelagic waters was defined, including the recognition of navigational rights such as innocent passage and archipelagic sea lanes passage (ASLP) across these waters.

Despite this milestone, the Philippine government has yet to designate ASLs pursuant to Article 53 of UNCLOS, which permits archipelagic states to identify sea lanes and air routes for continuous and expeditious passage of foreign vessels and aircraft through or over archipelagic waters and adjacent territorial seas. The absence of such a designation presents not only a gap in international legal compliance but also strategic and operational vulnerabilities in national maritime governance. As maritime powers continue to traverse Philippine waters for both civilian and military purposes, unregulated navigation raises concerns about environmental degradation, maritime accidents, terrorism, smuggling, and unauthorized military surveillance.

The implications of inaction are significant. Under Article 53(12) of UNCLOS, in the absence of designated ASLs, foreign ships and aircraft retain the right of ASLP through all routes normally used for international navigation. This legal provision restricts the Philippines' ability to impose regulatory and monitoring controls over maritime traffic unless ASLs are formally designated and

---

<sup>1</sup> UN Doc. A/AC.138/SC.II/L.15, Archipelagic Principles as proposed by the delegations of Fiji, Indonesia, Mauritius and the Philippines: Explanatory Notes.



recognized.<sup>2</sup> Without an ASL designation, the country cannot direct maritime traffic into a specific passage, nor can it implement traffic separation schemes, navigational safety regulations, or marine environmental protections along designated routes. Thus, while sovereignty is asserted over archipelagic waters, effective jurisdiction over foreign transit remains elusive.

The Philippine situation stands in stark contrast to Indonesia, which remains the only archipelagic state to have designated ASLs, albeit partially. Indonesia's designation, approved by the International Maritime Organization (IMO) in 1998, encompasses three north-south routes that link the Pacific and Indian Oceans.<sup>3</sup> However, it excluded east-west routes like the Java Sea, prompting protests from major maritime user states. Indonesia's example illustrates both the potential benefits and diplomatic complexities involved in the designation process. It underscores the importance of careful national security assessments, hydrographic surveys, and consultations with user states—all prerequisites that the Philippines must undertake to designate ASLs in compliance with UNCLOS and IMO Resolution MSC.71(69).

Moreover, the continued assertiveness of China in the South China Sea, including activities within the Philippines' EEZ in the West Philippine Sea, has intensified the urgency of strengthening maritime jurisdiction. These activities include blocking maneuvers, harassment of Filipino fishermen, and militarization of disputed features—acts that, while falling below the threshold of armed conflict, undermine Philippine sovereignty and require calibrated responses rooted in international law.<sup>4</sup> The absence of clearly delineated ASLs weakens the Philippines' legal position to contest and regulate foreign military and civilian transits within its waters. It also hampers the country's ability to ensure navigational safety and maritime security in cooperation with regional and global allies.

In this context, the designation of ASLs emerges not as a mere legal formality but as a strategic necessity. It represents a convergence of sovereign control, environmental stewardship, maritime governance, and international legal obligation. The ability to designate and enforce ASLs within archipelagic waters enables the Philippines to assert its maritime jurisdiction more effectively, align with global maritime standards, and protect national interests without violating the navigational rights of other states.

## 1.2 Statement of the Problem

Despite being a party to UNCLOS and having enacted Republic Act No. 9522 to define its archipelagic baselines in conformity with the Convention, the

---

<sup>2</sup> Article 53(12), Part IV, UNCLOS

<sup>3</sup> ACT 6 of 8 August 1996 Regarding Indonesian Waters

<sup>4</sup><https://asia.nikkei.com/Politics/International-relations/Indo-Pacific/First-U.S.-Japan-Philippines-trilateral-to-address-China-s-gray-zone-tactics>



Philippines has yet to fulfill its discretionary authority to designate ASLs. The result is a legal and regulatory vacuum that allows foreign vessels and aircraft to navigate through Philippine archipelagic waters without being subject to structured traffic regulations, environmental oversight, or national security protocols. This inaction exposes the country to unregulated foreign presence in waters considered part of its maritime domain and impairs its ability to respond to external threats.

Moreover, the failure to designate ASLs hinders the Philippines' ability to contribute to regional maritime governance and undermines its position in ongoing territorial disputes. Given the complex security dynamics in the South China Sea, including China's increasingly aggressive posture, the absence of ASLs leaves the Philippines ill-equipped to assert control over navigation within its waters. This study, therefore, seeks to analyze the legal, operational, and geopolitical implications of the Philippines' failure to designate ASLs and to propose legally and strategically viable measures to remedy the situation.

### **1.3 Significance of the Study**

The importance of this research lies in its direct applicability to Philippine maritime governance and its contribution to the broader discourse on archipelagic navigation rights under UNCLOS. By undertaking a detailed examination of the relevant international legal framework, domestic legislation, and comparative experiences—especially Indonesia's partial ASL designation—this study provides a comprehensive legal and policy roadmap for the Philippines.

At a policy level, the research underscores the need for immediate legislative and administrative action to implement ASLs in Philippine waters. It offers actionable recommendations that can inform proposed legislation, inter-agency cooperation, and diplomatic engagement with maritime user states. Academically, the study enriches scholarship on UNCLOS implementation by highlighting the underexplored domain of ASL designation and its role in balancing sovereign authority with navigational freedoms.

The study is also significant in light of current geopolitical developments. With increased foreign military operations and commercial activities in Philippine waters, the absence of a clear maritime passage elevates the risk of incidents at sea, environmental disasters, and violations of territorial integrity. The study thus advocates for proactive maritime policy grounded in international law to reinforce the Philippines' position in regional maritime security dialogues and legal fora.



## **1.4 Objectives of the Study**

This research seeks to:

1. Examine the legal framework under UNCLOS governing the designation of Archipelagic Sea Lanes and the right of Archipelagic Sea Lanes Passage (ASLP).
2. Analyze the Philippines' compliance with its legal obligations under UNCLOS and its readiness to implement ASL designation pursuant to IMO Resolution MSC.71(69).
3. Compare the Philippine experience with other archipelagic states, particularly Indonesia, to identify best practices and lessons learned in ASL designation.
4. Propose a legally sound and strategically feasible framework for the Philippines to designate ASLs, balancing national security, navigational rights, and environmental protection.

## **1.5 Scope and Delimitation**

This study focuses on the legal and institutional aspects of ASL designation under UNCLOS, as applicable to the Philippines. It examines international legal provisions, national legislation, relevant jurisprudence, and the practices of other archipelagic states. The research does not extend to technical hydrographic analysis or detailed naval operations, although it considers the strategic implications of maritime security. It is primarily doctrinal in nature, grounded in legal interpretation and policy analysis, and limited to publicly available documents, legislative acts, and official international guidelines.

## **1.6 Methodology**

The research utilises a Black-letter Law methodology that adopts a doctrinal legal approach, analyzing primary and secondary legal sources, including UNCLOS, Philippine legislation, international judicial decisions, and official IMO resolutions. Key among these is Resolution MSC.71(69), which provides technical and procedural standards for ASL designation. The study also reviews relevant domestic jurisprudence, particularly Supreme Court rulings that interpret Philippine obligations under UNCLOS.

Additionally, a comparative legal method is employed, focusing on Indonesia's partial ASL designation and the status of ASL implementation among other archipelagic states. The analysis draws from international legal commentaries, scholarly articles, and official government submissions to the IMO. This mixed approach provides both a legal foundation and a policy-oriented assessment of the Philippines' strategic choices and obligations in ASL designation.



## 2. HISTORICAL AND DOCTRINAL CONTEXT: THE PHILIPPINE ARCHIPELAGIC DOCTRINE AND UNCLOS

### 2.1 Evolution of the Archipelagic Doctrine in Philippine Law

The formulation and evolution of the Philippine archipelagic doctrine emerged not only as a geographical necessity but also as a strategic response to the imperative of securing national sovereignty over an inherently fragmented maritime territory. With over 7,000 islands forming its territory, the Philippines confronted unique challenges in defining its territorial waters and asserting jurisdiction across the inter-island seas that bind its archipelago into a coherent national entity. This necessity catalyzed the development of domestic legislation that would later influence global norms codified in the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

The first concrete articulation of the Philippine archipelagic doctrine in domestic law came with Republic Act No. 3046, enacted in 1961. This statute, also known as the Baselines Law, was a groundbreaking legislative act in Southeast Asia. It adopted the method of drawing straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago.<sup>5</sup> Crucially, Section 2 of R.A. 3046 declared that all waters on the landward side of these baselines were internal waters, asserting full sovereignty over them irrespective of their width or configuration.<sup>6</sup>

This legislative measure was more than a technical method for drawing maritime boundaries; it was a political assertion of sovereignty and national unity. The preamble of the law emphasized that the waters “around, between, and connecting the islands of the Philippine archipelago, irrespective of their breadth and dimensions,” had been historically regarded as internal waters of the Philippines.<sup>7</sup> This statement encapsulated the national perspective that the archipelago was a single, unified geographical, economic, and political unit.

The law was later amended by Republic Act No. 5446 in 1968 to rectify typographical errors in the coordinates used in R.A. 3046. However, more significantly, R.A. 5446 inserted a political statement under Section 2 asserting that the baselines did not prejudice future claims over North Borneo (Sabah).<sup>8</sup> This provision linked the legal definition of the maritime territory to the broader geopolitical ambitions of the Philippines, demonstrating how maritime law could be instrumentalized for political and territorial claims.

The foundational concepts articulated in R.A. 3046 and R.A. 5446 ultimately informed and shaped the Philippine position during the Third United Nations

---

<sup>5</sup> See note 1

<sup>6</sup> Section 2, R.A. 3046

<sup>7</sup> Ibid, Preamble, R.A. 3046

<sup>8</sup> Martinez-Tria, M. (2022) . *Archipelagic Baselines and the Philippine Territory*. CentralBooks. p.45



Conference on the Law of the Sea (UNCLOS III). Together with Indonesia, Fiji, and Mauritius, the Philippines became one of the four principal advocates for the recognition of archipelagic states under international law. These countries jointly submitted a draft of archipelagic principles to the Seabed Committee, laying the groundwork for what would eventually become Part IV of UNCLOS.

The three principles submitted by the Philippines and its allies proposed: (1) the right to draw straight baselines connecting the outermost points of the archipelago; (2) the assertion that all waters within these baselines, including the seabed, subsoil, and superjacent airspace, belonged to the sovereignty of the archipelagic State; and (3) the recognition of the right of innocent passage for foreign vessels through designated sea lanes in accordance with national legislation and existing international law.<sup>9</sup>

This early advocacy by the Philippines played a pivotal role in embedding the archipelagic doctrine into the UNCLOS framework, providing a legal and normative foundation for asserting maritime sovereignty and managing navigational rights.

## 2.2 Archipelagic Principles under UNCLOS

Part IV of UNCLOS formalized the recognition of archipelagic States as a distinct legal category, providing them with a framework to assert their territorial and maritime rights while accommodating the navigational interests of other States. This section of the Convention codifies the criteria for the recognition of archipelagic States and establishes the rights and obligations that accompany such recognition.

Under Article 46 of UNCLOS, an “archipelagic State” is defined as a State constituted wholly by one or more archipelagos and may include other islands.<sup>10</sup> An “archipelago,” in turn, is defined as a group of islands, including parts of islands, interconnecting waters, and other natural features which are so closely interrelated that they form an intrinsic geographical, economic, and political entity.<sup>11</sup>

Article 47 sets forth the rules for drawing archipelagic baselines.<sup>12</sup> These baselines must connect the outermost points of the outermost islands and drying reefs, ensuring that the enclosed area maintains a water-to-land ratio between 1:1 and 9:1. Up to 3% of the baselines may exceed 100 nautical miles in length, but none may extend beyond 125 nautical miles. Additionally, the baselines must not depart appreciably from the general configuration of the archipelago, and they

---

<sup>9</sup> See note 1

<sup>10</sup> See note 2, Article 46(a), Part IV

<sup>11</sup> Ibid, Article 46(2)

<sup>12</sup> Ibid Article 47, Part IV



must not be drawn in a way that cuts off the territorial sea of another State from the high seas or its exclusive economic zone.<sup>13</sup>

Once drawn in accordance with Article 47, the waters enclosed by these baselines are designated as “archipelagic waters.” According to Article 49, archipelagic States exercise sovereignty over these waters, including the superjacent airspace and the seabed and subsoil beneath them.<sup>14</sup> This sovereignty, however, is subject to certain navigational rights held by other States. Notably, Article 52 guarantees the right of innocent passage through archipelagic waters<sup>15</sup> , and Article 53 establishes the right of archipelagic sea lanes passage (ASLP), through designated sea lanes and air routes used for continuous, expeditious, and unobstructed transit by foreign ships and aircraft.<sup>16</sup>

In the absence of officially designated ASLs, Article 53(12) provides that ASLP may still be exercised through routes “normally used for international navigation.” Thus, even without designation, archipelagic States cannot fully prevent transit through their waters by foreign vessels navigating customary routes.<sup>17</sup>

This nuanced legal framework was a compromise between the interests of maritime powers—which sought to preserve freedom of navigation—and the security and sovereignty concerns of archipelagic States like the Philippines. It allowed archipelagic States to enclose their inter-island waters without fragmenting their maritime jurisdiction, while maintaining minimum international access standards to satisfy global trade and military mobility.

### **2.3 Transition from Internal Waters to Archipelagic Waters**

One of the major legal and political dilemmas confronted by the Philippines after the adoption of UNCLOS was the transition in terminology and legal implications from “internal waters,” as traditionally defined in its Constitution, to “archipelagic waters,” as recognized under international law. The 1973 and 1987 Constitutions both describe the national territory as comprising the Philippine archipelago and all waters around, between, and connecting the islands, irrespective of breadth and dimensions.<sup>18</sup> This constitutional phrasing had historically been interpreted to mean that these waters were “internal” and thus fully under Philippine sovereignty, unencumbered by international navigation rights.

---

<sup>13</sup> Ibid

<sup>14</sup> Ibid Article 49(1), Part IV

<sup>15</sup> Ibid Article 52

<sup>16</sup> Ibid Article 53

<sup>17</sup> Ibid Article 53(12)

<sup>18</sup> 1973 Philippine Constitution, 1987 Philippine Constitution



However, such a domestic interpretation conflicted with the obligations accepted under UNCLOS, which the Philippines ratified in 1984. Under UNCLOS, archipelagic waters, while under the sovereignty of the archipelagic State, are subject to certain navigational rights for foreign vessels. This difference required a legal adjustment within Philippine law to reconcile domestic constitutional language with international commitments.

To resolve this, the Philippine Congress enacted Republic Act No. 9522 in 2009, also known as the “New Baselines Law.” This law amended R.A. 3046 and R.A. 5446 by aligning the Philippine baselines with Article 47 of UNCLOS. It identified 101 basepoints, based on technical assessments by the National Mapping and Resource Information Authority (NAMRIA), and adjusted the baselines to comply with the water-to-land ratio and other criteria specified in UNCLOS.<sup>19</sup>

While R.A. 9522 was a necessary step for UNCLOS compliance, it triggered constitutional challenges. Critics feared that by recognizing the waters within the baselines as “archipelagic waters” rather than “internal waters,” the law would diminish Philippine sovereignty and expose national waters to foreign navigational rights.

The matter reached the Supreme Court in the case of *Magallona v. Ermita*, where petitioners challenged the constitutionality of R.A. 9522. The Court upheld the law, ruling that the designation of waters as “archipelagic” under international law does not reduce Philippine sovereignty but merely subjects it to internationally accepted norms, such as the rights of innocent passage and ASLP.<sup>20</sup> The Court emphasized that sovereignty under international law is still preserved, including over the seabed, subsoil, and airspace, and that the use of international terminology was a strategic and lawful adjustment rather than a diminution of territorial integrity.<sup>21</sup>

Furthermore, the Court observed that the Philippine position under UNCLOS provides greater juridical coherence, as it unifies the archipelago under a single legal maritime regime. Without such a unified regime, each island in the archipelago would individually generate its own maritime zones, creating large expanses of “international waters” between islands separated by more than 24 nautical miles. The recognition of archipelagic waters ensures that these waters remain under Philippine jurisdiction and are treated as part of a singular geographic and legal entity.

This evolution—from asserting internal waters in defiance of international norms, to recognizing archipelagic waters with internationally conditioned

---

<sup>19</sup> Article 1, R.A. 9522

<sup>20</sup> *Merlin M. Magallona et al. v. Eduardo Ermita et al.*, GR NO. 187167, July 16, 2011, J. Carpio

<sup>21</sup> *Ibid*



sovereignty—represents a mature balancing of domestic constitutional mandates with multilateral legal obligations.

## **2.4 Strategic and Legal Implications of the Archipelagic Concept**

The Philippines' legal recognition of the Philippines as an archipelagic State under the United Nations Convention on the Law of the Sea (UNCLOS) represents a pivotal transformation in the country's assertion of maritime sovereignty and jurisdiction. This shift from a traditional coastal State perspective to an archipelagic State model, endorsed under Part IV of UNCLOS, has not only harmonized the Philippines' domestic maritime laws with international legal standards but has also enabled the State to consolidate its scattered islands and waters into a unified maritime domain.

The strategic implications of this status are extensive. By drawing straight baselines that connect the outermost points of its outermost islands and reefs, the Philippines can now measure maritime entitlements—territorial sea, contiguous zone, exclusive economic zone (EEZ), and continental shelf—from a consolidated outer perimeter. These entitlements carry sovereign rights over the water column, air space, seabed, and subsoil, particularly in archipelagic waters and zones beyond them.

Moreover, this reconfiguration provides the legal basis for a more coherent national maritime policy and strengthens the Philippines' position in regional and international disputes, such as those in the South China Sea. It also enables the effective regulation of foreign access to Philippine waters, ensuring that navigational rights under UNCLOS are balanced with national security and environmental protection.

In economic terms, the Philippines' archipelagic status expands its control over valuable marine resources, including fisheries, hydrocarbons, and seabed minerals. The legal assertion of rights over these resources was prominently demonstrated in the successful claim over the Benham Rise (now Philippine Rise), where the Philippines gained recognition of its extended continental shelf (ECS) beyond 200 nautical miles.

From a geopolitical standpoint, this legal transformation empowers the Philippines to engage in multilateral maritime governance as a legitimate and authoritative actor. However, to maximize these strategic gains, the Philippines must fulfill complementary responsibilities under UNCLOS, such as the designation of Archipelagic Sea Lanes (ASLs), which remains pending. The failure to designate ASLs continues to erode the country's sovereignty over archipelagic waters by allowing unregulated passage along routes used for international navigation.

Thus, while the archipelagic concept provides an advantageous legal and strategic framework, it also places a corresponding duty on the Philippines to



develop and enforce national legislation, infrastructure, and policies that support its international commitments and enhance maritime governance.

### 2.4.1 Maritime Zone Consolidation

The adoption of the archipelagic doctrine under UNCLOS and its incorporation into Philippine domestic law through Republic Act No. 9522 have enabled the Philippines to redefine the spatial limits of its maritime zones in a unified and strategic manner. This consolidation is a direct result of the straight baseline method permitted under Article 47 of UNCLOS, which allows archipelagic States to draw baselines around their island groups and use these as starting points for measuring maritime entitlements.

Before the acceptance of the archipelagic concept, the Philippine islands could only individually generate maritime zones. This piecemeal approach created vulnerabilities in sovereignty claims and enforcement mechanisms. Each island's limited entitlement to maritime zones often left intervening waters and resources exposed to the high seas regime or potential overlapping claims by neighboring States. Furthermore, individual zone calculations lacked the coherence necessary for integrated maritime governance.

With the enactment of R.A. 9522, the Philippines identified and utilized 101 basepoints to define its archipelagic baselines. These points were determined in accordance with the guidelines of UNCLOS, and their configuration met the ratio and geographic coherence requirements of the treaty. The National Mapping and Resource Information Authority (NAMRIA) played a central role in conducting the technical mapping necessary to fulfill these criteria.

This reform reclassified the internal waters enclosed by the old baseline system as "archipelagic waters." These waters now fall under the sovereignty of the Philippine State, including the rights over the air space above them and the seabed and subsoil below, in accordance with Article 49 of UNCLOS. Although sovereignty over archipelagic waters is not absolute—being subject to navigational rights such as innocent passage and archipelagic sea lanes passage — the transformation significantly enhances national jurisdiction.

From these archipelagic baselines, the Philippines now formally claims the full suite of maritime zones:

- **12 nautical miles (NM) of territorial sea**, where the Philippines exercises sovereignty akin to its land territory;<sup>22</sup>
- **24 NM of contiguous zone**, allowing the State to enforce customs, fiscal, immigration, and sanitary laws;<sup>23</sup>

---

<sup>22</sup> See note 2, Article 3, Part II

<sup>23</sup> Ibid Article 33(2), Part II



- **200 NM of exclusive economic zone (EEZ)**, granting exclusive rights to explore and exploit marine and energy resources;<sup>24</sup>
- **Up to 350 NM of continental shelf**, encompassing rights over the seabed and subsoil for mineral and geological exploration.<sup>25</sup>

This systematic delineation secures Philippine maritime interests and facilitates coordinated governance over an otherwise geographically fragmented archipelago. It also strengthens the State's diplomatic and legal position in asserting jurisdiction in contested zones, especially in areas such as the West Philippine Sea.

Additionally, this consolidation mitigates risks of overlapping claims and aligns Philippine maritime boundaries with accepted international practices. It enables efficient resource management, maritime enforcement, and environmental protection across a broad and contiguous maritime domain. By legally integrating its waters and islands into a single archipelagic unit, the Philippines asserts a comprehensive and unified national maritime identity.

#### 2.4.2 Control Over Natural Resources

The economic dimension of the archipelagic doctrine manifests in the Philippines' enhanced ability to claim and utilize marine and seabed resources within its maritime jurisdiction. UNCLOS confers upon archipelagic States like the Philippines sovereign rights to explore, exploit, conserve, and manage living and non-living resources within their EEZ and continental shelf. This is not only a legal entitlement but also a strategic imperative given the country's dependence on marine resources for food security, energy supply, and economic development.

Within its **200-nautical-mile EEZ**, the Philippines exercises sovereign rights over fish stocks, marine biodiversity, and subsoil resources such as oil and gas.<sup>26</sup> The archipelagic baseline system under R.A. 9522 serves as the foundation for measuring this entitlement, anchoring the legal claims in international law.

However, perhaps the most striking demonstration of resource-related sovereignty is the Philippine claim over the **Benham Rise**, an undersea region located east of Luzon that lies beyond the EEZ but within the permissible limits of the extended continental shelf (ECS) under Article 76 of UNCLOS.<sup>27</sup> The continental shelf, as defined, comprises the seabed and subsoil of submarine areas that extend beyond 200 NM from the baselines, provided the State can demonstrate a natural prolongation of its landmass.<sup>28</sup>

---

<sup>24</sup> Ibid Article 57, Part V

<sup>25</sup> Ibid Article 76(1), Part VI

<sup>26</sup> Ibid Article 57, Part V

<sup>27</sup> Ibid Article 76, Part VI

<sup>28</sup> Ibid Article 76(1), Part VI



In compliance with UNCLOS requirements, the Philippines submitted a partial claim to the **Commission on the Limits of the Continental Shelf (CLCS)** for the Benham Rise area. This submission included hydrographic, geological, and geophysical data that validated the natural prolongation of the Philippine landmass.<sup>29</sup> The CLCS, upon review, recognized the legitimacy of the claim and approved the submission, granting the Philippines sovereign rights to explore and exploit the area's natural resources.

This recognition holds immense significance. It confirms the validity of the archipelagic baseline system adopted under R.A. 9522, as these baselines were the reference points for defining the ECS claim. Furthermore, it legitimizes Philippine jurisdiction over an additional 150 NM of seabed, which is believed to contain rich deposits of hydrocarbons and other minerals. The area has since been renamed the **Philippine Rise** through Executive Order No. 25 issued in 2017, further cementing its place within the Philippine national territory and strategic doctrine.<sup>30</sup>

The successful ECS claim underscores the importance of adhering to international law and processes. It demonstrates how UNCLOS mechanisms, when effectively utilized, can yield tangible gains in sovereign jurisdiction. Moreover, it affirms the Philippines' capability to undertake rigorous scientific, legal, and diplomatic work necessary to protect and advance its national interests. This success also serves as a blueprint for future engagements in maritime boundary delimitation, seabed mapping, and the management of natural resources. It exemplifies how the strategic application of international legal norms can yield substantial dividends in territorial assertion and resource control. Beyond hydrocarbons, the Philippine Rise and other ECS areas hold ecological value. They are potential sites for marine scientific research, sustainable fisheries, and conservation programs. The Philippines, as a steward of these spaces, bears the responsibility to manage them not only for national benefit but also in accordance with global sustainability commitments under UNCLOS Articles 192 and 194.

Ultimately, the consolidation of maritime zones and control over natural resources—both living and non-living—highlights the profound strategic and legal implications of the archipelagic concept. It transforms the Philippines from a geographically fragmented collection of islands into a unified maritime State with expansive rights, responsibilities, and opportunities across one of the most geopolitically dynamic regions of the world.

#### **2.4.3 Legal and Political Leverage in Maritime Disputes**

The Philippines' assertion of its status as an archipelagic State, underpinned by its UNCLOS-compliant baselines, provides the country with a robust legal

<sup>29</sup> Executive Summary of Extended Continental Shelf , Submission of the Republic of the Philippines

<sup>30</sup> Executive Order No. 25



framework to defend its maritime entitlements. The most illustrative case of this leverage is the Philippines' legal victory in its arbitration against China before the Permanent Court of Arbitration (PCA) in 2016. In this case, the Tribunal found that China's claim to historic rights within the nine-dash line was incompatible with UNCLOS. The PCA ruled definitively that "China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the 'nine-dash line' are contrary to the Convention and without lawful effect".<sup>31</sup> This ruling legally invalidated China's expansive maritime claims and affirmed that UNCLOS is the sole governing instrument for maritime entitlements in the South China Sea. Crucially, the decision also affirmed the validity of the Philippines' maritime entitlements, including those generated from its archipelagic baselines under Republic Act No. 9522. In doing so, it endorsed the Philippines' archipelagic status and the legitimacy of its maritime zones extending from those baselines.

By resorting to a legal and rules-based mechanism such as the PCA, the Philippines demonstrated its commitment to international law and enhanced its standing in the global community. This compliance and alignment with UNCLOS affords the Philippines greater moral and political capital when seeking diplomatic support from other States. In contrast to China's disregard for the Tribunal's decision, the Philippines has positioned itself as a principled actor that abides by the rule of law—thus gaining favor with like-minded States that value freedom of navigation and the integrity of the UNCLOS framework.

The PCA award also becomes a powerful diplomatic tool in multilateral forums and bilateral negotiations. It enables the Philippines to frame its maritime claims as lawful, predictable, and consistent with international legal norms, while portraying contrary claims—particularly those based on vague historical assertions—as illegitimate. Furthermore, the legal imprimatur on the Philippines' baseline law and extended continental shelf claims (such as the Philippine Rise) serves to reinforce the international recognition of its maritime jurisdiction. This legal and political leverage, however, must be sustained through coherent legislative and administrative actions—including the designation of Archipelagic Sea Lanes (ASLs). Failure to exercise this prerogative could undercut the gains made in international litigation and weaken the Philippines' negotiating position in future disputes involving maritime access, sovereignty, or environmental regulation.

#### **2.4.4 Balancing Sovereignty with Navigational Rights**

The archipelagic regime under UNCLOS is a legal construct designed to harmonize two seemingly conflicting imperatives: the sovereignty of the archipelagic State and the freedom of navigation for the international community. This duality is enshrined in Articles 49 to 53 of UNCLOS. While

~~Article 49 grants~~—————

<sup>31</sup> Republic of the Philippines vs People's Republic of China; PCA Case No. 2013-19; July 12, 2016



sovereignty over archipelagic waters, seabed, subsoil, and airspace to the archipelagic State, this sovereignty is not absolute. It is subject to the exercise of navigational rights, particularly the right of innocent passage and archipelagic sea lanes passage (ASLP).

Article 53 of UNCLOS permits archipelagic States to designate sea lanes and air routes suitable for the continuous and expeditious passage of foreign ships and aircraft through their archipelagic waters.<sup>32</sup> These lanes are intended to accommodate the longstanding practice of international navigation while preserving the territorial integrity of the archipelagic State. If no such sea lanes are designated, then ASLP may be exercised through all routes normally used for international navigation (Article 53(12)).<sup>33</sup> This provision presents a legal and strategic dilemma. On the one hand, it acknowledges the right of the archipelagic State to regulate transit through its waters. On the other hand, it guarantees continued access to foreign vessels through “normal routes” unless and until formal ASLs are designated. In practice, this means that without an ASL designation, foreign ships—including military vessels—retain broad navigational rights across all potentially sensitive zones in archipelagic waters.

The Philippines, despite its archipelagic status and the enactment of R.A. 9522, has yet to designate ASLs. This inaction constrains its ability to direct maritime traffic and enforce environmental, security, or safety regulations in a strategic and jurisdictionally sound manner. The result is a *de facto* scenario in which user States continue to exercise extensive navigational rights while the Philippines remains unable to impose route-specific regulations.

Proper ASL designation would enable the Philippines to channel foreign vessel movement through predefined passages, thereby enhancing maritime domain awareness. It would also allow for the imposition of lawful conditions on passage—such as requiring submerged submarines to navigate on the surface or restricting the transit of hazardous materials—while still complying with UNCLOS. This capability is especially relevant given the growing geopolitical tensions in the South China Sea and the increasing frequency of foreign naval patrols and military maneuvers near Philippine waters.

In sum, the archipelagic regime’s promise of sovereignty is contingent upon the proactive implementation of its procedural requirements. Until ASLs are formally designated and internationally recognized, the Philippines cannot fully assert the regulatory rights that UNCLOS affords archipelagic States. Legislative and administrative inertia in this regard may ultimately erode the very sovereignty that the archipelagic doctrine seeks to protect.

---

<sup>32</sup> See note 2, Article 53

<sup>33</sup> *Ibid* Article 53(12)



#### **2.4.5 Security Dimensions of Archipelagic Sovereignty**

The archipelagic framework under UNCLOS has direct implications for national security. By recognizing the archipelago as a cohesive unit from which maritime zones are measured, the Philippines can exert jurisdiction over large swathes of sea space that encompass vital military installations, trade routes, and strategic chokepoints. However, this legal recognition is effective only to the extent that it is matched by operational control. The designation of ASLs is a key component in asserting that control. Without designated lanes, the Philippines lacks a mechanism to direct or monitor the movement of foreign vessels, including warships, within its archipelagic waters. This scenario poses serious risks in terms of unregulated military transit, espionage, or accidental conflict—particularly in sensitive areas such as the West Philippine Sea.

The potential for unauthorized or provocative military passage was highlighted by Indonesia's experience with foreign military aircraft transiting non-designated passage in its archipelagic waters. Despite Indonesia's partial designation of ASLs, the lack of enforcement capacity and the non-inclusion of all major transit routes allowed for continued ambiguity and exploitation by user States. The Philippines could face similar vulnerabilities unless it takes proactive measures to map, designate, and regulate transit passage.

The ability to impose lawful conditions on passage—such as requiring that nuclear-powered ships or submarines provide prior notification, or that vessels carrying dangerous cargo comply with environmental protocols—is contingent on having ASLs in place. Without them, the Philippines has little recourse to monitor or prevent activities that may jeopardize its national security or violate its environmental laws. Moreover, designating ASLs would bolster maritime domain awareness. It would enable the deployment of surveillance tools, such as coastal radars and Automatic Identification Systems (AIS), along designated routes. This infrastructure would support the Philippine Navy, Coast Guard, and maritime law enforcement agencies in conducting effective patrols, interdictions, and incident responses within the country's maritime jurisdiction.

From a regional security perspective, the Philippines' ability to control transit within its waters has implications for broader Southeast Asian stability. Unregulated military movements through archipelagic waters may trigger diplomatic tensions or inadvertent escalation, especially amid ongoing disputes in the South China Sea. A formal ASL regime would offer clarity and predictability for all parties, reducing the likelihood of conflict while reinforcing the Philippines' sovereign rights under international law.

#### **2.4.6 Environmental and Governance Considerations**

The environmental dimension of archipelagic sovereignty is often underappreciated but profoundly significant. The Philippines is home to a



significant portion of the Coral Triangle, recognized as one of the most biodiverse marine regions in the world. The archipelagic regime, by enclosing these waters within a framework of sovereign jurisdiction, grants the Philippines the authority—and the obligation—to manage and protect these resources.

Articles 192 and 194 of UNCLOS oblige States to protect and preserve the marine environment, including by preventing pollution from vessels and land-based sources. Without designated ASLs, however, the Philippines cannot fully implement or enforce such protections. Vessels transiting through ecologically sensitive zones may pose risks such as oil spills, anchor damage to coral reefs, or the introduction of invasive species through ballast water. Designating ASLs would allow the Philippines to divert maritime traffic away from marine protected areas and critical habitats.

In terms of governance, a formal ASL designation would provide a framework for integrating environmental, navigational, and economic priorities. It would enable the zoning of maritime space, facilitating the coexistence of conservation efforts with maritime industries, such as shipping, tourism, and fisheries. For example, a passage could be aligned to avoid areas of high fishing activity or to support the development of vessel traffic management systems (VTMS) that reduce the risk of collisions and groundings.

The exercise of environmental stewardship also reinforces the Philippines' compliance with its broader obligations under UNCLOS and related multilateral environmental agreements. It signals to the international community that the Philippines is a responsible maritime actor capable of managing its vast marine domain in a sustainable and legally coherent manner.

Failure to act, by contrast, exposes the country to reputational and practical risks. In the absence of designated ASLs, any incident involving pollution or ecological harm caused by foreign vessels may fall into a legal gray area, limiting the Philippines' capacity to seek redress or impose penalties. Furthermore, unregulated vessel traffic undermines national efforts to monitor the impacts of climate change, enforce fisheries laws, and collect the data necessary for marine spatial planning.

In conclusion, the full operationalization of the archipelagic doctrine—through the timely and strategic designation of archipelagic sea lanes—is critical not only for legal and political reasons but also for ensuring environmental protection, maritime safety, and resource sustainability in Philippine waters.

### **3. LEGAL FRAMEWORK GOVERNING ARCHIPELAGIC SEA LANES PASSAGE (ASLP)**

#### **3.1 UNCLOS and the Archipelagic State Regime**



The United Nations Convention on the Law of the Sea (UNCLOS) provides the foundational legal structure for the maritime governance of archipelagic states. Part IV of UNCLOS, comprising Articles 46 to 54, defines the archipelagic state regime and articulates the sovereign rights of such states over their land, water, airspace, seabed, and subsoil, while also establishing the obligations of other states that transit through their archipelagic waters.

Under Article 46, an archipelagic state is defined as a state constituted wholly by one or more archipelagos and may include other islands.<sup>34</sup> This provision is pivotal for states like the Philippines and Indonesia, which comprise thousands of dispersed islands forming a unified geopolitical entity. Article 47 permits such states to draw straight baselines joining the outermost points of the outermost islands and drying reefs, provided certain criteria are met.<sup>35</sup> These include ensuring the enclosed area maintains a water-to-land ratio between 1:1 and 9:1, and that the baseline lengths do not exceed specific limits, except for 3% of the baselines, which may reach up to 125 nautical miles.<sup>36</sup>

Importantly, Article 49 vests sovereignty in the archipelagic state not only over the landmass but also the waters enclosed by the baselines—referred to as archipelagic waters—as well as the airspace above and the seabed and subsoil beneath. However, this sovereignty is qualified by the need to respect internationally recognized rights of navigation. These include the right of innocent passage (Article 52) and the right of archipelagic sea lanes passage (ASLP), enshrined in Article 53. The latter grants all ships and aircraft the freedom to navigate and overfly through designated sea lanes in the normal mode of operation, subject to specified constraints.

Article 54 further outlines the duties of ships and aircraft during ASLP, including the prohibition of activities inconsistent with the purpose of passage, such as unauthorized research or military exercises.<sup>37</sup> It also specifies the legislative obligations of archipelagic states, ensuring that their national laws do not hinder or restrict the freedom of passage guaranteed under international law.<sup>38</sup>

Collectively, these provisions strike a balance between the sovereign interests of the archipelagic state and the international community's demand for freedom of navigation and overflight, which is particularly critical for global trade and security.

---

<sup>34</sup> Ibid Article 46, Part IV

<sup>35</sup> Ibid Article 47, Part IV

<sup>36</sup> Pedrozo, R. (2021). Archipelagic States. International Law Studies. Stockholm Center for International Law. Vol. 97, p.13

<sup>37</sup> See note 2, Article 54, Part IV

<sup>38</sup> Ibid



### 3.2 Nature and Scope of Archipelagic Sea Lanes Passage

Archipelagic Sea Lanes Passage (ASLP) is a distinct navigational regime under UNCLOS. Unlike innocent passage or transit passage, ASLP pertains exclusively to archipelagic waters and applies uniformly to all vessels, including warships, submarines, and aircraft. Its uniqueness lies in the nature of the passage, which must be continuous, expeditious, and unobstructed, in contrast to innocent passage, which may be suspended or denied in certain conditions.

The "normal mode" requirement embedded in Article 53 means that submarines may navigate submerged and aircraft may overfly at operational altitudes, signifying a concession by archipelagic states in exchange for recognition of their sovereignty over their entire archipelagic body.<sup>39</sup> Furthermore, once ASLs are designated, the passage cannot be suspended—a limitation not applicable to innocent passage. Article 53(3) also imposes spatial restrictions: vessels and aircraft must not deviate more than 25 nautical miles from the axis line and must stay at least 10% of the distance between coastal islands when navigating near the shores. This creates a secure and predictable routing mechanism for international navigation.<sup>40</sup>

Importantly, Article 53(12) specifies that if an archipelagic state has not designated ASLs, the right of ASLP remains exercisable through all routes normally used for international navigation or overflight.<sup>41</sup> Therefore, non-designation does not preclude the exercise of ASLP; instead, it shifts the control from the archipelagic state to international norms, effectively reducing the state's regulatory capacity over foreign transit.

### 3.3 IMO's Role in the ASL Designation Process

The International Maritime Organization (IMO) serves as the designated competent international organization under UNCLOS Article 53(9), tasked with overseeing the procedural and technical aspects of ASL designation. In response to UNCLOS mandates, the IMO adopted Resolution MSC.71(69), which contains the **General Provisions for the Adoption, Designation, and Substitution of Archipelagic Sea Lanes (GPASL)**. This resolution, issued on May 19, 1998, integrates ASL designation into the global ship routing system and provides a framework of seven key parts:<sup>42</sup>

1. Objectives
2. Definition of Terms

---

<sup>39</sup> Ibid Article 53(3), Part IV

<sup>40</sup> Ibid

<sup>41</sup> Ibid Article 53(12), Part IV

<sup>42</sup> GPASL 2.2. (2), Resolution MSC. 71(69)



3. Procedures and Responsibilities
4. Criteria for Consideration and Adoption of Proposals<sup>25</sup>
5. Substitution of ASLs and Traffic Separation Schemes (TSS)
6. Use of ASLs and Normal Passage Routes
7. Representation on Charts

The GPASL requires archipelagic states to consult with user states and international bodies such as the International Hydrographic Organization (IHO) and the IMO's Maritime Safety Committee (MSC) before submitting ASL proposals. These consultations ensure that designated lanes accommodate existing maritime traffic patterns and comply with safety and navigational standards. IMO then assesses the proposals and, if compliant, approves them for international recognition and publication. This process promotes transparency and predictability in maritime navigation, thereby enhancing safety, security, and environmental protection in international waters.

### 3.4 Indonesia's Partial ASL Designation

Indonesia remains the only archipelagic state to have formally submitted ASLs to the IMO, doing so in 1996.<sup>43</sup> However, Indonesia's designation was approved as a "Partial ASL" due to its failure to include all routes normally used for international navigation, as required by Articles 53(4) and 53(12) of UNCLOS. This designation was formalized through the GPASL and led to the issuance of IMO's "Guidance for Ships Transiting Archipelagic Waters."

Indonesia's submission covered three north–south sea lanes linking (1) the South China Sea to the Indian Ocean, (2) the Celebes Sea to the Indian Ocean, and (3) the Pacific Ocean to the Indian Ocean via the Timor and Arafura Seas.<sup>44</sup> However, it conspicuously omitted critical east–west routes, particularly those traversing the Java Sea—an area crucial for global trade and home to strategic economic and military assets, including Jakarta.<sup>45</sup> This omission was raised by user states such as the United States and Australia, who argued that the non-inclusion undermined the intent of UNCLOS, which requires the designation of **all normal routes used for international navigation**.<sup>46</sup>

---

<sup>43</sup> Puspitawati, D. (2018). Indonesia's Archipelagic Sea Lanes (ASLs) Designation: Rights Turning to Obligations?. *Asanuddin Law Review*. Brawijaya University, Indonesia. Vol.4, issue 3. p273

<sup>44</sup> Forward, C. (2009). Archipelagic Sea Lanes Indonesia – Their Legality in International Law. *Australia & New Zealand Maritime Law Journal*, 23(2). (pp. 143-156)

<sup>45</sup> Kerr A., (1998). Observations on the Implementation of Archipelagic Sea Lanes. *International Hydrographic Review*. LXXV(2), p99

<sup>46</sup> Ibid



The GPASL stipulates that in cases of partial designation, the IMO maintains jurisdiction until the archipelagic state submits a complete proposal. This continuing jurisdiction highlights the importance of comprehensive designation and the limits of unilateral action. Indonesia’s domestic legislation—namely Act 6 of 1996 and its 2002 Government Regulation on the Rights and Obligations of Foreign Ships and Aircraft—forms the legal basis for its ASL framework. However, the effectiveness of Indonesia’s partial designation has been questioned, as user states may still invoke their right to ASLP along traditional routes, rendering the control mechanisms of the partial ASL ineffective. Thus, the partial designation is seen as undermining the regulatory objectives of ASLP.

Moreover, the concept of “Partial ASL” is not explicitly found in UNCLOS itself but only in the IMO’s implementing resolution GPASL. This raises critical legal questions about whether the IMO has exceeded its authority by introducing terms and frameworks not sanctioned by the parent convention. While this issue has not been formally raised at the IMO, it represents a potential area for legal scrutiny.

Indonesia’s experience serves as a cautionary precedent for other archipelagic states. Its limited designation demonstrates that without complete ASLs, an archipelagic state cannot effectively exercise regulatory control over maritime traffic within its waters. This precedent highlights the importance of adhering to both UNCLOS and GPASL in future designations.

### 3.5 ASLP and the Philippines’ Legal Obligations

The Philippines, as an archipelagic state and a signatory to the United Nations Convention on the Law of the Sea (UNCLOS), carries a dual responsibility—both sovereign and international—concerning the management of its archipelagic waters. At the heart of this responsibility lies the obligation under **Article 53** of UNCLOS to designate **Archipelagic Sea Lanes (ASLs)**. These lanes provide the routes through which foreign ships and aircraft may exercise the **right of archipelagic sea lanes passage (ASLP)**. While UNCLOS grants archipelagic states sovereignty over the waters within their archipelagic baselines, that sovereignty is not absolute. It is qualified by the obligation to allow certain navigational rights in the interest of international navigation.

As of today, however, the Philippines has not yet designated its own ASLs. This failure constitutes a major gap in its compliance with international maritime law, as well as a missed opportunity to exercise greater regulatory control over foreign navigation in its waters. The absence of designated sea lanes means that foreign vessels and aircraft may exercise ASLP through “routes normally used for international navigation,” as provided under **Article 53(12)** of UNCLOS.<sup>47</sup>

---

<sup>47</sup> See note 2, Article 53(12)



Consequently, this situation severely limits the country’s ability to direct, monitor, or restrict maritime and aerial traffic within its own territory.

Although the country enacted **Republic Act No. 9522** (the New Baselines Law) in 2009 to bring its domestic laws into conformity with UNCLOS— particularly with **Articles 47 and 48**—the law did not include provisions on the designation of sea lanes or the regulation of ASLP. The legal and strategic implications of this omission are profound, ranging from environmental exposure and compromised national defense to diminished leverage in foreign policy.

### 3.5.1 Legal Basis and Sovereignty Considerations

Republic Act No. 9522, passed in 2009, redefined the Philippine archipelagic baselines in accordance with UNCLOS, particularly **Article 47**, which provides for straight baselines connecting the outermost points of the outermost islands. This law amended **Republic Act No. 3046**, which had initially established the straight baseline system, and its amendment, **R.A. 5446**. The primary objective of R.A. 9522 was to align Philippine domestic law with international maritime standards. However, the legislation was silent on one of the most critical elements of the archipelagic regime: the **designation of Archipelagic Sea Lanes (ASLs)**.

While sovereignty over archipelagic waters is affirmed by **Article 49** of UNCLOS, this sovereignty is conditioned by the obligation to respect certain navigational rights. Specifically, the **right of archipelagic sea lanes passage (ASLP)** permits continuous, expeditious, and unobstructed passage of foreign ships and aircraft through designated lanes.<sup>48</sup> In the absence of such designation, **Article 53(12)** of UNCLOS provides that foreign vessels and aircraft retain the right to pass through all routes normally used for international navigation and overflight.<sup>49</sup> This default scenario places the Philippines at a disadvantage. Without designated ASLs, the country has no mechanism to restrict the paths taken by foreign warships, submarines, and aircraft traversing its waters. These routes are not subject to Philippine oversight or regulation unless the vessels deviate from routes traditionally used for international navigation—an exception difficult to monitor without a legally defined passage.

The Philippine Supreme Court has addressed this issue in **Magallona v. Ermita**, upholding the constitutionality of R.A. 9522 and recognizing the need to align national sovereignty with international obligations.<sup>50</sup> The Court stated that sovereignty exercised over archipelagic waters must be consistent with the rights of other states under international law. It noted that the **right of innocent passage and the right of ASLP** continue to apply within these waters, regardless of their domestic classification as internal waters or archipelagic waters.<sup>51</sup> This

---

<sup>48</sup> Ibid Article 53, Part IV

<sup>49</sup> Ibid Article 53(12), Part IV

<sup>50</sup> See note 20

<sup>51</sup> Ibid



jurisprudence confirms a critical point: sovereignty over archipelagic waters, though affirmed under both domestic law and UNCLOS, is not a complete freedom to deny international maritime rights. The Philippines cannot refuse passage to foreign vessels simply on the basis of sovereignty. Rather, it must abide by international rules, which underscore the importance of passing domestic legislation to define and regulate ASLs. Absent such legal instruments, the country risks forfeiting its capacity to enforce maritime laws or influence the patterns of foreign navigation through its territory.

Further complicating matters is the divergence between Philippine domestic law and UNCLOS. The 1987 Philippine Constitution describes the waters connecting the islands of the archipelago as “internal waters,” suggesting full sovereignty and control.<sup>52</sup> In contrast, UNCLOS classifies such waters as “archipelagic waters,” where navigational rights apply. This discrepancy has led to legal ambiguity, with the Supreme Court offering a reconciliatory stance: whether called internal or archipelagic, the waters fall under Philippine sovereignty—but one constrained by international obligations.

In summary, the Philippines’ legal obligation to respect ASLP is clear, both under UNCLOS and domestic jurisprudence. The lack of legislative action to designate sea lanes not only violates this obligation but also weakens the country’s ability to assert sovereignty in a legally sustainable and internationally recognized manner.

### 3.5.2 Strategic and Operational Implications

The strategic and operational consequences of not designating ASLs are significant. The absence of a formal sea lanes system hampers the Philippines’ ability to assert control over its maritime territory in meaningful ways. Without ASLs, foreign military and commercial vessels may navigate at will through routes of their own choosing, constrained only by the vague standard of “normal routes used for international navigation.” This undermines maritime domain awareness and restricts the country’s capacity to enforce regulations pertaining to environmental protection, national security, and navigational safety.

In heavily trafficked areas such as the **West Philippine Sea**, **Sulu Sea**, and **Philippine Rise**, the need for traffic management is particularly acute. These zones are not only strategic military passages but also host ecologically sensitive habitats and serve as critical zones for fisheries and marine biodiversity. The unregulated passage of foreign vessels—especially those carrying hazardous materials or engaging in military surveillance—poses severe risks to both the environment and national defense.

---

<sup>52</sup> Article 1, 1987 Philippine Constitution



Designating ASLs would allow the Philippines to direct maritime traffic through the specified passage. This would enable the government to deploy surveillance technologies such as **Automatic Identification Systems (AIS)**, **coastal radars**, and **satellite monitoring systems** more efficiently.<sup>53</sup> Concentrating these resources along designated lanes enhances the country's ability to detect, track, and intercept suspicious or unauthorized activities.

Furthermore, the lack of designated ASLs creates loopholes in law enforcement. Foreign warships or submarines can transit through the Philippine archipelagic waters submerged and without prior notification. This is because, under ASLP, submarines are not required to navigate on the surface or show their flag unless a specific ASL is designated with such conditions. Similarly, foreign aircraft may overfly Philippine territory at operational altitudes without informing the Philippine authorities. This situation not only impedes maritime security but also violates the principles of state control over airspace and marine activities. In a time of increasing geopolitical tension and military competition in Southeast Asia, particularly involving the **South China Sea disputes**, the Philippines cannot afford to leave such critical gaps unaddressed.

Moreover, from a policy implementation standpoint, the absence of ASLs means that the country cannot impose supplementary regulations—such as environmental safeguards, reporting protocols, or speed restrictions—on foreign vessels. These measures, permitted under UNCLOS within designated sea lanes, are essential for marine conservation and navigational safety. The Philippines is thus deprived of a vital regulatory tool that could mitigate maritime pollution, prevent accidents, and curb illegal activities such as smuggling or unauthorized research.

Another pressing issue is the disparity in implementation among archipelagic states. **Indonesia**, for instance, has designated partial ASLs and submitted them to the International Maritime Organization (IMO). While its designation remains incomplete, it still allows Jakarta to exercise some control over maritime transit through its waters and to condition passage in a manner consistent with national security interests. The Philippines, by contrast, lacks such a structure in place, thereby placing it at a disadvantage in regional maritime governance and diplomacy.

Additionally, the **absence of clear domestic legislation** identifying or delineating internal waters, archipelagic waters, territorial sea, contiguous zone, EEZ, and continental shelf complicates the situation further. This legal gap hinders the formal establishment of ASLs, which are typically situated within these maritime zones. A coherent legal framework defining these areas must precede or

---

<sup>53</sup> Section 14, Senate Bill 2665



accompany ASL designation to ensure full compliance with UNCLOS and to support enforcement mechanisms.

Despite these operational challenges, ongoing legislative efforts may provide the necessary legal scaffolding. **Senate Bill No. 2492**, **House Bill No. 7819**, and the proposed **Philippine Maritime Zones Act** are intended to define maritime zones in accordance with UNCLOS. These measures, once enacted, can form the legal basis for subsequent ASL designation. Still, the current delay leaves the country vulnerable in the interim.

In conclusion, the Philippines' failure to designate ASLs carries deep strategic and operational costs. It exposes the nation to unregulated foreign navigation, weakens enforcement of maritime laws, and diminishes its standing in regional maritime affairs. Addressing this gap through immediate legislative and executive action is not merely a matter of legal compliance—it is a critical step toward safeguarding national security, promoting sustainable maritime governance, and asserting sovereign rights in a contested and increasingly congested maritime domain.

### 3.5.3 Comparative Lessons and Policy Imperatives

The case of Indonesia provides valuable lessons for the Philippines. Indonesia's experience with partial ASL designation illustrates both the challenges and opportunities inherent in engaging with UNCLOS mechanisms. While Indonesia was able to assert regulatory authority over certain maritime passages, its decision to omit critical east–west routes has subjected it to international scrutiny and limited its ability to control foreign navigation in strategic areas such as the Java Sea.

The Philippines risks facing similar limitations if it continues to refrain from designating its ASLs. Although sovereignty is retained over archipelagic waters, regulatory effectiveness is significantly diminished. The international community, particularly user states such as the United States, the United Kingdom, and Australia, expect archipelagic states to comply with UNCLOS in both letter and spirit. Designating ASLs not only demonstrates compliance but also enhances diplomatic credibility and maritime governance.

Moreover, from a defense and security perspective, ASL designation allows the Philippines to reconcile its sovereignty concerns with the practical need for international navigation. It enables the government to define specific passages for foreign transit while ensuring that sensitive areas—such as naval bases, maritime chokepoints, and marine biodiversity zones—are protected. Without this structure, Philippine waters remain vulnerable to unregulated transit, potential surveillance, and environmental degradation.



From a policy standpoint, the Department of Foreign Affairs (DFA), the Department of National Defense (DND), the Philippine Navy, and the Philippine Coast Guard (PCG) all have a stake in ensuring the timely and compliant designation of ASLs. The Maritime Industry Authority (MARINA) and the National Mapping and Resource Information Authority (NAMRIA) also play vital roles in charting, publishing, and enforcing these navigational routes. Without coordinated inter-agency collaboration, the formulation of an effective ASL policy cannot proceed.

Additionally, the Philippines should engage proactively with the IMO, particularly the Maritime Safety Committee, and consult with user states to secure international approval of its ASL proposals. This would not only ensure compliance with Resolution MSC.71(69) on the General Provisions for the Adoption and Designation of ASLs but also encourage broader international cooperation in maritime safety and security.

#### **4. INDONESIA’S IMPLEMENTATION OF ARCHIPELAGIC SEA LANES PASSAGE (ASLP) AND THE CASE OF PARTIAL DESIGNATION**

##### **4.1 Introduction to Indonesia’s ASLP Regime**

Indonesia, the world’s largest archipelagic state with over 17,000 islands, occupies a central strategic position in the Indo-Pacific region. Its geography straddles multiple key global shipping routes linking the Pacific and Indian Oceans. Recognized as an archipelagic State under Part IV of the United Nations Convention on the Law of the Sea (UNCLOS), Indonesia has acted decisively to implement the legal regime of Archipelagic Sea Lanes Passage (ASLP) provided under Article 53 of the Convention.

Indonesia’s approach to ASLP implementation was the first and remains the only formal submission of Archipelagic Sea Lanes (ASLs) to the International Maritime Organization (IMO). These were reviewed and acknowledged as “partial ASLs” — a term introduced by the IMO’s General Provisions for the Adoption, Designation and Substitution of Archipelagic Sea Lanes (GPASL) through Resolution MSC.71(69).<sup>54</sup> The GPASL defines a “partial ASL” as an archipelagic sea lanes proposal that fails to include all normal routes used for international navigation or overflight through a state’s archipelagic waters.<sup>55</sup>

The Indonesian government’s submission of ASLs, while commendable, left significant maritime passage—particularly east-west routes such as the Java Sea—unincluded in its formal designation. This decision was influenced by sensitive domestic and strategic concerns, especially the presence of military installations and high-density shipping in the Java Sea, which could have compromised

---

<sup>54</sup> See note 42

<sup>55</sup> Ibid



internal security if designated as part of the ASLs. Nonetheless, Indonesia's partial designation demonstrates both the feasibility and complexities of ASL designation for archipelagic States and raises important implications for the interpretation and implementation of UNCLOS provisions.

#### **4.2 Indonesia's Submission and IMO's Approval of Partial ASLs**

Indonesia submitted three major ASL routes to the IMO:<sup>56</sup>

1. A north-south route connecting the South China Sea to the Indian Ocean;
2. A route from the Celebes Sea through the Makassar Strait to the Indian Ocean;
3. A trans-Pacific route from the Pacific Ocean through the Banda and Flores Seas to the Indian Ocean via the Arafura or Timor Sea.

These routes were approved by the IMO in 1998 and published under the framework established by the GPASL. However, the submission notably excluded important east-west navigation routes—especially through the Java Sea—despite their well-documented use for international shipping and overflight. The omission drew immediate objections from maritime user states, including the United States and Australia, which emphasized that excluding historically utilized international routes was inconsistent with Article 53(4) and 53(12) of UNCLOS. These articles collectively require that if a State fails to designate ASLs, the right of ASLP remains exercisable through all routes normally used for international navigation and overflight within its archipelagic waters.

The IMO, while acknowledging Indonesia's submission, classified it as a "Partial ASL" and stipulated that Indonesia must eventually submit additional proposals covering the remaining normal passage routes.<sup>57</sup> The GPASL provides that in cases of partial designation, the IMO retains continuing jurisdiction over the ASL designation process until all normal passage routes are included, thereby fulfilling the requirement under UNCLOS. This ongoing oversight mechanism ensures that archipelagic States cannot restrict navigational rights by strategically omitting critical routes. While Indonesia's initial submission was adopted, the conditional nature of the IMO's approval made clear that the ASL designation process was incomplete and subject to further compliance.

#### **4.3 Legal and Institutional Basis for Indonesia's ASLP**

Indonesia's ASLP implementation is underpinned by two key pieces of domestic legislation: Act No. 6 of 1996 on Indonesian Waters, and Government Regulation No. 37 of 2002 on the Rights and Obligations of Foreign Ships and Aircraft Exercising the Right of ASLP through Designated Archipelagic Sea Lanes.

---

<sup>56</sup> See note 43

<sup>57</sup> See note 44



These laws attempt to harmonize domestic governance with international obligations, but gaps and inconsistencies remain. Act No. 6 of 1996 articulates two distinct navigational regimes for foreign ships and aircraft transiting Indonesian waters:<sup>58</sup>

- **Peaceful Crossing Rights (Innocent Passage)**, found in Articles 11 to 17; and 33
- **Archipelagic Sea Channel Crossing Rights (ASLP)**, found in Articles 18 and 19.

The accompanying Government Regulation further defines these concepts. Article 1 of Regulation No. 4 categorically affirms that the right of innocent passage is defined by Article 11 of the Act,<sup>59</sup> while ASLP corresponds to the right of passage under Article 18.<sup>60</sup> Under these provisions, foreign ships and aircraft may traverse designated sea lanes continuously, expeditiously, and in their normal modes of operation. However, a critical limitation arises: Indonesian domestic law permits ASLP only within the specifically designated sea lanes. This approach appears inconsistent with UNCLOS Article 53(12), which provides that in the absence of designated ASLs, the right of ASLP may be exercised through all routes normally used for international navigation. By not acknowledging or permitting ASLP outside of its designated routes—even in areas historically used for transit—Indonesia may be seen as contradicting this provision.

Moreover, there is concern that Indonesia's rigid domestic enforcement posture regarding ASLP may interfere with the freedom of navigation, particularly by limiting user States' traditional reliance on routes not formally designated as ASLs. The legal distinction between designated and non-designated areas could result in foreign ships being penalized for exercising what they consider to be lawful ASLP, an outcome that would contravene both the letter and spirit of UNCLOS.

Despite these challenges, Indonesia's legal framework offers a structured approach to regulating maritime transit. It sets out the rights and obligations of foreign ships, provides legal certainty for enforcement, and underscores the country's commitment to maritime governance. Still, until Indonesia submits a full set of ASLs, including all normal routes, its compliance with UNCLOS remains legally incomplete.

---

<sup>58</sup> ACT 6 of 8 August 1996 Regarding Indonesian Waters

<sup>59</sup> Article 1, No. 4, Government Regulation on the Rights and Obligations of Foreign Ships and Aircraft Exercising the Right of Archipelagic Sea Lane Passage through Designated Archipelagic Sea Lanes of 2002

<sup>60</sup> Ibid Article 1, No. 3



#### 4.4 GPASL and the Legal Status of “Partial” Designation

The IMO’s adoption of the General Provisions for the Adoption, Designation and Substitution of Archipelagic Sea Lanes (GPASL) in 1998 was in large part prompted by Indonesia’s ASL submission. Resolution MSC.71(69), which formalized the GPASL, provides detailed guidelines for the preparation, submission, and adoption of ASLs, including procedures for consultations with user States and provisions for charting designated routes.

One of the most notable and controversial elements introduced by the GPASL was the concept of “Partial ASL.” This designation is not found in the original UNCLOS text. Rather, it was introduced to address situations like Indonesia’s, where the State designates some—but not all—routes normally used for international passage. GPASL defines “Partial ASL” as a proposal that does not meet UNCLOS’s requirement to include all normal passage routes and navigational channels.

Under GPASL, partial designation does not preclude the right of ASLP in other, non-designated routes. Instead, it creates a legal grey zone: the IMO recognizes the designated routes for formal passage but maintains oversight and jurisdiction over the broader designation process until the archipelagic State submits a complete and UNCLOS-compliant proposal. The GPASL states that the archipelagic State is required to consult with maritime user States and the IMO prior to submitting its ASL proposal.<sup>61</sup> Such consultations are intended to ensure that the proposed lanes reflect international navigation patterns and meet the requirements under UNCLOS Article 53(4) and (5). This raises a fundamental legal question: Does the IMO’s recognition of Partial ASLs, in effect, expand or modify UNCLOS? Critics argue that by accepting partial designations, the IMO may have gone beyond its mandate, introducing a framework not explicitly authorized by the Convention. On the other hand, proponents view GPASL as a pragmatic tool— one that provides procedural clarity and encourages States to take incremental steps toward full compliance without impeding international navigation.

Until Indonesia submits a complete set of ASLs, the GPASL allows for a form of conditional recognition. This is a delicate compromise: it respects Indonesia’s sovereignty while upholding the navigational rights of the international community. The partial designation framework, though controversial, has become a *de facto* method for managing the gradual and politically sensitive process of ASL implementation. Furthermore, the GPASL requires that all ASLs, once approved, be published in official nautical charts and include 25-nautical-mile-wide passages on either side of the axis lines to accommodate normal operational deviations by transiting vessels and aircraft. This mapping requirement enhances clarity for both archipelagic and user States

---

<sup>61</sup> GPASL, par.3.6



and minimizes the risk of disputes arising from misinterpretations of transit entitlements.

#### 4.5 Strategic Concerns and National Interests Behind Indonesia's Omission

Indonesia's strategic decision to omit the east–west sea lane traversing the Java Sea from its designated Archipelagic Sea Lanes (ASLs) is deeply rooted in national security imperatives and sovereign interests. The Java Sea holds profound strategic value for Indonesia—it is not only the geographic and economic heart of the archipelago, but also the maritime passage adjacent to critical state infrastructure.<sup>62</sup> This includes the nation's capital, Jakarta, and major naval installations and port cities such as Surabaya and Semarang along the northern coast of Java.<sup>63</sup> Allowing archipelagic sea lanes passage (ASLP) in this area would expose these sensitive zones to increased foreign military and commercial presence, surveillance operations, and environmental hazards including oil spills and radioactive waste contamination.

From Indonesia's perspective, the core issue revolves around the permanence of ASLP. Under UNCLOS, once an ASL is designated, it cannot be suspended. This feature distinguishes ASLP from innocent passage under Article 25 of UNCLOS, which permits the temporary suspension of passage for the sake of national security or public order. Indonesia thus feared that designating the east–west Java Sea route would grant perpetual access to foreign military and commercial vessels and aircraft, limiting the country's ability to exercise full discretion over its most vital maritime region.<sup>64</sup>

The significance of these concerns was starkly illustrated in 2003, when a U.S. aircraft carrier and accompanying F-18 squadron entered the Java Sea, asserting rights under ASLP through what they deemed a “normal international route.” Indonesia scrambled its own F-16 jets to intercept the American aircraft near Bawean Island, bringing the two nations dangerously close to conflict.<sup>65</sup> This incident highlighted the risks of failing to clearly delineate navigational passage and reinforced Indonesia's preference for maintaining national control over the Java Sea by not designating it as part of its ASL regime.

Indonesia's reluctance is also shaped by the inherent tension between sovereignty and international obligations. While Article 53(4) of UNCLOS empowers archipelagic states to designate ASLs in consultation with the International Maritime Organization (IMO), the GPASL (General Provisions for

---

<sup>62</sup> Sebastian, L., Supriyanto, R. & Arsana, I. (2015). Beyond the Archipelagic Outlook: The Law of the Sea, Maritime Security and the Great Powers. In C. Roberts, A. Habir & L. Sebastian (eds.), *Indonesia's Ascent: Power, Leadership and the Regional Order* (pp. 308–334). Palgrave Macmillan.

<sup>63</sup> Supriyanto, R. A. (22 Feb 2016). Developing Indonesia's Maritime Strategy under President Jokowi.

<sup>64</sup> Lukman, G. (2017). “Designating the Archipelagic Sea Lane (ASL): The “Epilogue” of the Legal Development of Indonesia's Maritime Regime”. *J.G.L.R.*, 5(2), 33–42.

<sup>65</sup> Caminoz, H. & Cogliati-Bantz, V. (2014) *The Legal Regime of Straits: Contemporary Challenges and Solution*. Cambridge University Press.



the Adoption, Designation and Substitution of Archipelagic Sea Lanes) restricts a state's ability to later amend or suspend these designations. Consequently, Indonesia opted to preserve its strategic flexibility by not designating the east-west route at all, even at the cost of international objections and legal ambiguity.

#### 4.6 Critiques and Legal Implications of the Partial ASL Approach

Indonesia's submission of only three north-south ASLs—without the vital east-west Java Sea route—has been widely critiqued both diplomatically and legally. The most pressing critique stems from Indonesia's failure to meet the requirements of Articles 53(4) and 53(12) of UNCLOS, which state that, in the absence of designated ASLs, ASLP continues to apply through all routes "normally used for international navigation." In short, the right of passage remains regardless of designation. By omitting such routes, Indonesia effectively forfeited the opportunity to regulate and channel international traffic through routes of its choosing.

The GPASL, adopted by the IMO in 1998, created a category called "Partial ASL," defined as a designation that does not include all normally used routes. While GPASL allows the IMO to retain "continuing jurisdiction" over a state's ASL regime until a complete submission is made, this concept has no explicit basis in UNCLOS. The term "partial ASL" is not found in the treaty, leading to critiques that the IMO may have overreached by institutionalizing a procedure not formally sanctioned by the parent convention. The legitimacy of Indonesia's partial designation, therefore, remains controversial in terms of treaty interpretation and customary international law. This legal ambiguity also undermines the primary rationale behind ASL designation: control. Without a full designation, user states are not legally confined to the three specified ASLs and may continue to use other traditional routes, including the Java Sea, for ASLP. This undermines Indonesia's regulatory framework and renders the partial designation practically ineffective. In essence, by not including all normal navigation routes, Indonesia's ASL regime has the same effect as having no designated ASLs at all.

Moreover, the omission has diplomatic ramifications. The United States, United Kingdom, and Australia have all formally objected to Indonesia's partial ASL submission, arguing that it violates the spirit and letter of UNCLOS.<sup>66</sup> These objections have not only diminished the credibility of Indonesia's designation but have also triggered broader debates about the balance between sovereign rights and international maritime freedoms.

---

<sup>66</sup> Kresno Buntoro, Legal and Technical Issues on Designating Archipelagic Sea Lanes Passage: Indonesia Experience, *Indonesian Journal of International Law* 8, no. 2 (2011): 223; Leonard C. Bastian, Ristian Atriandi S. and I Made Andi A., "Indonesia and the law of the Sea: Beyond archipelagic outlook," *National Security College Issue Brief*, no. 9 (May 2014): 70.



#### 4.7 Lessons for the Philippines and Other Archipelagic States

The Indonesian case offers invaluable lessons for the Philippines and other archipelagic states considering ASL designation under UNCLOS. The foremost lesson is the futility and legal fragility of a partial designation. Indonesia's experience demonstrates that excluding routes normally used for international navigation—regardless of national security concerns—does not limit the exercise of ASLP by user states. Instead, it results in legal uncertainty, international criticism, and weakened regulatory control.

For the Philippines, the importance of a comprehensive and UNCLOS-compliant ASL regime cannot be overstated. A designation that omits critical navigation routes would not only be challenged by major maritime powers but also fail to deliver the strategic benefits of regulated access, enhanced monitoring, and environmental protection. The Philippine government must therefore ensure that any ASL proposal includes all routes normally used for international navigation and overflight, consistent with Article 53 of UNCLOS and the GPASL.

Second, domestic legislation must be harmonized with international obligations. Indonesia's domestic laws, including Act No. 6 of 1996 and Government Regulation No. 37 of 2002, limit ASLP to designated sea lanes, contradicting UNCLOS, which permits ASLP through all traditionally used routes in the absence of a full designation. The Philippines must avoid such contradictions by explicitly recognizing the continued applicability of ASLP in non-designated routes and incorporating this into its legal framework.

Third, security concerns must be addressed without compromising international obligations. While Indonesia's concerns over Java Sea access are valid, its strategy did not yield the intended results. The Philippines, too, faces sensitive maritime areas, particularly in the West Philippine Sea. However, by designating ASLs that steer clear of critical defense zones—while still complying with UNCLOS—it can strike a functional balance between sovereignty and navigational rights.

Lastly, the Philippine government should invest in multilateral engagement and diplomatic consultation with user states before submission to the IMO. Doing so will minimize objections, promote transparency, and foster support for the designation. As recommended in the GPASL, consultations with maritime powers and relevant stakeholders should precede formal submission.

In conclusion, Indonesia's partial ASL designation serves as a cautionary tale of how strategic hesitation can translate into legal weakness and lost opportunity. For the Philippines, the imperative is clear: a comprehensive, strategically informed, and UNCLOS-aligned designation of ASLs is the only viable path to asserting maritime sovereignty while complying with international law.



## 5. OTHER ARCHIPELAGIC STATES AND THE STATUS OF ASL DESIGNATION

### 5.1 Overview of Archipelagic States under UNCLOS

The regime for archipelagic sea lanes passage (ASLP) under the United Nations Convention on the Law of the Sea (UNCLOS) is of particular significance for archipelagic states, which are uniquely constituted by one or more archipelagos. As of October 2007, twenty states have officially claimed archipelagic status pursuant to Article 46 of UNCLOS.<sup>67</sup> These states include the Philippines, Indonesia, Antigua and Barbuda, Bahamas, Cape Verde, Comoros, Dominican Republic, Fiji, Jamaica, Kiribati, Maldives, Marshall Islands, Papua New Guinea, Saint Vincent and the Grenadines, São Tomé and Príncipe, Seychelles, Solomon Islands, Trinidad and Tobago, Tuvalu, and Vanuatu.<sup>68</sup>

Out of these twenty archipelagic states, only Indonesia has proceeded with the designation of Archipelagic Sea Lanes (ASLs), and even then, only partially. Other states, including the Philippines, have established archipelagic baselines in accordance with UNCLOS but have not formally designated ASLs. This section examines the varied legal positions and implementations of these states in relation to ASL designation and evaluates the legal and geopolitical implications of their respective statuses under UNCLOS.

### 5.2 Categories of Archipelagic States

In a comprehensive study conducted by Tsamenyi, Schofield, and Milligan, the twenty archipelagic states were classified into four distinct categories based on the extent to which their national laws and maritime claims align with the requirements of UNCLOS:

- **Category 1:** States that have designated both archipelagic baselines and ASLs (Indonesia).
- **Category 2:** States with archipelagic baselines but no designated ASLs.
- **Category 3:** States with archipelagic claims but with baselines inconsistent with Article 47 of UNCLOS and no designated ASLs.
- **Category 4:** States claiming archipelagic status but with neither designated baselines nor ASLs.

This classification provides a framework for analyzing the progress and compliance of each state under the international maritime legal regime.

### 5.3 Category 2 States: Baselines Defined, ASLs Pending

---

<sup>67</sup> Lestari, M. (2020) . What is the Right, Archipelagic Sea Lanes and Passage? (According to UNCLOS 1982 and Practice). Indonesian Journal of International Law (2021). Vol 18 No 2 p.217

<sup>68</sup> Ibid



Several archipelagic states have established baselines consistent with UNCLOS but have not taken the further step of designating ASLs. Despite their geographic and legal qualifications, these states have yet to fulfill the procedural requirements under Article 53 for ASL designation. Notably, many of these states have enacted domestic legislation that either implies or explicitly references the future designation of ASLs, yet no such lanes have been formally adopted.

- **Antigua and Barbuda** enacted The Maritime Areas Act of 17 August 1982, which in Section 20C provides a framework for the eventual designation of ASLs.<sup>69</sup> Section 15 recognizes the right of archipelagic sea lanes passage in the absence of designated sea lanes, consistent with Article 53(12) of UNCLOS. However, Section 14(c) controversially requires prior state permission for foreign warships to navigate its archipelagic waters. This provision prompted diplomatic protest from the United States, which argued that UNCLOS does not grant states the authority to require prior permission for warship passage.<sup>70</sup>
- **Fiji**, under its Marine Spaces Act of 15 December 1977, defined its archipelagic baselines in accordance with international law. While Section 10(2) of the Act allows for the designation of ASLs, none have been officially established. Nevertheless, Section 10(3) affirms that in the absence of designated sea lanes, ASLP may be exercised through all routes normally used for international navigation, again aligning with UNCLOS Article 53(12). Fiji has also issued executive orders establishing archipelagic basepoints, though the right of passage for foreign vessels, particularly military ones, remains broadly defined in its domestic law.
- **Jamaica**, through its Maritime Areas Act of 28 November 1996, affirms its archipelagic status and provides for the potential designation of ASLs. Sections 8 and 9 of the Act delineate the rights of innocent passage and ASLP. Notably, Section 9 grants rights of ASLP to foreign vessels and aircrafts even in the absence of designated ASLs by permitting passage through "routes normally used for international navigation."
- **Papua New Guinea** has adopted the National Seas Act of 7 February 1977, which establishes archipelagic baselines and classifies the waters within those baselines as archipelagic waters. However, there is no provision in the Act for the designation of ASLs, nor is there a discussion of the operationalization of ASLP within its legal framework.
- **São Tomé and Príncipe**, under Law No. 1/98, sets out coordinates for its archipelagic baselines. Although the law lacks provisions specifically related to ASLs, it acknowledges UNCLOS by stating in its preamble that

---

<sup>69</sup> [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ATG\\_1982\\_18.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ATG_1982_18.pdf)

<sup>70</sup> Roach J. and Smith R., *United States Responses to Excessive Maritime Claims* ( 2<sup>nd</sup> Edition, The Hague, Kluwer Law International, 1996).



the Convention should be considered together with the domestic statute. Article 7 affirms the freedom of navigation, overflight, and other internationally legitimate uses of the sea, suggesting deference to UNCLOS provisions in the absence of designated ASLs.

- **Solomon Islands**, in its Delimitation of Maritime Waters Act of 21 December 1978, provides for both the designation of archipelagic baselines and ASLs. Section 10(3) affirms the right of ASLP “through and over all routes normally used for international navigation and overflight,” maintaining consistency with Article 53(12) of UNCLOS.
- **Trinidad and Tobago** enacted the Archipelagic Waters and Exclusive Economic Zone Act of 11 November 1986, which includes the definition of archipelagic baselines and internal waters. Section 32 of the Act provides for the executive designation of ASLs, but no such designation has yet been made. The Act allows for the right of innocent passage, but does not make explicit reference to ASLP in the absence of designated lanes.
- **Vanuatu**, through its Maritime Zones Act of 4 October 1982, recognizes the potential for ASL designation. However, the law lacks clarity regarding navigational rights in the absence of designated ASLs. While Section 6(1) provides for the right of innocent passage, there is an absence of detailed provisions explicitly referring to the application of ASLP through routes normally used for international navigation.

These Category 2 states, despite having established baselines, have not yet availed themselves of the opportunity to designate ASLs. However, most recognize UNCLOS's default provision that ASLP may be exercised through customary routes of international navigation, highlighting their implicit compliance with the regime even in the absence of formal designation.

## 5.4 The Philippine Position

The Philippines presents a unique and instructive case among archipelagic states under UNCLOS. Historically asserting sovereignty over its waters through laws such as Republic Act No. 3046 (1961) and its amendment R.A. 5446 (1968), the country transitioned into compliance with UNCLOS through the enactment of Republic Act No. 9522 in 2009. This law formally delineated the Philippine archipelagic baselines consistent with Article 47 of UNCLOS. Despite this compliance in terms of baselines, the Philippines has yet to designate Archipelagic Sea Lanes (ASLs), placing it within Category 2 of the Tsamenyi, Schofield, and Milligan classification—states with compliant baselines but no designated ASLs.

The legal transformation marked by R.A. 9522 repositioned the Philippines from a Category 3 state, whose baseline laws were previously inconsistent with UNCLOS, to a Category 2 state. This shift is significant because it demonstrates



the country's commitment to adhering to the international legal framework. Nevertheless, the lack of an ASL designation leaves critical legal and strategic gaps. The absence of formal ASLs implies that, under Article 53(12) of UNCLOS, the right of archipelagic sea lanes passage (ASLP) remains operative through all routes "normally used for international navigation," without limitation or regulatory oversight from the archipelagic state. This legal default has serious strategic implications. Without designated ASLs, the Philippines cannot direct maritime traffic through the preferred passage. It forfeits the opportunity to define, monitor, and regulate vessel movement within its waters—a particularly pressing concern given its complex geopolitical environment, including unresolved disputes in the West Philippine Sea. The country's ability to enforce maritime security regulations, protect marine ecosystems, and coordinate search-and-rescue operations is substantially weakened.

Moreover, non-designation means the Philippines is not contributing to the customary development or standardization of ASL designation practices. Given that the Philippines is a prominent maritime nation in the Indo-Pacific region, its leadership in this domain would not only enhance its national security posture but also signal responsible maritime governance.

Furthermore, as demonstrated in the case of Indonesia's partial designation, a piecemeal or absent ASL regime introduces ambiguity and creates operational risks. The Philippines must avoid these pitfalls by proactively undertaking a comprehensive ASL designation process, aligned with the General Provisions for the Adoption, Designation and Substitution of Archipelagic Sea Lanes (GPASL) issued by the IMO. This designation should not only comply with Article 53 of UNCLOS but also integrate the lessons learned from Indonesia's experience to ensure legal robustness, navigational safety, and diplomatic credibility.

### 5.5 Category 3 States: UNCLOS-Inconsistent Baselines

States classified under Category 3 present another tier of legal complexity. These are countries that have made archipelagic claims, but whose baseline systems fall short of compliance with UNCLOS, particularly Article 47. While these states have indicated an intention to implement archipelagic baselines and waters regimes, their technical or procedural implementation has been problematic.

One such example is the **Maldives**, whose baselines exceed the allowable 100 nautical mile length as prescribed under UNCLOS. The United States, along with other maritime powers, has lodged protests against these excessive segments, arguing that they violate the straight baseline criteria outlined in Article 47(2). Though the Maldives' Maritime Zones Act of 1996 provides for the eventual designation of ASLs, no such lanes have yet been established.



Similarly, **Cape Verde** revised its baseline framework via Law No. 60/IV/90 to resolve prior inconsistencies. While it has made provisions for ASL designation under Article 22, no lanes have been formally designated as such. This reflects a gap between legal intention and actual implementation—a theme that characterizes several Category 3 states.

In the **Dominican Republic**, Law 66/07 outlines baseline coordinates and specifies passage rights. However, it imposes restrictions on vessels carrying hazardous materials, which may be inconsistent with UNCLOS norms. The absence of designated ASLs adds to the legal uncertainty, as vessels exercising ASLP through normal navigation routes may encounter conflicting domestic stipulations.

These examples underline a broader challenge: technical and legal inconsistencies in archipelagic claims weaken the credibility and enforceability of maritime regimes. While international norms provide sufficient leeway for adaptation, gross deviations from the provisions of UNCLOS risk inviting diplomatic friction and potential international litigation. Category 3 states must address these inconsistencies, either by amending domestic laws or by submitting corrected coordinates to the United Nations Division for Ocean Affairs and the Law of the Sea (DOALOS).

## 5.6 Category 4 States: No Baselines or ASLs

The final group—Category 4—includes states that have claimed archipelagic status under UNCLOS but have neither designated baselines nor Archipelagic Sea Lanes. These countries include **Comoros**, the **Bahamas**, **Kiribati**, the **Marshall Islands**, **Seychelles**, **Tuvalu**, and **Saint Vincent and the Grenadines**. Despite this lack of formal designation, several of these countries have passed domestic legislation recognizing international navigational rights. For instance, **Tuvalu's Maritime Zones Act of 1983** provides for baseline designation and upholds the right of ASLP through routes normally used for international navigation. Similarly, the **Bahamas**, under its 1993 maritime legislation, affirms the right of navigation through customary routes, despite the absence of designated ASLs.

**Seychelles**, under its Maritime Zones Act of 1999, permits ASL designation and acknowledges ASLP through customary routes. However, it imposes restrictions on nuclear-powered ships and warships that are inconsistent with the unconditional navigation rights guaranteed under UNCLOS Article 53. These conditional clauses have elicited protests and may be regarded as infringements on the legal expectations of user states.

The **Marshall Islands**, through legislation enacted in 2016, explicitly recognizes ASLP in routes normally used for international navigation. This



provision reflects compliance with Article 53(12) and is notable given the absence of any formal ASL declaration.

**Saint Vincent and the Grenadines**, although having passed the Maritime Areas Act of 1983 allowing ASL designation, has yet to take action. It further complicates matters by requiring prior authorization for warships entering its territorial or archipelagic waters—a stipulation challenged by user states, particularly the United States, as incompatible with UNCLOS.

In summary, Category 4 states exemplify the legal inertia that affects many Small Island Developing States (SIDS). Limited technical capacity, geopolitical marginality, and constrained maritime enforcement resources are all plausible explanations. However, the non-designation of ASLs does not relieve these states of the obligation to respect international navigation rights, nor does it shield them from potential disputes arising from conflicting interpretations of their domestic laws and UNCLOS obligations.

## 5.7 Legal and Practical Implications

The failure of most archipelagic states to designate ASLs has far-reaching implications for international maritime order. UNCLOS strikes a balance between the sovereignty of archipelagic states and the rights of non-archipelagic states to access and transit through international maritime passages. The absence of ASLs does not eliminate the right of archipelagic sea lanes passage under Article 53(12), but it does deprive states of the ability to manage, regulate, and secure that passage on their own terms.

From a legal standpoint, the inaction of these states raises interpretive and enforcement challenges. It forces reliance on the residual clause that ASLP applies through “routes normally used,” a vague and potentially contentious standard. This ambiguity can be exploited by user states to justify passage through sensitive zones, undermining the sovereignty and maritime safety of archipelagic states.

In practical terms, the lack of designated ASLs complicates maritime domain awareness. It hinders the development of maritime infrastructure, including vessel traffic services (VTS), navigational aids, and search-and-rescue protocols. Furthermore, it constrains the exercise of environmental jurisdiction, particularly in the regulation of ballast water discharge, oil spill prevention, and marine pollution control within archipelagic waters.

Moreover, states that delay or avoid ASL designation miss an opportunity to assert soft power in international maritime governance. By engaging with the IMO and the International Hydrographic Organization (IHO), states can enhance their legal literacy, technological capabilities, and diplomatic stature.



The Philippine case is emblematic of this dilemma. Having already harmonized its baseline law with UNCLOS through R.A. 9522, the next logical step is ASL designation. In failing to do so, it forfeits the chance to define how ASLP operates within its waters. This exposes the country to unregulated foreign naval and commercial passage, weakens its national defense perimeter, and undermines its authority in regional maritime affairs.

## 6. PHILIPPINE LEGAL AND POLICY FRAMEWORK ON ARCHIPELAGIC SEA LANES

### 6.1 Constitutional Foundations of Archipelagic Identity

The archipelagic identity of the Philippines is rooted deeply in its constitutional framework. As early as the 1935 Constitution, the Philippine State recognized a broad conception of its national territory, encompassing not only the landmass but also the surrounding and connecting waters. This evolved further in the 1973 and 1987 Constitutions, both of which articulated an explicit assertion that the waters “around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions,” form part of the country’s internal waters. This formulation enshrines the principle of national unity within the geographic and maritime boundaries of the archipelago, affirming full sovereignty over what the Philippines has long considered as integral parts of its territory. In particular, the 1987 Constitution provides in Article I that:

“The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.”<sup>71</sup>

The retention of this clause from the 1973 Constitution was not incidental. It reflected a continued national policy of asserting a unique maritime jurisdiction that predates international legal instruments such as the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The framers of the 1987 Constitution deliberately upheld this internal characterization, in contrast to UNCLOS, which introduced the classification of “archipelagic waters,” subject to specific passage rights for foreign vessels.

The Philippines' domestic classification of these waters as internal rather than archipelagic implies a stronger claim of sovereignty—one that precludes the

---

<sup>71</sup> Article I, 1987 Philippine Constitution



recognition of international passage rights without consent. This stands in doctrinal tension with the rights granted under UNCLOS, particularly the right of innocent passage and the archipelagic sea lanes passage (ASLP). The constitutional perspective thus presents a Philippine-centric approach to sovereignty, in contrast to the compromise reached under UNCLOS, which facilitates global maritime mobility.

Despite this apparent tension, the Constitution is not hostile to the international maritime order. The constitutional basis of the archipelagic doctrine strengthens the Philippines' case for full control over its maritime domain while remaining consistent with its obligations under international law, as later clarified by the Supreme Court.

## 6.2 Legislative Evolution: From R.A. 3046 to R.A. 9522

The legislative history of the Philippines' maritime delimitation reflects its evolving attempt to reconcile domestic assertions of sovereignty with the standards and obligations of the international legal system. The progression from Republic Act No. 3046 (1961) to Republic Act No. 5446 (1968) and ultimately to Republic Act No. 9522 (2009) illustrates a continuous legal development that has adjusted to both technological mapping advancements and shifts in international legal doctrine.

**Republic Act No. 3046**, also known as the **Philippine Baselines Law**, was the country's first formal legislative effort to delineate its maritime zones. It utilized the straight baseline method to connect the outermost points of the outermost islands, thereby encompassing the entire archipelago within a defined boundary. Section 2 of the law declared:

"All waters within the baselines provided for in Section one hereof are considered inland or internal waters of the Philippines."<sup>72</sup>

The Preamble further emphasized that these waters were "necessary appurtenances of the land territory," thereby reinforcing their status as internal waters, irrespective of their width or dimension. **Republic Act No. 5446** followed in 1968, enacted primarily to correct typographical errors in the geographic coordinates contained in R.A. 3046. However, its political implications were significant. It included a provision that preserved the option of delineating baselines around North Borneo (Sabah), asserting that the existing baseline law was "without prejudice" to the Philippines' territorial claims over that region. This law thereby wove territorial assertions into the legal infrastructure for maritime delimitation. The culmination of this legislative trajectory came with **Republic Act No. 9522**, passed in 2009, which explicitly sought to align the Philippine baseline

---

<sup>72</sup> See note 6, Section 2



system with the provisions of UNCLOS. Known as the “**New Baselines Law of the Philippines**,” R.A. 9522 redefined the baseline configuration using 101 basepoints identified by the **National Mapping and Resource Information Authority (NAMRIA)**.<sup>73</sup> These basepoints were selected in accordance with Article 47 of UNCLOS, which sets out the technical criteria for drawing archipelagic baselines.

However, R.A. 9522 faced constitutional challenges shortly after its enactment. Critics argued that by referring to “archipelagic waters” in line with UNCLOS, the law appeared to undermine the 1987 Constitution’s classification of these waters as “internal.” They claimed that this constituted a surrender of sovereignty. The controversy culminated in the Supreme Court case *Magallona vs. Ermita*, where the Court upheld the constitutionality of the law and declared:

“Whether referred to as Philippine ‘internal waters’ under Article I of the Constitution or as ‘archipelagic waters’ under UNCLOS III (Article 49 [1]), the Philippines exercises sovereignty over the body of water lying landward of the baselines, including the air space over it and the submarine areas underneath.”<sup>74</sup>

The Court thus harmonized domestic constitutional provisions with international obligations, concluding that sovereignty is maintained under either label—internal or archipelagic waters. This decision was pivotal in affirming that the Philippines’ legislative adaptations in response to UNCLOS were legally sound and constitutionally valid.

Furthermore, the ruling emphasized that establishing UNCLOS-compliant baselines is essential for asserting maritime claims, such as the **exclusive economic zone (EEZ)** and the **extended continental shelf (ECS)**. The measurement of these maritime zones, including the claim over the **Benham Rise (now Philippine Rise)**, was anchored on the new baseline system defined under R.A. 9522.

### 6.3 Philippine Recognition of International Passage Rights

In reconciling its constitutional framework with international legal standards, the Philippine legal system has affirmed the principle that while sovereignty over its maritime areas is paramount, it is not absolute. The Supreme Court ruling on R.A. 9522 clearly acknowledged that the sovereignty exercised over archipelagic waters is subject to limitations imposed by international law, specifically the rights of innocent passage and archipelagic sea lanes passage (ASLP) as articulated in UNCLOS.

---

<sup>73</sup> See note 19, Article 1

<sup>74</sup> See note 20



The Court explained that the rights of passage are a **necessary compromise** under UNCLOS. Archipelagic States were granted recognition of their archipelagic character and the ability to draw straight baselines enclosing their entire archipelago. In return, they accepted limitations on their sovereignty to accommodate the **navigational interests of user States**.

The **right of innocent passage**, codified in Article 52 of UNCLOS, permits foreign vessels to traverse archipelagic waters so long as their passage is not prejudicial to the peace, good order, or security of the coastal state.<sup>75</sup> Additionally, Article 53 allows foreign ships and aircraft the right of **archipelagic sea lanes passage**, which must be exercised in the normal mode of operation, without delay, and in a continuous and expeditious manner.<sup>76</sup>

Importantly, this acknowledgment also paved the way for legislative initiatives aimed at **operationalizing** these passage rights through the **designation of archipelagic sea lanes**. The ruling noted that the **Congress has the authority** to enact laws regulating both innocent passage and ASLP.<sup>77</sup> Such regulation may include the designation of specific sea lanes, the imposition of safety or environmental conditions, and the implementation of enforcement mechanisms consistent with international law.<sup>78</sup>

To date, the Philippines has not designated its own ASLs, but the legal framework supports the future enactment of such designations. The Supreme Court ruling thus laid a constitutional and legal foundation for the Philippines to move forward with the operationalization of ASLP, in full compliance with UNCLOS, while protecting its national interests. Moreover, this harmonized legal position enhances the Philippines' credibility in international fora, especially in maritime disputes such as those in the West Philippine Sea. By showing adherence to international legal norms—despite strong national assertions of sovereignty—the Philippines reinforces its image as a law-abiding State advocating for a rules-based maritime order.

#### 6.4 Current Gap: Absence of Archipelagic Sea Lanes Designation

Despite these constitutional and statutory foundations, as of 2024, the Philippines has yet to designate any archipelagic sea lanes as of 2024. While R.A. 9522 conforms with UNCLOS requirements regarding baselines, it is silent on ASL designation and does not address the full scope of navigational regimes provided under Article 53 of UNCLOS. This omission creates a legal vacuum and strategic vulnerability. In the absence of officially designated ASLs, the right of ASLP still applies by default to all routes normally used for international navigation. This

---

<sup>75</sup> See note 2, Article 52, Part IV

<sup>76</sup> Ibid Article 53(3), Part IV

<sup>77</sup> See note 20

<sup>78</sup> Ibid



effectively means that foreign vessels and aircraft can transit through any such routes within Philippine archipelagic waters without specific restrictions or monitoring, thereby limiting the Philippine government's ability to channel navigation through preferred passages.

The failure to designate ASLs undermines maritime security and regulatory oversight. It also delays the operationalization of provisions under UNCLOS that would enable the Philippines to specify the geographic routes for foreign military and civilian navigation, thereby facilitating better maritime traffic management, environmental protection, and national defense coordination.

The country's maritime law and security framework remains incomplete without the enabling legislation for ASL designation. While several bills have been proposed to establish ASLs, none have yet been enacted into law. Notably, Senate Bill No. 2665, filed on May 8, 2024, proposes to identify and establish three ASLs covering critical sea routes, including the Balintang Channel and Sibutu Passage. However, the bill does not yet include the technical coordinates of these lanes, and full implementation will require further executive action and regulatory development.

The proposed legislation vests the authority to designate ASLs with the President of the Philippines. It also includes provisions for regulating vessel conduct within the lanes and affirms that the law will apply to all ships and aircraft using routes normally employed for international navigation, even in the absence of finalized geographic designations.

Critically, the bill also responds to geopolitical tensions in the West Philippine Sea by affirming the exercise of Philippine sovereignty and legislative control over its archipelagic waters. It provides a mechanism for asserting the country's maritime entitlements while remaining compliant with UNCLOS and relevant international laws.

## **6.5 Policy Implications and Strategic Importance**

The absence of a designated Archipelagic Sea Lanes (ASLs) system in the Philippines has far-reaching implications for the country's maritime governance, security posture, and its role within the regional and global order under the regime of the United Nations Convention on the Law of the Sea (UNCLOS). The failure to establish designated ASLs means that, under Article 53(12) of UNCLOS, the right of archipelagic sea lanes passage (ASLP) may still be exercised by foreign vessels and aircraft through routes normally used for international navigation. While this may appear to provide flexibility for user-states, it simultaneously weakens the Philippines' ability to regulate, monitor, and enforce maritime security across its archipelagic waters.



The strategic geography of the Philippines—positioned at the center of major sea lines of communication in the Indo-Pacific—makes the regulatory authority over maritime traffic crucial. A designated ASL regime would permit the Philippines to identify specific transit passage and enforce navigational rules, such as speed limits, restrictions on underwater navigation, prohibitions on fishing, or conditions for overflight. In contrast, without designated ASLs, foreign vessels, including warships and nuclear-powered submarines, can traverse any route deemed a “normal passage,” placing the archipelagic state at a disadvantage in its ability to anticipate, control, or respond to strategic threats.

From the perspective of maritime law enforcement and maritime domain awareness, the designation of ASLs would greatly facilitate the conduct of surveillance operations, environmental protection, and interdiction of transnational maritime crimes such as piracy, smuggling, human trafficking, and illegal, unreported, and unregulated (IUU) fishing. The narrow and constricted geography of the Philippine archipelagic waters only exacerbates the risks posed by unregulated traffic. The high volume of international traffic, combined with the limited legal mechanisms for monitoring and regulating navigation, presents clear operational challenges.

Moreover, non-designation can be construed as a sign of passivity or indecision in asserting maritime jurisdiction. While sovereignty is affirmed through domestic constitutional provisions and recognized by international law, it becomes operational only through concrete legislative action. As the Supreme Court has emphasized, legislative inaction on ASLs leaves international norms as the default governing standard for maritime transit, rather than customized rules tailored to Philippine national interests.

It is therefore incumbent upon Congress to fulfill its constitutional role in maritime governance. By legislating an ASL framework, the Philippine legislature would send a definitive signal to the international community that the Philippines is capable of exercising its rights and discharging its responsibilities under international law. Such a step would not only enhance operational control over strategic waterways but would also provide legal clarity to foreign maritime actors on the permissible modes and routes of passage through Philippine waters.

## **6.6 Jurisprudential Support for ASL Designation**

The role of domestic jurisprudence in reinforcing the necessity for ASL designation is well illustrated by the landmark case of *Magallona v. Ermita*. In that decision, the Philippine Supreme Court upheld the constitutionality of Republic Act No. 9522 (the New Baselines Law), confirming that the Philippines maintains sovereignty over waters enclosed by its archipelagic baselines. Crucially, the Court



also recognized the dual applicability of navigational rights in these waters, including innocent passage and ASLP under international law.<sup>79</sup>

Although the Supreme Court refrained from categorically classifying whether waters landward of the baselines are “internal waters” or “archipelagic waters,” it acknowledged the coexistence of sovereignty with international obligations. This implies that the Philippine government may not unilaterally deny the passage of foreign vessels through archipelagic waters—even within baselines—unless such passage falls outside the scope of UNCLOS. This reinforces the need to establish ASLs in accordance with Article 53(1) and (4) of UNCLOS, which permits archipelagic states to designate sea lanes suitable for the continuous, expeditious, and unobstructed passage of foreign ships and aircraft.

In effect, *Magallona v. Ermita* affirmed that while the Philippines exercises full sovereignty over its waters, that sovereignty is not absolute—it is conditioned by international treaty obligations, particularly those enshrined in UNCLOS. The Court further emphasized that Congress has the power to define and regulate such rights of passage through legislation, thereby making ASL designation a legislative prerogative and responsibility.

Additionally, the absence of ASL legislation may create legal ambiguity. In the absence of a clearly designated passage for ASLP, foreign vessels may assert the right to navigate through any traditional or convenient route, irrespective of its proximity to environmentally sensitive zones, naval installations, or economic hubs. The designation of ASLs through statute would reduce this ambiguity, allowing the Philippines to balance its sovereign rights with its international responsibilities.

The ruling also lends support to the argument that legal compliance with UNCLOS bolsters the Philippines’ claims before international bodies. For instance, the successful recognition of the Philippine’ sovereign rights over the extended continental shelf in the Philippine Rise (formerly Benham Rise) by the Commission on the Limits of the Continental Shelf (CLCS) was largely due to adherence to UNCLOS requirements. A similar outcome could be achieved for ASLs through timely and precise domestic legislation that incorporates technical designations and aligns with international guidelines.

### 6.7 Strategic Opportunities in ASL Designation

The designation of ASLs presents significant strategic and diplomatic opportunities for the Philippines. By developing a comprehensive and UNCLOS-compliant ASL framework, the Philippines can enhance its maritime domain awareness, strengthen its sovereignty, and improve its credibility in the

---

<sup>79</sup> See note 20



international community. Strategically designated ASLs would allow the Philippines to channel foreign navigation through routes that avoid environmentally fragile zones, restricted military areas, and critical economic assets. In this regard, Indonesia's partial ASL model serves as both a cautionary tale and a point of reference: while it helped safeguard sensitive national interests, it also drew criticism for not covering all routes "normally used for international navigation" as required by UNCLOS.

The Philippine experience with the Philippine Rise serves as a precedent for successfully asserting maritime claims through legal and scientific rigor. The use of baselines compliant with R.A. 9522, combined with extensive hydrographic and geophysical data, enabled the country to gain CLCS recognition of its extended continental shelf. A similar scientific, technical, and legal approach should be employed in the designation of ASLs. This includes defining axis lines, entry and exit points, navigational passage, and coordination with international institutions such as the International Maritime Organization (IMO).

Moreover, strategic designation can serve as a confidence-building measure with regional allies and dialogue partners. The establishment of ASLs may be coordinated with bilateral and multilateral partners, contributing to broader regional maritime security initiatives such as the ASEAN Maritime Outlook or the Quad's Indo-Pacific maritime initiatives. Such cooperation can also bolster domestic capability-building through technical assistance, maritime surveillance, and legal training programs.

Domestically, a designated ASL framework can foster inter-agency coordination and reinforce governance mechanisms. Recent developments such as the creation of the National Maritime Council<sup>80</sup> and the National Task Force for the West Philippine Sea<sup>81</sup> reflect an increasing recognition of the importance of maritime governance at the highest levels of policymaking. An ASL law would complement these initiatives by offering an operational structure for monitoring, enforcement, and compliance in Philippine archipelagic waters.

In conclusion, ASL designation is a strategic imperative for the Philippines. It is not merely a legal requirement but a means to project maritime sovereignty, secure vital interests, and uphold international commitments. The sooner the country enacts enabling legislation and begins the technical work of designation and consultation, the better equipped it will be to assert control over its waters, ensure safe and secure navigation, and preserve its marine environment for future generations.

---

<sup>80</sup> Section 3, Executive Order No. 57

<sup>81</sup> Section 2, Memo Circular No. 94, Office of the President



## **7. STRATEGIC AND LEGAL IMPERATIVES FOR ASL DESIGNATION IN THE PHILIPPINES**

### **7.1 Strategic Importance of Archipelagic Sea Lanes**

The Philippines is situated at the heart of the Indo-Pacific region, occupying a central maritime position between the Pacific Ocean and the South China Sea. This geographic reality underscores the country's strategic importance as a crossroads for international navigation. The numerous straits, channels, and internal passages in the Philippine archipelago are utilized by merchant vessels, oil tankers, and military ships as they transit between Asia and the rest of the world. However, despite this critical location, the Philippines has yet to designate Archipelagic Sea Lanes (ASLs) under Article 53 of the United Nations Convention on the Law of the Sea (UNCLOS).

The failure to designate ASLs poses significant risks to national security and regulatory control. In the absence of designated ASLs, foreign vessels can traverse any route that is “normally used for international navigation” within Philippine archipelagic waters. This unregulated access diminishes the Philippines' ability to monitor, control, or direct the flow of maritime traffic. It also means that warships, submarines, and foreign surveillance aircraft may navigate freely under the regime of Archipelagic Sea Lanes Passage (ASLP), raising substantial defense and sovereignty concerns.

Designating ASLs would allow the Philippines to channel international navigation through predetermined routes. Such control would facilitate more efficient maritime domain awareness, enabling the government to focus limited surveillance resources on specific passages. In turn, this would strengthen national security, mitigate risks from maritime accidents, and enhance the enforcement of environmental and fisheries regulations.

Furthermore, the strategic importance of ASLs is magnified by the regional context. The aggressive behavior of China in the South China Sea (SCS), including incursions into the West Philippine Sea and harassment of Philippine vessels, illustrates the urgent need for a robust legal and operational maritime strategy. Designating ASLs within Philippine archipelagic waters, especially those adjacent to sensitive areas such as the Spratly Islands, is a crucial step to reaffirm sovereign rights under UNCLOS and provide a legal basis for regulating foreign navigation.

### **7.2 Legal Obligation Under UNCLOS**

Under Article 53 of UNCLOS, archipelagic states have the right—but not the obligation—to designate sea lanes and air routes through their archipelagic waters. However, the absence of designation does not nullify the rights of foreign states. In fact, Article 53(12) stipulates that in the absence of ASLs, foreign vessels



and aircraft retain the right to exercise ASLP through all routes normally used for international navigation. This provision effectively allows user-states to determine their own navigation paths, provided they conform to international norms of expeditious and unobstructed passage.

For the Philippines, this presents a serious legal and operational vulnerability. Without an ASL designation, the Philippines forfeits the ability to direct maritime traffic through the specified passage. This has practical implications. For instance, user-states are not legally bound to avoid environmentally sensitive areas, areas near military installations, or zones of high maritime density. By failing to designate ASLs, the Philippines relinquishes a critical opportunity to influence how and where foreign vessels navigate its archipelagic waters.

Moreover, by enacting domestic legislation designating ASLs that are UNCLOS-compliant and submitting them to the International Maritime Organization (IMO), the Philippines would gain international recognition of these routes. This would not only bolster its maritime governance capabilities but also establish legal certainty about navigational practices in its waters. International recognition is crucial in securing compliance from user-states, especially powerful naval actors who would otherwise operate based on their own interpretations of freedom of navigation.

UNCLOS also empowers archipelagic states to impose certain conditions on ASLP, provided these do not hinder the expeditious passage of vessels. These conditions include requirements for surface navigation, restrictions on fishing, prohibitions on marine pollution, and mandatory notification for nuclear-powered ships. The absence of designated ASLs precludes the Philippines from imposing such safety, security, and environmental measures in an enforceable way.

### **7.3 Security and Sovereignty Concerns**

Perhaps the most urgent imperative for ASL designation lies in the realm of national security. Without designated sea lanes, there is no legal framework compelling foreign vessels to avoid critical infrastructure, naval bases, or sensitive areas. In a time when naval tensions are rising across the Indo-Pacific, this oversight exposes the Philippines to strategic vulnerabilities.

Indonesia's experience offers a cautionary tale. Its failure to designate east-west ASLs through the Java Sea—a vital passage for military and economic activity—led to repeated confrontations with foreign vessels, including U.S. military assets. The absence of legal clarity created operational confusion and diplomatic strain. Learning from this precedent, the Philippines should prioritize



ASL designation to manage foreign navigation in proximity to strategic military zones such as Subic Bay, Palawan, and the West Philippine Sea.

Sovereignty is not only a matter of territorial control but also of regulatory and enforcement authority. By asserting which routes foreign vessels must take, the Philippines enhances its ability to police illegal fishing, smuggling, and unregulated surveillance. It also creates a clear legal threshold for identifying and deterring hostile or non-compliant behavior.

Moreover, under the framework of UNCLOS, once ASLs are designated and approved by the IMO, any deviation by foreign vessels from those routes—except in cases of force majeure—would constitute a violation of international law.<sup>82</sup> This gives the Philippines a strong legal basis to challenge and respond to such incursions, including through diplomatic protests and international arbitration.

#### **7.4 Environmental and Economic Management**

The Philippine archipelago is endowed with marine biodiversity of global significance. Coral reefs, mangrove forests, and seagrass beds support critical fisheries and provide livelihood to millions of Filipinos. These ecosystems, however, are highly vulnerable to maritime activities such as tanker passage, anchoring, and ballast discharge. Without designated sea lanes, ships may pass near or through these sensitive areas, risking ecological disaster. The establishment of ASLs offers a preventive strategy. By guiding maritime traffic away from ecologically fragile areas, the Philippines can fulfill its obligations under Articles 192 and 194(5) of UNCLOS to protect and preserve the marine environment. It also enables the enforcement of pollution control regulations and facilitates rapid response in the event of a maritime accident.

Economically, the benefits of the ASL designation extend beyond conservation. Clearly delineated sea lanes reduce navigational uncertainties and enhance safety. This is particularly important for domestic shipping and the fishing industry, which often share space with international traffic. With ASLs in place, domestic vessels can plan their routes more effectively, reducing fuel costs and collision risks.

Furthermore, the development of infrastructure to support ASL implementation—such as vessel traffic management systems (VTMS), maritime radar, and automatic identification systems (AIS)—can stimulate local industries and generate employment. These technologies not only facilitate surveillance but also integrate the Philippines into broader regional maritime security frameworks.

---

<sup>82</sup> See note 2, Article 39



Finally, the ASL designation supports the Philippines' ambitions to be a hub for maritime trade and logistics. By improving safety and predictability in its waters, the country becomes more attractive to investors in shipping, port development, and ocean-based industries. This aligns with broader goals of the Blue Economy and sustainable development.

## 7.5 Delay and Policy Implications

Despite the enactment of Republic Act No. 9522, which successfully aligned the Philippines' maritime baselines with the requirements of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the Philippines has yet to take the crucial next step of designating Archipelagic Sea Lanes (ASLs). This persistent legislative and administrative delay has created a significant legal and strategic vacuum within the country's archipelagic waters. While R.A. 9522 was a landmark piece of legislation that reinforced the Philippines' status as an archipelagic state under UNCLOS, the absence of ASL designation undermines the full realization of that status and compromises the country's maritime governance objectives.

The Philippine Supreme Court, in the landmark case of *Magallona v. Ermita*, explicitly acknowledged that UNCLOS rights such as archipelagic sea lane passage (ASLP) are binding upon the State and that the Philippine Congress has the prerogative to legislate sea lane routes and regulate both innocent passage and ASLP. The Court emphasized that sovereignty over archipelagic waters—though affirmed—must be exercised in accordance with UNCLOS obligations, particularly regarding navigational freedoms. Without the passage of legislation to designate sea lanes, the Philippines effectively allows foreign vessels and aircraft to exercise ASLP through any route "normally used for international navigation" as stipulated in Article 53(12) of UNCLOS, thereby foregoing its opportunity to legally regulate or direct such passage.

This delay has several critical implications. First, it weakens the country's ability to assert effective jurisdiction over its maritime territory. Without designated sea lanes, the Philippine government has no legal mechanism to compel foreign ships—military or commercial—to avoid environmentally sensitive or strategically vulnerable areas. This increases the risk of unauthorized surveillance, illegal fishing, accidental collisions, or environmental harm, particularly in the country's fragile marine ecosystems and in areas near military installations or coastal communities.

Second, the failure to designate ASLs may be interpreted internationally as a lack of resolve in asserting maritime governance. In the context of heightened regional tensions and maritime disputes, such inaction may embolden aggressive behavior by other states or lead to greater ambiguity in the enforcement of Philippine maritime claims. As Indonesia's partial designation experience



demonstrated, failure to regulate normal navigational routes can result in serious diplomatic and military incidents, such as unauthorized overflights or uncoordinated naval transits.

Given these pressing challenges, it is imperative for the Philippines to establish a competent inter-agency body or dedicated maritime authority tasked specifically with ASL designation and regulation. This agency should be empowered to consult with maritime user states, coordinate with relevant international organizations such as the International Maritime Organization (IMO), and draft technical proposals in compliance with the IMO's General Provisions for the Adoption, Designation, and Substitution of Archipelagic Sea Lanes (GPASL). Its mandate should also include harmonization of national interests—ranging from security to environmental protection—with international obligations under UNCLOS. Timely ASL designation is not merely a legal requirement but a strategic necessity in protecting Philippine sovereignty and advancing national development and security objectives.

## **8. CONCLUSION AND RECOMMENDATIONS**

### **8.1 Conclusion**

The Philippines, by virtue of its geographical configuration and political constitution, is recognized under international law as an archipelagic State pursuant to Article 46 of the United Nations Convention on the Law of the Sea (UNCLOS). This recognition entails both sovereign rights and legal responsibilities. Chief among these responsibilities is the designation of Archipelagic Sea Lanes (ASLs) that permit archipelagic sea lanes passage (ASLP) for foreign ships and aircraft through designated passage, in exchange for the international recognition of the country's maritime boundaries.

Despite being an active participant in the development of UNCLOS and having enacted Republic Act (R.A.) No. 9522 to align its archipelagic baselines with UNCLOS, the Philippines has yet to implement a key obligation under Part IV of the Convention—namely, the designation of ASLs. This omission creates a strategic, legal, and operational vacuum. Under Article 53(12) of UNCLOS, if no ASLs are designated, the right of ASLP persists through all routes normally used for international navigation. Thus, the absence of designation does not restrict passage—it only reduces the Philippines' capacity to regulate and manage such passage in accordance with its own interests.

The geopolitical context underscores the urgency of designation. The West Philippine Sea (WPS) remains a flashpoint for territorial and maritime disputes, particularly with China's expansive and unlawful "nine-dash line" claim. The Philippines has taken several strategic and legal measures to assert its maritime claims, including a successful arbitration case before the Permanent Court of



Arbitration in 2016, in which the tribunal affirmed the country's sovereign rights within its exclusive economic zone (EEZ) and continental shelf.

While these victories provide a legal foundation, the failure to designate ASLs weakens the Philippines' operational posture. Without ASLs, user-states may lawfully navigate any of the country's archipelagic waters so long as they do so through "routes normally used for international navigation." This exposes the Philippines to unregulated passage of military and commercial vessels across sensitive maritime areas, including environmental sanctuaries and military zones. The lack of designated sea lanes hampers surveillance, enforcement, and the promotion of navigational safety and environmental protection standards.

Indonesia's experience provides an instructive model. Although Indonesia opted for partial designation of ASLs, primarily omitting east-west routes through the Java Sea due to national security concerns, it nonetheless fulfilled its duty to designate passage and gained IMO recognition. Indonesia's example illustrates that designation can be strategically managed to accommodate both security interests and international obligations. Moreover, its experience with unauthorized navigation in non-designated areas reveals the risks of inaction.

In contrast, the Philippines has taken steps in the right direction by modernizing its baselines through R.A. 9522, submitting a successful claim over the Philippine Rise, and enacting new maritime governance frameworks. The proposed Philippine Maritime Zones Act, currently pending in Congress, will provide the legislative foundation for ASL designation. If enacted, this law will define maritime zones consistent with UNCLOS and empower government institutions to proceed with the formal designation and submission of ASLs to the International Maritime Organization (IMO).

Nonetheless, these initiatives remain incomplete without a comprehensive ASL law that translates the Philippines' legal rights into an enforceable maritime governance regime. The situation in the WPS continues to evolve rapidly. China's persistent incursions into the Philippine EEZ and growing assertiveness highlight the vulnerability of unregulated waters. The absence of designated ASLs may embolden further transgressions, eroding both Philippine sovereignty and maritime domain awareness.

Importantly, the Philippine Supreme Court has upheld the constitutionality of R.A. 9522 and affirmed the country's obligations under UNCLOS, including the recognition of ASLP. In *Magallona v. Ermita*, the Court recognized that UNCLOS forms part of the law of the land and highlighted that sovereignty over archipelagic waters is not absolute, being subject to international passage rights.

In sum, the designation of ASLs is a matter of legal compliance, strategic necessity, and national interest. It strengthens sovereign control, enables



responsible stewardship of the marine environment, facilitates law enforcement, and contributes to regional stability. The longer the delay in designation, the greater the risk of losing both regulatory authority and strategic initiative.

## **8.2 RECOMMENDATIONS**

Based on the findings of this study and guided by the principles of UNCLOS and national interest, the following recommendations are proposed to facilitate the prompt and effective designation of Philippine Archipelagic Sea Lanes:

### **8.2.1 Immediate Legislative Action for ASL Designation**

The enactment of a specific law designating ASLs is imperative. This law must incorporate UNCLOS Article 53 and the IMO's General Provisions for the Adoption, Designation and Substitution of Archipelagic Sea Lanes (GPASL), particularly IMO Resolution MSC.71(69). The proposed law should define ASL axis lines and their geographic coordinates, establish a 25 nautical mile passage on each side of the axis, specify navigational rules, including required conduct for submarines, warships, and vessels carrying hazardous cargo, and prescribe enforcement mechanisms through the Philippine Coast Guard (PCG) and relevant maritime authorities. Such legislation will serve as the legal anchor for the country's engagement with the IMO and ensure international recognition of the ASLs.

### **8.2.2 National Security and Environmental Review of Proposed Routes**

Designated ASLs must not compromise sensitive maritime or defense areas. Strategic passage should avoid naval installations and military zones, coastal defense infrastructure, and marine biodiversity hotspots and protected areas. The designation process must incorporate inputs from national security agencies and environmental management bodies. The goal is to ensure safe navigation while preserving ecological integrity and national defense capabilities.

### **8.2.3 Ratification and Operationalization of the Philippine Maritime Zones Act**

The passage of the Philippine Maritime Zones Act should be prioritized, as it will provide the statutory basis for delineating maritime boundaries and defining the extent of Philippine jurisdiction under UNCLOS. Once enacted, its provisions on internal waters, territorial sea, archipelagic waters, EEZ, and continental shelf must be harmonized with ASL legislation.

### **8.2.4 Formal Submission to the IMO**

Upon finalization of the ASLs, the Philippines must submit the proposal to the IMO's Maritime Safety Committee (MSC), in accordance with UNCLOS Article 53(9). The submission must include detailed maps and coordinates, demonstrate



consultation with maritime user-states, and conform to GPASL technical guidelines, while also being supported by diplomatic engagement to secure broad acceptance. This will ensure international recognition of the ASLs and strengthen the Philippines' standing in international maritime governance.

#### **8.2.5 Stakeholder Engagement and Public Awareness Campaign**

The success of ASL implementation depends on public and sectoral support. Government agencies must engage local maritime and fisheries communities, consult with commercial shipping stakeholders, and promote awareness of navigational rules and environmental safeguards. Educational initiatives and information campaigns should communicate the benefits of ASLs for national security, economic development, and environmental protection.

#### **8.2.6 Environmental Safeguards and Compliance Monitoring**

ASLs must be designated with due regard to the Philippines' marine biodiversity. Regulations must prohibit passage of high-risk vessels near marine sanctuaries, impose stringent pollution control protocols, and mandate reporting of marine incidents and oil discharges. These aligned with UNCLOS Articles 192 and 194, which obligate states to protect the marine environment. Environmental agencies must be empowered to monitor compliance and recommend corrective measures.

#### **8.2.7 International Diplomacy and Alliance Building**

In parallel with domestic legal reforms, the Philippines should strengthen maritime diplomacy with key allies and ASEAN partners, share its ASL initiative in regional forums such as the ASEAN Maritime Forum (AMF), and advocate for cooperative enforcement and capacity-building assistance. International support for Philippine ASLs will enhance navigational safety, promote regional stability, and bolster the country's legal claims in the WPS.



## REFERENCES

### JOURNALS:

Forward, C. (2009). Archipelagic Sea Lanes Indonesia – Their Legality in International Law. *Australia & New Zealand Maritime Law Journal*, 23(2)

Kerr A., (1998). Observations on the Implementation of Archipelagic Sea Lanes. *International Hydrographic Review*. LXXV(2)

Kresno Buntoro, Legal and Technical Issues on Designating Archipelagic Sea Lanes Passage: Indonesia Experience, *Indonesian Journal of International Law* 8, no. 2 (2011)

Leonard C. Bastian, Ristian Atriandi S. and I Made Andi A., “Indonesia and the law of the Sea: Beyond archipelagic outlook,” *National Security College Issue Brief*, no. 9 (May 2014)

Lestari, M. (2020) . What is the Right, Archipelagic Sea Lanes and Passage? (According to UNCLOS 1982 and Practice). *Indonesian Journal of International Law* (2021). Vol 18 No 2

Lukman, G. (2017). “Designating the Archipelagic Sea Lane (ASL): The “Epilogue” of the Legal Development of Indonesia’s Maritime Regime”. *J.G.L.R.*

Pedrozo, R. (2021). *Archipelagic States*. *International Law Studies*. Stockholm Center for International Law. Vol. 97

Puspitawati, D. (2018). Indonesia’s Archipelagic Sea Lanes (ASLs) Designation: Rights Turning to Obligations?. *Asanuddin Law Review*. Brawijaya University, Indonesia. Vol.4, issue 3

Sebastian, L., Supriyanto, R. & Arsana, I. (2015). Beyond the Archipelagic Outlook: The Law of the Sea, Maritime Security and the Great Powers. In C.



Roberts, A. Habir & L. Sebastian (eds.), *Indonesia's Ascent: Power, Leadership and the Regional Order* (pp. 308-334). Palgrave Macmillan.

Supriyanto, R. A. (22 Feb 2016). *Developing Indonesia's Maritime Strategy under President Jokowi*

## **BOOKS:**

Caminoz, H. & Cogliati-Bantz, V. (2014) *The Legal Regime of Straits: Contemporary Challenges and Solution*. Cambridge University Press

Martinez-Tria, M. (2022) . *Archipelagic Baselines and the Philippine Territory*. CentralBooks

## **BILLS:**

Archipelagic Sea Lanes Senate Bill No. 2665

## **LAWS, TREATIES, EXECUTIVE ORDERS:**

### ***International***

United Nations Convention on the Law of the Sea (UNCLOS), 1982

Resolution MSC. 71(69)

### ***Foreign***

ACT 6 of 8 August 1996 Regarding Indonesian Waters

Government Regulation on the Rights and Obligations of Foreign Ships and Aircraft Exercising the Right of Archipelagic Sea Lane Passage through Designated Archipelagic Sea Lanes of 2002

### ***Domestic***

Executive Order No. 25, 2017

Executive Order No. 57, 2011

R.A. 3046, 1961

R.A. 9522, The New Baselines Law of the Philippines



## ***Constitution***

1973 Philippine Constitution

1987 Philippine Constitution

## **SUBMISSIONS; DECLARATIONS; STATEMENTS**

Executive Summary of Extended Continental Shelf , Submission of the Republic of the Philippines

Roach J. and Smith R., United States Responses to Excessive Maritime Claims ( 2<sup>nd</sup> Edition, The Hague, Kluwer Law International, 1996)

UN Doc. A/AC.138/SC.II/L.15, Archipelagic Principles as proposed by the delegations of Fiji, Indonesia, Mauritius and the Philippines: Explanatory Notes

## **CASES**

Merlin M. Magallona et al.v. Eduardo Ermita et al., GR NO. 187167, July 16, 2011, J. Carpio

Republic of the Philippines vs People's Republic of China; PCA Case No. 2013-19; July 12, 2016

## **WEB PAGES**

[http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ATG\\_1982\\_18.pdf](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/ATG_1982_18.pdf)