

**NINETEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES**)
First Regular Session)



23 JAN 18 P5 21

SENATE
Senate Bill No. 1697

RECEIVED BY: _____

Introduced by: Senator Raffy T. Tulfo

**AN ACT
DECLARING THE THREE (3) NAUTICAL MILES SURROUNDING THE KALAYAAN
ISLAND GROUP AND SCARBOROUGH SHOAL IN THE WEST PHILIPPINE SEA
AS MARINE PROTECTED AREA UNDER REPUBLIC ACT NO. 7586 OR THE
NATIONAL INTEGRATED PROTECTED AREAS SYSTEM ACT OF 1992, AS
AMENDED BY REPUBLIC ACT NO. 11038, OR THE EXPANDED NATIONAL
INTEGRATED PROTECTED AREAS SYSTEM ACT OF 2018**

EXPLANATORY NOTE

The West Philippine Sea (WPS) is part of the Philippines' Exclusive Economic Zone (EEZ) located within the bounds of the South China Sea. The Scarborough Shoal also known as the Panatag Shoal, found within WPS, constitutes an atoll of reefs and rocks located about 124 nautical miles from the nearest coast of the Philippine island.

In 2022, several ASEAN countries signed the Declaration on the Conduct of Parties in the South China Sea (DOC) to "promote a peaceful, friendly and harmonious environment in the South China Sea for the enhancement of stability, economic growth and prosperity in the region." This declaration set forth several methods for amicably enforcing the terms of the UNCLOS and other treaties pertaining to the South China Sea.

However, some areas within the WPS have led to serious environmental degradation due to certain activities such as overfishing, poaching, large-scale ocean filling or reclamation, and undertakings-borne out of territorial disputes among several Asian nations, including the Philippines.

One of the most extremely damaging activities that affected the Scarborough Shoal was the brutal way of mass harvesting through the use of cyanide and dynamite by Chinese fishermen. This has significantly damaged the coral reef ecosystem in the said area. In fact, the Arbitral Tribunal found that the coral reef ecosystem of several reefs suffered "severe and irreparable harm" and were "permanently destroyed" due to land reclamation and construction of artificial islands, installations, and structures in the area.

This is a clear violation of China's obligation under the UNCLOS to protect and preserve the marine environment.

This bill seeks to preserve coral reefs and atolls, by declaring all low-tide elevations and high-tide features, and an area of three (3) nautical miles around the KIG and the Scarborough Shoal as a Marine Protected Area consistent with the Expanded National Integrated Protected Areas System Act of 2018 and the ruling of the Arbitral Tribunal. In order to attain the objectives of this Bill, the creation of a PAMB and PAMO covering the Kalayaan Island Group and Scarborough Shoal pursuant to R.A. No. 7586, as amended, are necessary.

In view of the foregoing, approval of this bill is highly and earnestly sought.



Raffy T. Tulfo
Senator



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INTEGRATED PROTECTED AREAS SYSTEM ACT OF 2018**

1 **Section 1. Short Title.** - This act shall be known as the "KIG and Scarborough
2 Shoal Marine Protected Area Act of 2022"
3

4 **Section 2. Declaration of Policy.** - Article II, Section 16 of the 1987 Constitution
5 declares that the State shall protect and advance the right of the people to a balanced
6 and healthful ecology in accord with the rhythm and harmony of nature.
7

8 Likewise, Republic Act No. 7586 or the National Integrated Protected Areas System Act
9 of 1992 (NIPAS), as amended by Republic Act No. 11038, or the Expanded National
10 Integrated Protected Areas System Act of 2018 (E-NIPAS), mandates the State to secure
11 for the Filipino people of present for future generations, the perpetual existence of all
12 native plants and animals through the establishment of a comprehensive system of
13 integrated protected areas within the classification of national park as provided for in the
14 Constitution.
15

16 Scientific studies established that coral reefs in the Spratlys comprise 34 percent of the
17 world's total coral reefs. These serve as the breeding ground of fish in the South China
18 Sea despite occupying only 2.5 percent of the world's total ocean and sea surface making
19 the South China Sea as one of the richest marine areas in the world, which is home to
20 diverse marine ecosystems with over 3,000 species of fish and 600 species of coral reef.

1 It is hereby declared the policy of the State to protect the ecology of the areas
2 surrounding the Kalayaan Island Group (KIG) and the Scarborough Shoal.

3
4 Consistent with Article II, Section 2 of the 1987 Constitution to adopt the generally
5 accepted principles of international law as part of the law of the land and to adhere to
6 the policy of peace, equality, justice, freedom, cooperation and amity with all nations as
7 key in attaining the protection, conservation, preservation, and promotion of the
8 biodiversity, ecosystem, and all other natural resources, we adhere to Article 123 of the
9 United Nations Convention on the Law of the Seas (UNCLOS), which requires the
10 Philippines and other coastal states in semi- enclosed seas like the South China Sea to
11 cooperate with each other in the exercise of their rights and in the performance of their
12 duties under the said Convention with respect to the protection and preservation of the
13 marine environment.

14
15 **Section 3. Definition of Terms** - For purposes of this Act, the following terms
16 shall be defined as follows:

- 17
18 a. **Arbitral Tribunal Ruling** - refers to the July 12, 2016 ruling rendered by the
19 arbitral tribunal of the Permanent Court of Arbitration in The Hague adjudicating
20 the Philippines' case against China in the West Philippine Sea in accordance with
21 the 1982 UNCLOS;
- 22 b. **Atolls** - refers to a reef with or without an island situated on it surrounded by the
23 open sea, that encloses or nearly encloses a lagoon;
- 24 c. **Buffer Zones** - refers to identified areas outside the boundaries of and
25 immediately adjacent to designated protected areas that need special
26 development control in order to avoid or minimize harm to the protected area;
- 27 d. **Kalayaan Island Group** - refers to the group of islands and islets located in the
28 West Philippine Sea including the seabed, subsoil, continental margin and airspace,
29 declared to be subject to the sovereignty of the Philippines under Presidential
30 Decree No. 1596, and was likewise declared as part of the Regime of Islands by
31 Republic Act No. 9522, or An Act to Define the Baselines of the Territorial Sea of
32 the Philippines;
- 33 e. **Marine Protected Area** - refers to identified portions of water set aside by
34 reason of their unique physical and biological significance, managed to enhance
35 biological diversity and protected against destructive human exploitation;
- 36 f. **National Park** - refers to the lands of the public domain classified as such in the
37 Constitution which include all areas under the NIPAS pursuant to this Act, primarily
38 designated for the conservation of native plants and animals, their associated
39 habitats and cultural diversity;

- 1 g. **Protected Area** - refers to identified portions of land and/or water set aside by
2 reason of their unique physical and biological diversity and protected against
3 destructive human exploitation;
- 4 h. **Reefs** - refers to a mass of rock or coral which either reaches close to the sea
5 surface or is exposed at low tide;
- 6 i. **Scarborough Shoal** - refers to an area located in the West Philippine Sea which
7 was declared part of the Regime of Islands under R.A. No. 9522;
- 8 j. **Strict Protection Zones (SPZs)** - refers to portions within protected areas that
9 are closed to human activities by virtue of their significant biodiversity value, high
10 susceptibility to geo-hazard, and identification as permanently dangerous. These
11 areas may also include habitats of threatened species, or degraded areas that are
12 designated for restoration and subsequent protection, regardless of their stages
13 of regeneration;
- 14 k. **UNCLOS** - refers to the 1982 United Nations Convention on the Law of the Seas;
- 15 l. **West Philippine Sea** - refers to the maritime areas on the western side of the
16 Philippine archipelago within the Exclusive Economic Zones (EEZ) over which the
17 Philippines exercises sovereign jurisdiction including the Luzon Sea as well as the
18 waters around, within and adjacent to the Kalayaan Island Group and Bajo De
19 Masinloc, also known as Scarborough Shoal¹.

20
21 **Section 4. Scope** - The area covered by the Kalayaan Island Group and
22 Scarborough Shoal Marine Protected Area (KIGSS-MPA) subject of this Act shall be all the
23 areas within three (3) nautical miles from the baselines surrounding the KIG and
24 Scarborough Shoal as established by R.A. No. 9522

25
26 **Section 5. Declaration of Protected Area and Strict Protection Zone** - It is
27 hereby declared that the area covering the KIGSS-MPA as specifically identified in the
28 preceding section is hereby declared as a protected area and shall enjoy the benefits and
29 protection afforded by R.A. No. 7586, as amended: Provided, That the Secretary of the
30 Department of Environment and Natural Resources (DENR Secretary), upon the
31 recommendation of the Protected Area Management Board (PAMB), shall designate Strict
32 Protection Zones (SPZs) within the KIGGS-MPA in areas with significant biodiversity values
33 or habitats of threatened species, based on a comprehensive biodiversity inventory and
34 assessments: Provided, further, That any and all international treaties or rulings,
35 Philippine laws, rules, and regulations involving the protection, conservation of KIGSS-
36 MPA shall be strictly observed and implemented.

37

¹ Office of the President Administrative Order No. 29, Series of 2012.

1 The DENR Secretary, also upon recommendation of the PAMB, may designate areas
2 surrounding the KIGSS-MPA as Buffer Zones for the purpose of providing extra layer of
3 protection where restrictions may be applied.

4
5 **Section 6. Prohibited Acts** - The following are the prohibited acts within the
6 KIGSS-MPA:

- 7 a. Using of any fishing or harvesting gear and practices or any of their variations
8 that destroys coral reefs, seagrass beds or other marine life: Provided, that mere
9 possession of such gears within the protected areas shall be prima facie evidence
10 of their use;
- 11 b. Dumping, throwing, using, or causing to be dumped into or placed in the
12 protected area of any toxic chemical, noxious or poisonous substance or
13 nonbiodegradable materials, intreat sewage or animal waste or products
14 whether in liquid, solid, or gas state, including pesticides and other hazardous
15 substances as defined under Republic Act No. 6969 or the Toxic Substances and
16 Hazardous and Nuclear Waste Control Act of 1990 detrimental to the protected
17 area, or the living things inhabiting in within the protected area;
- 18 c. Littering or depositing refuse or debris within the protected area;
- 19 d. Possessing or using blasting caps or explosives anywhere within the protected
20 area;
- 21 e. Undertaking mineral exploration or extraction within the protected area;
- 22 f. Establishing or introducing exotic species including genetically modified
23 organisms or invasive alien species within the protected area;
- 24 g. Constructing, installing, erecting, or maintaining any kind of structure, fence, or
25 enclosure whether temporary or permanent, within the protected area: Provided,
26 that structures and projects for biosphere development shall be allowed:
27 Provided, further, that such activities shall be with prior coordination with DENR
28 through the PAMB;
- 29 h. Any other act that will tend to or actually result in the disturbance, killing,
30 destruction, endangerment, devastation, or annihilation of the natural flora and
31 fauna found within the protected area

32 Any violation of this Act shall be prosecuted pursuant to R.A. No. 7586, as amended, any
33 existing environmental law, rule, or regulation.

34
35 **Section 7. Creation of the Kalayaan Island Group and Scarborough Shoal**
36 **Protected Area Management Board and Protected Area Management Office** -

37 The Kalayaan Island Group and Scarborough Shoal Protected Area Management Board

1 (KIGSS-PAMB) and the Kalayaan Island Group and Scarborough Shoal Protected Area
2 Management Office (KIGSS-PAMO) are hereby created with the same composition,
3 powers and functions as defined in Sections 9 and 10 of RA 7586, as amended: Provided,
4 That the Palawan Council for Sustainable Development, which was created pursuant to
5 Republic Act No. 7611, or the Strategic Environmental Plan (SEP) for Palawan Act, shall
6 be included as a member in the KIGSS-PAMB.

7
8 **Section 8. Management Plan and Engagement of Cooperation of Other**
9 **Agencies** - The KIGSS-PAMB and KIGSS-PAMO shall craft a management plan for the
10 protection of the KIGSS-MPA within one (1) year from the effectivity of this Act, which
11 shall be reviewed and assessed every three (3) years for possible improvements or
12 amendments, or whenever the need arises. It shall include specific strategies and
13 programs for the preservation and protection of atolls, reefs, and corals within the KIGSS-
14 MPA.

15
16 The KIGSS-PAMB and KIGSS-PAMO shall engage the cooperation of other Government
17 Agencies in the implementation of their management plan. The Department of
18 Transportation (DOTr), Department of Information and Communications Technology
19 (DICT), Department of Agriculture (DA), and Department of Interior and Local
20 Government (DILG) shall provide assistance in the monitoring of activities within the
21 KIGSS-MPA, which may include, if necessary, the installation of monitoring devices on
22 vessels and establishment of needed facilities within the area.

23
24 **Section 9. Kalayaan Island Group and Scarborough Shoal Marine**
25 **Protected Area Joint Oversight Committee** - to oversee the effective implementation
26 of this Act, a special congressional oversight committee to be known as the Kalayaan
27 Island Group and Scarborough Shoal Marine Protected Area Joint Oversight Committee
28 (KIGSS-MPA- TOC) composed of the members from the Committees on Natural Resources
29 and Committee on the West Philippine Sea from both upper and lower houses of congress
30 is hereby created. The KIGSS-MPA-JOC, which shall be jointly headed by the Chairpersons
31 of the Committees on Natural Resources from both houses, shall convene biannually, or
32 as often as may be necessary in order to ensure the implementation of this Act.

33
34 The KIGSS-PAMB and KIGSS-PAMO shall submit an annual report to the KIGSS-MPA-JOC
35 on the status of the KIGSS-MPA and implementation of this Act.

36
37 **Section 10. Appropriation** - An annual operating budget of at least Ten Million
38 Pesos 171 (Php10,000,000.00) shall be allocated for the implementation of this Act, which
39 shall be sourced from the DENR Biodiversity Management Bureau (BMB) annual

1 appropriations. The annual operation budget for the KIGSS-MPA shall be a separate item
2 from the annual budget proposal of the DENR BMB.

3

4 **Section 11. Repealing Clause** - All laws, rules, regulations, executive orders,
5 presidential decrees or any other issuance contrary to or inconsistent with any of the
6 provisions of this Act are hereby deemed repealed or modified accordingly.

7

8 **Section 12. Separability Clause** - If any provision or part of this Act shall be
9 declared unconstitutional, the remaining provisions which are not affected shall remain
10 in full force and effect.

11

12 **Section 13. Effectivity** - This Act shall take effect fifteen (15) days after its
13 publication in the Official Gazette or in a newspaper of general circulation.

14

15 Approved.