



Harvesting Giant Clams in Philippine-Administered Waters

Nang-aani ng isda ang PRC ng mga higanteng kabibe sa pinamamahalaang tubig ng Pilipinas

English and Tagalog Filipino Translation

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Abstract

This document contains the original English-language version and a Tagalog Filipino translation of CNA's case study examining a 2021 incident in which PRC fisherfolk illegally harvested protected giant clams in the vicinity of Philippines-administered Pag-asa Island (Thitu Island) in the Spratly Islands.

Buod

Ang dokumentong ito ay naglalaman ng orihinal na bersyon ng English-language at isang Tagalog Filipino translation ng case study ng CNA na sumusuri sa isang insidente noong 2021 kung saan ang mga mangingisda ng PRC ay ilegal na nag-ani ng mga protektadong higanteng kabibe sa paligid ng Pag-asa Island na pinamamahalaan ng Pilipinas (Thitu Island) sa Spratly Islands.

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Introduction

In recent years, persons, vessels, and corporations based in or tied to the People's Republic of China (PRC) have reportedly engaged in illicit maritime activities around the globe. The reported illicit maritime activities of PRC actors are often at odds with Beijing's rhetoric expressing support for international maritime laws (including the United Nations Convention on the Law of the Sea, or UNCLOS), rules, and norms. Unless it is addressed, this gap between Beijing's rhetoric and the behavior of PRC actors has the potential to undermine the global system of international laws, norms, and conventions that govern the maritime domain.

To examine possible contradictions between the PRC's official rhetoric and the illicit transnational maritime activities reportedly carried out by PRC-based actors, CNA examined 15 cases in which PRC actors have been accused of illegal behavior in the maritime domain between 2018 and 2021. For each case, we examined the following:

- The alleged illegal PRC activity and the types of PRC actors involved
- PRC official policies and narratives about that type of activity (e.g., illegal, unregulated, and unreported (IUU) fishing or human trafficking)
- International, local, and PRC laws, policies, and norms at risk of subversion by the alleged activity
- PRC officials' and media responses to these incidents

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Panimula

Sa nakalipas na mga taon, ang mga tao, sasakyang pandagat, at mga korporasyong nakabase sa o nakatali sa People's Republic of China (PRC) ay naiulat na nakikibahagi sa mga ipinagbabawal na gawain sa dagat sa buong mundo. Ang mga naiulat na bawal na gawain sa dagat ng mga aktor ng PRC ay madalas na salungat sa mga deklarasyon ng Beijing na nagpapahayag ng suporta para sa mga internasyonal na batas pandagat (kabilang ang United Nations Convention on the Law of the Sea, o UNCLOS), mga tuntunin, at mga pamantayan. Maliban kung ito ay natugunan, ang agwat na ito sa pagitan ng deklarasyon ng Beijing at ang pag-uugali ng mga aktor ng PRC ay maaaring magpahina sa pandaigdigang sistema ng mga internasyonal na batas, pamantayan, at kumbensyon na namamahala sa maritime domain.

Upang suriin ang mga posibleng kontradiksiyon sa pagitan ng opisyal na deklarasyon ng PRC at ang mga ipinagbabawal na transnational maritime na gawaing iniulat na isinasagawa ng mga aktor na nakabase sa PRC, sinuri ng CNA ang 15 kaso kung saan ang mga aktor ng PRC ay inakusahan ng ilegal na gawain sa maritime domain sa pagitan ng 2018 at 2021. Para sa bawat kaso, sinuri namin ang sumusunod:

- Ang umano'y ilegal na gawain ng PRC at ang mga uri ng sangkot na aktor ng PRC
- Opisyal na mga patakaran at salaysay ng PRC tungkol sa ganoong uri ng gawain (hal., ilegal, di-regulado, at di-inulat (IUU) [illegal, unregulated, and unreported (IUU)] na pangangisda o human trafficking)
- Internasyonal, lokal, at mga batas, patakaran, at pamantayan ng PRC na nanganganib sa pagbabagsak ng di-umano'y gawain
- Mga tugon ng mga opisyal ng PRC at media sa mga insidenteng ito

Ang dokumentong ito ay naglalaman ng orihinal na bersyon ng English-language at isang Tagalog Filipino translation ng case study ng CNA na sumusuri sa isang insidente noong 2021 kung saan ang mga mangangisda ng PRC ay ilegal na nag-ani ng mga protektadong higanteng kabibe sa paligid ng Pag-asa Island na pinamamahalaan ng Pilipinas (Thitu Island) sa Spratly Islands.

English: PRC harvesting giant clams in PHL-administered waters



Image: National Task Force for the West Philippine Sea.

In March 2021, the Philippine Navy and media alleged that PRC fishermen illegally harvested giant clams in the vicinity of Philippines-administered Pag-asa Island (Thitu Island) in the Spratly Islands. Philippine and PRC laws prohibit giant clam harvesting because the species is vulnerable to extinction and harvesting methods destroy reefs that are critical to fish stocks.

Alleged PRC activity

Multiple international conventions categorize the giant clam as a vulnerable species. Both the Philippines and the PRC have banned their harvest.¹ The Philippine Navy and media assert that PRC fishermen operating near the contested Pag-asa Island (Philippines-administered) and Scarborough Shoal (PRC-administered) in the South China Sea continue to harvest giant clams illegally using environmentally damaging methods.² Philippine media also assert that the PRC Coast Guard is aware of the illegal harvesting around Scarborough Shoal.³ Philippine journalists have observed the PRC using “chopper boats,” explosives, chemicals, water pumps, and vacuums on the coral reefs to harvest the giant clams, whose shells are sold for high prices in China.⁴ These harvesting methods have reportedly destroyed more than 104 square kilometers of coral reefs in the South China Sea, further depleting fish stocks and harming the livelihoods of fisherfolk from the Philippines and other countries.⁵

What the PRC says about the activity

- PRC officials and media promote the narrative that the PRC “cares more than any other country” does about protecting the South China Sea, and that reports of illegal PRC fishing activities are false and/or politically motivated. This narrative has been observed in PRC media reporting in Filipino, English, and Chinese.⁶
- PRC officials and media do not appear to have addressed publicly the 2019–2021 allegations that PRC vessels illegally harvested giant clams.⁷
- Of note, English-language PRC media reports have discussed the damage caused by the practice.⁸
- Recent PRC media reports in Filipino appear not to address the issue at all. Instead, PRC media reporting targeted at Philippine audiences reiterates PRC South China Sea sovereignty claims, portrays China as a responsible actor, calls on the Philippines to cooperate further with China, and dismisses concerns about PRC vessels swarming Filipino fisherfolk.⁹

Laws, rules, and norms at risk

Based on these reports, the following laws and conventions may be at risk of subversion by PRC-based actors:

International Conventions	<ul style="list-style-type: none"> • Convention on International Trade in Endangered Species (CITES)¹⁰ • UNCLOS, Articles 58, 62, 117–119¹¹ • 1992 Convention on Biological Diversity, Article 5¹²
Philippine Laws	<ul style="list-style-type: none"> • Philippine fisheries code¹³ • Philippines’ Wildlife Protection Act¹⁴
PRC Laws, Policy¹⁵	<ul style="list-style-type: none"> • Regulations on protection of coral reefs and clams in Hainan Province, Article 10¹⁶

Tagalog Filipino: Nang-aani ng isda ang PRC ng mga higanteng kabibe sa pinamamahalaang tubig ng Pilipinas



Imahe: National Task Force para sa West Philippine Sea.

Noong Marso 2021, iginiit ng Philippine Navy at media na ang mga mangingisda ng PRC ay nangingisda ng mga higanteng kabibe sa katubigan na pinamamahalaang islang Pag-asa ng Pilipinas sa mga Spratly Island. Ipinagbabawal ng parehong batas ng Pilipinas at PRC ang pangangisda ng higanteng kabibe dahil ang uri nito ay malapit nang maubos at ang paraan ng pangangisda ay nakasisira sa mga bahura na kritikal sa pagdami ng mga isda.

Iginiit na gawain ng PRC

Kinakategorya ng maraming internasyunal na konbensyon ang higanteng kabibe bilang isang malapit nang maubos na uri; ipinagbabawal ng Pilipinas at PRC ang kanilang pag-aani.¹ Iginiit ng Philippine Navy at media na ang mga mangingisda ng PRC na naglalayag nang malapit sa pinagtatalunang Pag-asa Island (pinamamahalaan ng Pilipinas) at Scarborough Shoal (pinamamahalaan ng PRC) sa South China Sea ay patuloy na ilegal na nangingisda ng higanteng kabibe gamit ang paraan na nakapipinsala sa kapaligiran.² Iginiit din ng Philippine media na batid ng PRC Coast Guard ang iligal na pangangisda sa paligid ng Scarborough Shoal.³ Napansin ng mga mamamahayag ng Pilipinas na gumagamit ang PRC ng mga “chopper boat,” paputok, kemikal, bomba ng tubig, at pangsipsip sa mga bahura upang mangisda ng higanteng kabibe, na kung saan ang mga capiz ay ibinibenta sa mataas na halaga sa Tsina.⁴ Ang mga paraan ng pangangisda na ito ay iniulat na nakasisira sa lampas 104 metro kwadrado ng mga bahura sa South China Sea, dagdag pa rito ang pagbaba ng dami ng isda at pagkasira sa mga pamumuhay ng mangingisda mula sa Pilipinas at ibang bansa.⁵

Ano ang sinasabi ng PRC tungkol sa gawain

- Isinaad ng mga opisyal at media ng PRC ang salaysay na ang PRC “cares more than any other country” (mas nangangalaga kaysa sa ano pa mang bansa) ay tungkol sa pangangalaga sa South China Sea, at ang mga ulat ng gawaing ilegal sa pangangisda ng PRC ay mali at/o may bahid pulitika. Napansin ang kwentong ito sa media ng PRC na nag-uulat sa Filipino, Ingles, at Tsina.⁶
- Mukhang hindi tinalakay ng mga opisyal at media ng PRC sa publiko ang mga paratang noong 2019–2021 na ang mga barko ng PRC ay ilegal na nag-aani ng mga higanteng kabibe.⁷
- Tandaan, tinalakay ng mga ulat sa media ng PRC sa wikang Ingles ang pinsalang dulot ng gawain.⁸
- Ang kamakailang ulat ng media ng PRC sa Filipino ay lumalabas na hindi tumutugon sa isyu. Sa halip, ang pag-uulat ng media ng PRC na nakatarget sa mga madla sa Pilipinas ay inuulit ang pag-angkin ng PRC sa soberanya sa South China Sea, inilalarawan ang China bilang isang responsableng aktor, nananawagan sa Pilipinas na higit na makipagtulungan sa Tsina, at itakwil ang mga alalahanin tungkol sa mga barko ng PRC na tumataboy sa mga mangingisdang Pilipino.⁹

Nanganganib na mga batas, tuntunin, at pamantayan

Batay sa mga ulat na ito, ang mga sumusunod na batas at konbensyon ay nanganganib na ipawalang-bisa ng mga opisyal ng PRC:

<i>Mga Internasyonal na Konbensyon</i>	<ul style="list-style-type: none">• Convention on International Trade in Endangered Species (CITES)¹⁰• UNCLOS, Mga Artikulo 58, 62, 117-119¹¹• 1992 Convention on Biological Diversity, Artikulo 5¹²
<i>Mga Batas ng Pilipinas</i>	<ul style="list-style-type: none">• Batas sa Pangingisda ng Pilipinas¹³• Philippines' Wildlife Protection Act¹⁴
<i>Mga Batas ng PRC, Patakaran¹⁵</i>	<ul style="list-style-type: none">• Mga regulasyon sa proteksyon ng mga bahura at kabibe sa Hainan Province, Artikulo 10¹⁶

Endnotes

- ¹ *Regulations on the protection of coral reefs and clams in Hainan Province* (海南省珊瑚礁和砗磲保护规定), Qionghai, Hainan, China Government, (May 24, 2021), accessed Sept. 27, 2021, http://qionghai.hainan.gov.cn/zfxxgkzl/bm/gongsj/gkml/202105/t20210524_2983261.html; *Philippine fisheries code Republic Act No. 8550*, Congress of the Philippines Tenth Congress, (Feb. 25, 1998), accessed Sept. 26, 2021, UN FAOLEX, <http://extwprlegs1.fao.org/docs/pdf/phi16098.pdf>; *Philippines' Wildlife Protection Act Republic Act No. 9147*, Congress of the Philippines Eleventh Congress, (July 30, 2001), accessed Sept. 26, 2021, Philippines Official Gazette, <https://www.officialgazette.gov.ph/2001/07/30/republic-act-no-9417/>; *Giant Clams Convention on International Trade in Endangered Species (CITES) – Vulnerable*, CITES, (1985), accessed Sept. 27, 2021, <https://cites.org/sites/default/files/eng/com/ac/22/E22-10-2-A8e.pdf>; *Tridacna gigas IUCN Red List of Threatened Species*, International Union for Conservation of Nature and Natural Resources, (2004), accessed Sept. 27, 2021, <https://www.iucnredlist.org/species/22137/9362283>.
- ² See, for example, “Filipino Scientists Seeded Giant Clams, Chinese Fishermen Stole Them,” ABS CBN, Apr. 26, 2019, <https://news.abs-cbn.com/video/news/04/26/19/filipino-scientists-seeded-giant-clams-chinese-fishermen-stole-them>; Zhao Xinyi, “Life in the Wake of Hainan’s Clam Shell Clampdown,” Sixth Tone, June 3, 2019, <https://www.sixthtone.com/news/1004054/life-in-the-wake-of-hainans-clam-shell-clampdown>.
- ³ Jimbo Owen B. Gulle, “Sino Poachers Target Giant Clams in Palawan Waters,” Manila Standard, Apr. 15, 2021, <https://manilastandard.net/news/top-stories/351892/sino-poachers-target-giant-clams-in-palawan-waters.html>; Dona Z. Pazzibugan, Jhesset O. Enano, and Julie M. Aurelio, “PH Protests China’s Harvest of Giant Clams,” Global Nation, Apr. 17, 2019, <https://globalnation.inquirer.net/174536/ph-protests-chinas-harvest-of-giant-clams>.
- ⁴ See, for example, “Harvesting Giant Clams Has Led to ‘Wanton Destruction’ of Scarborough Shoal: Expert,” ABS CBN, Apr. 17, 2019, <https://news.abs-cbn.com/spotlight/04/17/19/harvesting-giant-clams-has-led-to-wanton-destruction-of-scarborough-shoal-expert>; Sara Susanne D. Fabunan, “Sino Poachers Kill Coral Reefs,” Manila Standard, Sept. 24, 2016, <https://manilastandard.net/news/top-stories/216988/sino-poachers-kill-coral-reefs.html>; “PH Protests China’s Harvest of Giant Clams.”
- ⁵ Dr. John McManus, *Massively Destructive Coral Reef Damage from Giant Clam Shell Digging in the South China Sea*, OpenChannels, 2019, <https://vimeo.com/342103171>; Chiara Zambrano, “EXCLUSIVE: Chinese harvesting giant clams in Scarborough Shoal,” ABS CBN, Apr. 15, 2019, <https://news.abs-cbn.com/news/04/15/19/exclusive-chinese-harvesting-giant-clams-in-scarborough-shoal>.
- ⁶ For example, in 2016, an MFA spokesperson said, “As owners of the [Spratly Islands], China cares about protecting the ecological environment of relevant islands, reefs and waters more than any other country, organization or people in the world.” See: “S. China Sea Corals on Brink of Extinction,” *Global Times*, May 24, 2016, <https://www.globaltimes.cn/content/984745.shtml>. See also, “China, a responsible fishing country,” Tsina, responsableng bansang pangisda, Filipino CRI, Dec. 26, 2020, https://filipino-cri-cn.translate.goog/20201226/388f504f-c345-1ac3-543f-2afa372f12ed.html?_x_tr_sch=http&_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem; “China’s ocean fishing plunders regional resources? Hua Chunying: China urges the US not to sow discord with the world,” (中国远洋捕鱼掠夺地区资源? 华春莹: 中方敦促美方不要满世界挑拨离间), China News Network (中国新闻网), Dec. 3, 2020, <http://www.chinanews.com/gn/2020/12-03/9353552.shtml>; “Statement of the Spokesperson of the Chinese Embassy on the U.S.’s accusation of illegal, unreported, and unregulated ocean fishing,” (驻密使馆发言人关于美国指责我非法、未报告、无管制远洋捕鱼的表态), Embassy of the People’s Republic of China in the Federated States of

Micronesia, (中华人民共和国驻密克罗尼西亚联邦大使馆), Jan. 4, 2021, <http://fm.china-embassy.org/chn/xwdt/t1844219.htm>.

⁷ The PRC Embassy's sole press release in reference to giant clams is the claim that Chinese fishermen of the Song dynasties harvested giant clams in the Spratly islands, and this long history of giant clam harvesting supports China's claim of sovereignty over the region today. See: "The Productive Livelihood on the South China Sea in Chinese History," Embassy of the People's Republic of China in the Republic of the Philippines, May 25, 2016, <http://ph.china-embassy.org/eng/zt/nhwt/t1366336.htm>.

⁸ One English report from the state-run, nationalist-leaning Global Times newspaper blamed "Mistaken government support for and promotion of the giant clam industry in Tanmen, Hainan Province" for "excessive exploitation" and "destruction of coral reef ecosystems." See: "S. China Sea Corals on Brink of Extinction." Another English report acknowledged that the "considerable economic opportunities" the giant clam shell trade entailed led to "unsustainable fishing methods that have not only led to a rapid decline in the number of giant clams in the South China Sea, but have also seriously damaged the coral reef ecosystem." See: "Giant Clams Still on Sale in South China Despite Bans," *Global Times*, Apr. 25, 2019, <https://www.globaltimes.cn/content/1147431.shtml>. For other examples, see, "Shenzhen Authorities Intercept Clam Shell Products," *China Daily*, Sept. 19, 2017, https://www.chinadaily.com.cn/china/2017-09/19/content_32198728.htm; "Over 300 Smuggled Endangered Species Items Seized in NE China," *Xinhua*, May 19, 2019, http://www.xinhuanet.com/english/2019-05/19/c_138070724.htm.

⁹ See, for example, "China and the Philippines, agreed to enhance bilateral relations and maintain dialogue on maritime issues," *Tsina at Pilipinas, sumang-ayong pasulungin ang bilateral na relasyon at panatilihin ang diyalogo sa isyung pandagat*, *CRI Filipino*, May 22, 2021, https://filipino-cri-cn.translate.goog/20210522/a2f7772a-2b38-2dff-a7e3-b5914419f1d8-i.html?_x_tr_sch=http&_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem. "Chinese-Philippine fishing in the South China Sea, remains normal," *Pangingisda ng Tsina't Pilipinas sa South China Sea, nananatiling normal*, *Filipino CRI*, Feb. 13, 2019, https://filipino-cri-cn.translate.goog/301/2019/02/13/103s160771.htm?_x_tr_sch=http&_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem; "Statement from the Filipino side, with a political purpose," [Pahayag mula sa panig Pilipino, may layuning pampulitika], *Filipino CRI*, Jan. 20, 2016, https://filipino-cri-cn.translate.goog/301/2016/01/20/2s141349.htm?_x_tr_sch=http&_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem; "It Is Better to Advance the Fisheries Agreement with China," *Mas magandang isulong ang Fisheries Agreement sa Tsina*, *Filipino CRI*, Nov. 17, 2017, https://filipino-cri-cn.translate.goog/301/2017/11/17/109s152848.htm?_x_tr_sch=http&_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem; "China: Philippine construction of school on Thitu Island, illegal," *Tsina: Pagtatayo ng Pilipinas ng eskuwelahan sa Thitu Island, iligal*, *CRI Filipino*, June 26, 2012, https://filipino-cri-cn.translate.goog/301/2012/06/26/2s111441.htm?_x_tr_sch=http&_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem; "China opposes the Philippines' construction and deployment of weapons on Thitu Island," *Tsina, tutol sa pagtatayo at pagdedeploy ng Pilipinas ng mga sandata sa Thitu Island*, *CRI Filipino*, Jan. 19, 2016, https://filipino-cri-cn.translate.goog/301/2016/01/19/102s141341.htm?_x_tr_sl=tl&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=nui,sc,elem&_x_tr_sch=http.

¹⁰ CITES classifies giant clams as vulnerable, see: *Giant Clams Convention on International Trade in Endangered Species (CITES) – Vulnerable*, 1985.

¹¹ *United Nations Convention of the Law of the Sea: Article 58: Rights and duties of other States in the exclusive economic zone; Article 62. Utilization of the living resources*, (1982), UN, https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

¹² *Convention on Biological Diversity*, United Nations, (1992), CBD, <https://www.cbd.int/doc/legal/cbd-en.pdf>.

¹³ Philippines fisheries code prohibits taking threatened or endangered species, see: *Philippine fisheries code Republic Act No. 8550*, Feb. 25, 1998.

¹⁴ Philippines Wildlife Protection Act penalizes killing endangered species, see: *Philippines' Wildlife Protection Act Republic Act No. 9147*, July 30, 2001.

¹⁵ Including laws, policies, regulations, and proposed regulations that prohibit the alleged activity within the PRC territorial waters and EEZ.

¹⁶ According to the PRC government, Hainan Province has jurisdiction to enact regulations over nearly all waters in the South China Sea, including the contested waters in this case study. Article 10 prohibits excavating, harvesting, or killing giant clams, see: *Regulations on the protection of coral reefs and clams in Hainan Province (海南省珊瑚礁和砗磲保护规定)*, May 24, 2021.

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