



PANEL 4: STRAITS GOVERNANCE

CONTEMPORARY ISSUES ON PASSAGE THROUGH ARCHIPELAGIC STRAITS AND SEA LANES

42ND ANNUAL CONFERENCE OF THE CENTER FOR OCEANS LAW AND POLICY: COOPERATION AND
ENGAGEMENT IN THE ASIA-PACIFIC REGION

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OVERVIEW

- Introduction
- Implementation
- Current Issues and Concerns
- Future Issues and Concerns
- Prospects for the Future

INTRODUCTION

- UNCLOS Part IV: Archipelagic States – result of negotiations led by “Archipelago Group of States” (Indonesia, Philippines, Fiji, Bahamas, Papua New Guinea)
- Primary Concerns of the AGS (UN Doc A/AC 138/SC II/L.15):
 - Recognition of sovereignty over archipelagic (inter-island) waters
 - Restriction of international vessel passage to innocent passage only in designated sea lanes thru archipelago
- UNCLOS Outcomes
 - Sovereignty over archipelagic waters recognized, but
 - 2 passage regimes applicable:
 - Innocent passage
 - Archipelagic Sea Lanes Passage

PRINCIPLES RELATING TO ARCHIPELAGIC STATES*

(As agreed upon by the representatives of Fiji, Indonesia and the Philippines in their meeting of May 25-26, 1972 at Manila, Philippines, subject to confirmation by their respective Governments.)

1. An archipelagic state, whose component islands and other natural features form an intrinsic geographical, economic and political entity, and historically have or may have been regarded as such, may draw straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic state is or may be determined.
2. The waters within the baselines, regardless of their depth or distance from the coast, the sea-bed and the subsoil thereof, and the superjacent airspace, as well as all their resources, belong to, and are subject to the sovereignty of, the archipelagic state.
3. Innocent passage of foreign vessels through the waters of the archipelagic state shall be allowed in accordance with its national legislation, taking into account the existing rules of international law. Such passage shall be through sea lanes as may be designated for that purpose by the archipelagic state.

* To be submitted for consideration by the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor Beyond the Limits of National Jurisdiction.

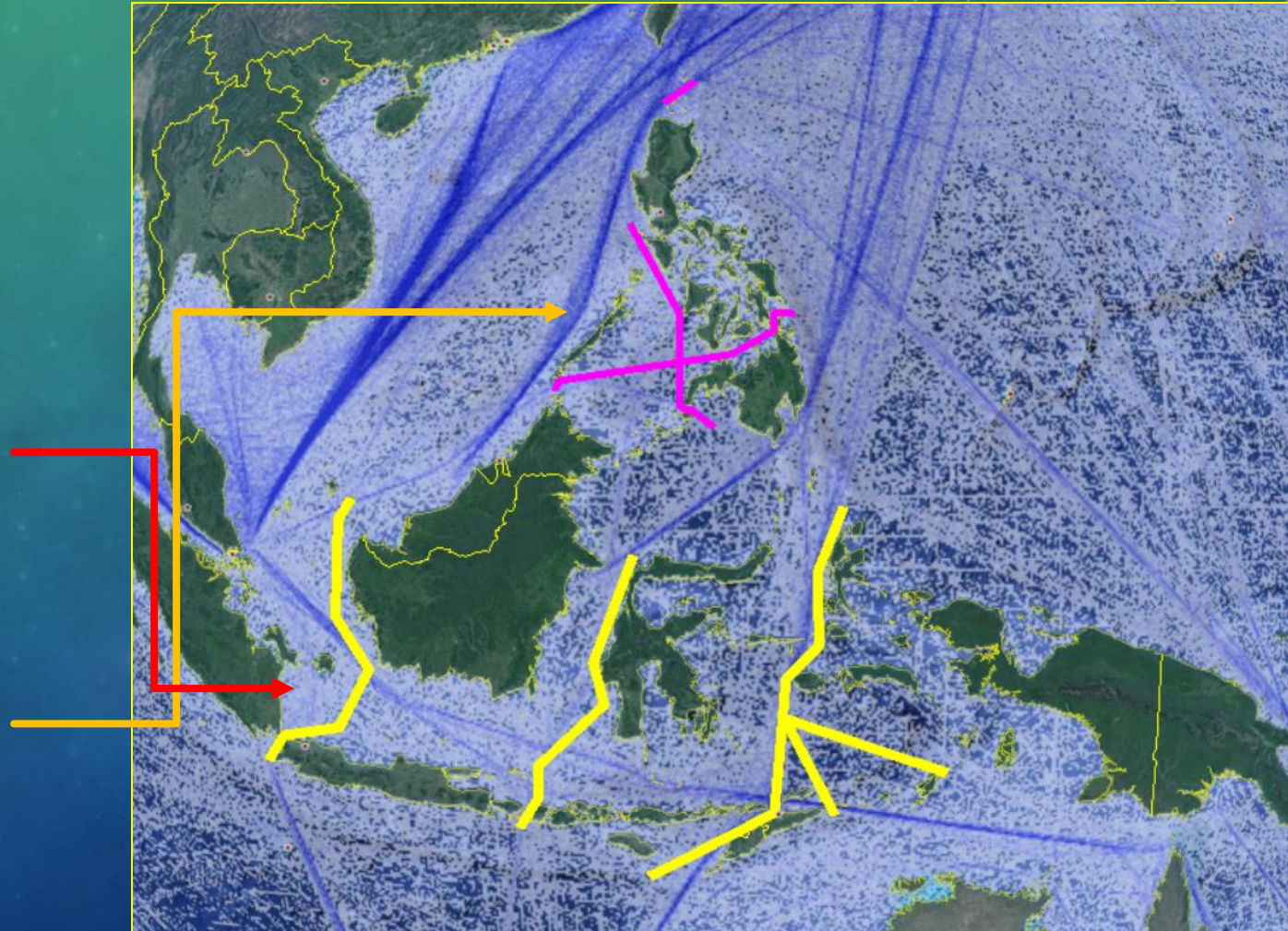
0-2 b G.A.W.

INTRODUCTION

- Philippines: Statement upon Ratification, 08 May 1984
 - “6. The provisions of the Convention on archipelagic passage through sea lanes **do not nullify or impair the sovereignty of the Philippines as an archipelagic State over the sea lanes and do not deprive it of authority to enact legislation to protect its sovereignty, independence and security.**
 - “7. The concept of archipelagic waters is similar to the concept of internal waters under the Constitution of the Philippines, and **removes straits connecting these waters with the economic zone or high sea from the rights of foreign vessels to transit passage** for international navigation.
- Philippines’ restrictive view not expressly shared by other States in AGS; in practice, however, there appears to be a trend toward this restrictive view

IMPLEMENTATION: ARCHIPELAGIC SEALANES PASSAGE

- IMO General Provisions for the Adoption, Designation, and Substitution of Archipelagic Sealanes (MSC 71(69) Res. A.572(14) , 19 May 1998; as amended by MSC 165(78) Res. A.572(14 as amended, 14 May 2004)
- Indonesian partial designation: Government Regulation No. 37 (2002) – 3 north-south ASLs, no east-west ASLs
- Philippines aborted unilateral designation: between 2013-2015, there were attempts by government to unilaterally legislate 3 ASLs (1 north-south, 2 east-west) through the Philippine archipelago contrary to IMO GPASL and UNCLOS Part IV consultation requirements
 - Current bills no longer designate specific ASLs



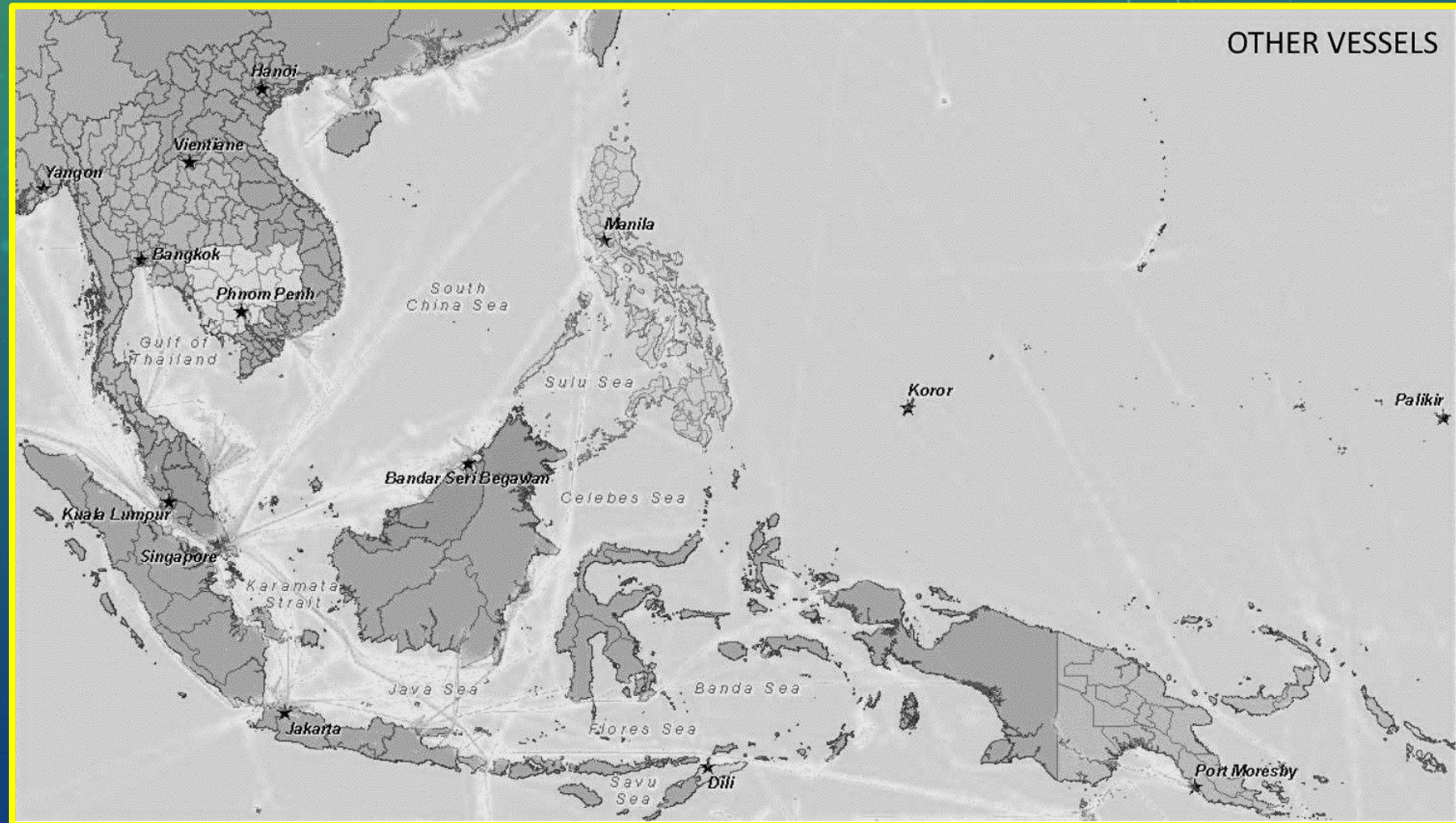
CURRENT ISSUES AND CONCERNS

- Restrictive interpretation
 - Indonesia & Philippines both envision limitation of foreign vessel passage to only designated ASLs, as well as right to regulate vessel passage within ASLs
 - Indonesian Gov't Regulation No. 37 (2002), Art. 3
 - Philippine HB 3285, filed 13 Jan 2017, Explanatory Note
- Concept of “Partial Designation” introduced in the GPASL
 - “...does not meet the requirement to include **all normal passage routes and navigational channels** as required by UNCLOS.”



CURRENT ISSUES AND CONCERNS

- In reality: different routes for different ships with different frequencies and at different times
 - Sea lane usage as a function of technology and trade patterns



CURRENT ISSUES AND CONCERNS

- Increasing environmental impact of shipping
 - Risks of shipping-related accidents expected to increase
 - Noticeable higher incidence in recent years of ship groundings

The screenshot displays the Inquirer.net website with several news articles. At the top, the navigation bar includes 'SECTIONS', 'Monday, May 21, 2018', and 'INQUIRER.NET'. The main content area features three prominent articles:

- Another foreign vessel runs aground in coral reef** (dated June 15, 2013): A map shows the location off Maripipi Island in Biliran province. The article describes the MV Unicorn Logger, a Japan-bound vessel with 18 crew members, which ran aground on Sambawan Islet at 7:10 p.m.
- Foreign ship damages half kilometer of coral reefs in Cebu dive spot** (dated June 14, 2016): A photograph shows a ship's wake. The article mentions the M/V Belle Rose running aground on Monad Shoal off Malapascua Island.
- Foreign vessel runs aground in Legazpi City; damage to coral reef feared** (dated December 15, 2015): A photograph shows a ship's wake. The article reports a vessel running aground in Legazpi City, causing damage to coral reefs.

Other visible articles include 'Chinese boat 'damaged' Philippine coral reef' (dated May 23, 2018) and 'Foreign vessel runs aground in Subic Bay' (dated April 19, 2019). A banner for KLM is also visible at the top right.

CURRENT ISSUES AND CONCERNS

- Increasing environmental impact of shipping
 - Collision risks increase as shipping volume increases

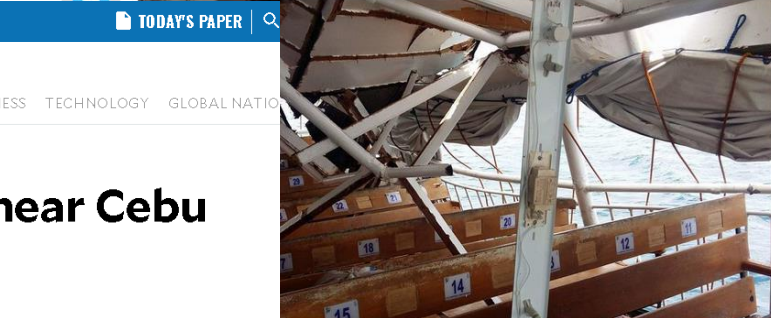


Survivors at a hospital in Cebu, central Philippines late Friday Aug. 16, 2013. Passenger ferry MV Thomas Aquinas with nearly 700 people aboard sank near the central Philippine port of Cebu on Friday night after colliding with a cargo vessel, and a survivor said he saw bodies in the sea AP

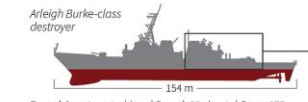
CEBU CITY—Death toll in the ship collision in Cebu has reached 24 as rescue operations continued to find the missing passengers, according to the Philippine Coast Guard.

Cebu Coast Guard Station commander Weniell Azcuna said 664 passengers had been rescued following the sinking of MV St. Thomas Aquinas of 2Go after it collided with MV Sulcon Express Seven off Lawis Ledge, Talisay City, Cebu Friday night.

"Right now, the Navy and Coast Guard divers were already there in the site. We have now volunteer divers here and we are organizing them for their



U.S. Navy ship collision
Ten sailors are missing after the U.S. warship USS John S. McCain collided with an oil tanker east of Singapore on Monday, the U.S. Navy said. It is the second such incident after the USS Fitzgerald, a similar Arleigh Burke-class destroyer, collided with a container ship off eastern Japan in June. Seven Fitzgerald sailors died and three of the ship's leaders were removed.



Arleigh Burke-class destroyer
154 m
Propulsion: 4 gas turbines | Speed: 30+ knots | Crew: 175
Armament: Aegis and Phalanx weapons systems, 5-inch/54 caliber guns, self defense guns



Damage sustained by USS John S. McCain



Sources: U.S. Navy; Malaysian Maritime Enforcement Agency; Reuters. Photo: Ahmad Masood/Reuters
C. Inton. 21/08/2017
© REUTERS

CURRENT ISSUES AND CONCERNS

- Increasing environmental impact of shipping
 - Marine debris, particularly garbage and plastics, on the rise along major shipping routes
 - Tubbataha Reef Natural Park (in the middle of the Sulu Sea) clean-up statistics:

Year	Kg. of Collected
2010	198
2011	627
2012	635
2013	1,460



CURRENT ISSUES AND CONCERNS

- Maritime crime along routes used for international navigation
 - Drop-off deliveries at sea used by smugglers in cooperation with local cohorts

The screenshot displays the homepage of The Manila Times website. At the top, the date is Wednesday, May 23, 2018. The main navigation bar includes sections like NEWS, OPINION, SPORTS, LIFESTYLE, PREEN, ENTERTAINMENT, BUSINESS, TECHNOLOGY, and GLOBAL NATION. A prominent article is titled "Quezon fishers recover P200-M worth of cocaine off Bicol waters". Below it, another article is titled "P79-M cocaine recovered in Isabela coastal town". A third article, "Device used to track drugs found in Camarines Norte", is also visible. On the right side, there is a sidebar with "LATEST STORIES" and "MOST READ" sections. At the bottom, there is a section for "RAPPALER" with the headline "'Floating shabu lab' seized in Subic Bay, 4 Chinese nationals nabbed".

Wednesday, May 23, 2018

The Manila Times

BEATS OF SUMMER

SECTIONS Monday, May 21, 2018 INQUIRER.NET TODAY'S PAPER

HOME NEWS OPINION BUSINESS BOARDROOM WATCH RE NEWS OPINION SPORTS LIFESTYLE PREEN ENTERTAINMENT BUSINESS TECHNOLOGY GLOBAL NATION

ASEAN Summit 2017 Special Reports The Sunday REGIONS 1,246 SHARES

YOU ARE AT Home » News » Latest Stories » P79-M cocaine recovered in Isabela coastal town

P79-M cocaine recovered in Isabela coastal town

BY THE MANILA TIMES ON FEBRUARY 7, 2018 LATEST STORIES

BAYOMBONG, Nueva Vizcaya: More than P79.13 million worth of coca recovered off the coast of Isabela, according to police on Wednesday.

The Police Regional Office 2 (PRO2) and the Philippine Drug Enforcement Agency (PDEA)-Region 2 said that two fishermen in Barangay Dipudo in Divilacan found an unfamiliar blue container and immediately brought it to the town's police station Monday.

PDEA-Region 2 said that when the Regional Crime Laboratory Office in Region 2

Quezon fishers recover P200-M worth of cocaine off Bicol waters

Discovery comes after drug containers found in Sorsogon, Isabela early this year

By: Delfin T. Mallari Jr. - @inquirerdotnet Inquirer Southern Tagalog / 11:03 PM April 17, 2018

ENTERTAINMENT Muhlachs say final farewell to Cheng MAY 22, 2018 01:00 AM

ENTERTAINMENT Keeping score with Jaime Fabregas MAY 22, 2018 12:50 AM

ENTERTAINMENT Dennis, Jennylyn in Balesin for joint birthday celebration MAY 22, 2018 12:40 AM

NEWSINFO Semirara denies collapse of mining pit wall caused death of worker

SECTIONS Wednesday, May 23, 2018 INQUIRER.NET TODAY'S PAPER

HEADLINES SHARE THIS

Device used to track drugs found in Camarines Norte

By: Delfin T. Mallari Jr., Maricar Cinco - @inquirerdotnet Philippine Daily Inquirer / 05:18 AM April

'Floating shabu lab' seized in Subic Bay, 4 Chinese nationals nabbed

Police say the Chinese crew manufactured shabu at sea, then dumped drug parcels in pick-up points for contacts in Cagayan, Pangasinan, and Zambales

Randy V. Datu

Published 11:44 AM, July 12, 2016

Updated 12:47 PM, July 12, 2016

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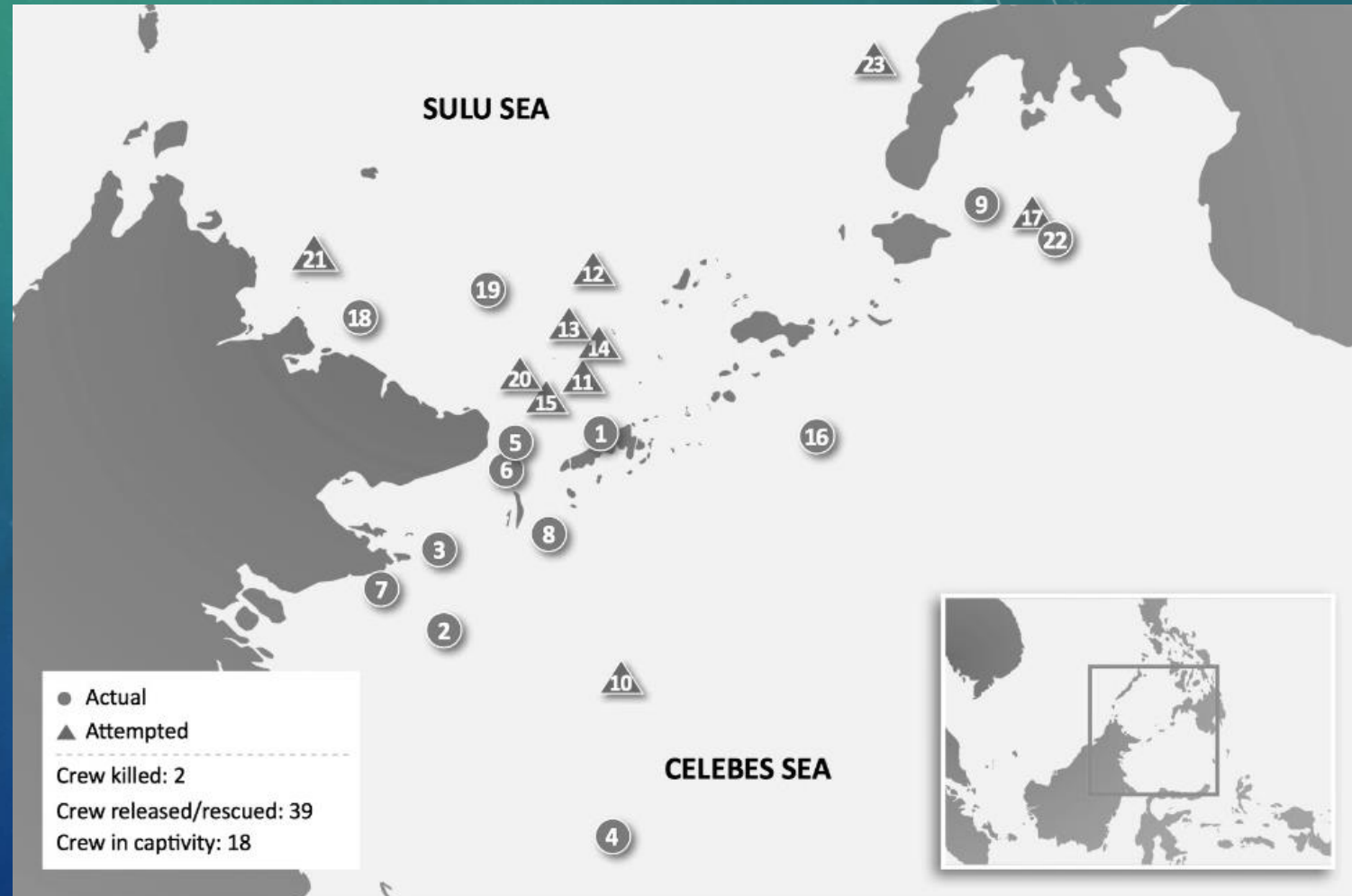
Reddit

Email

DRUG HAIL: Chief Supt. Guillermo Fleazar, Calabarzon police chief (left), and Director General Oscar Albayalde

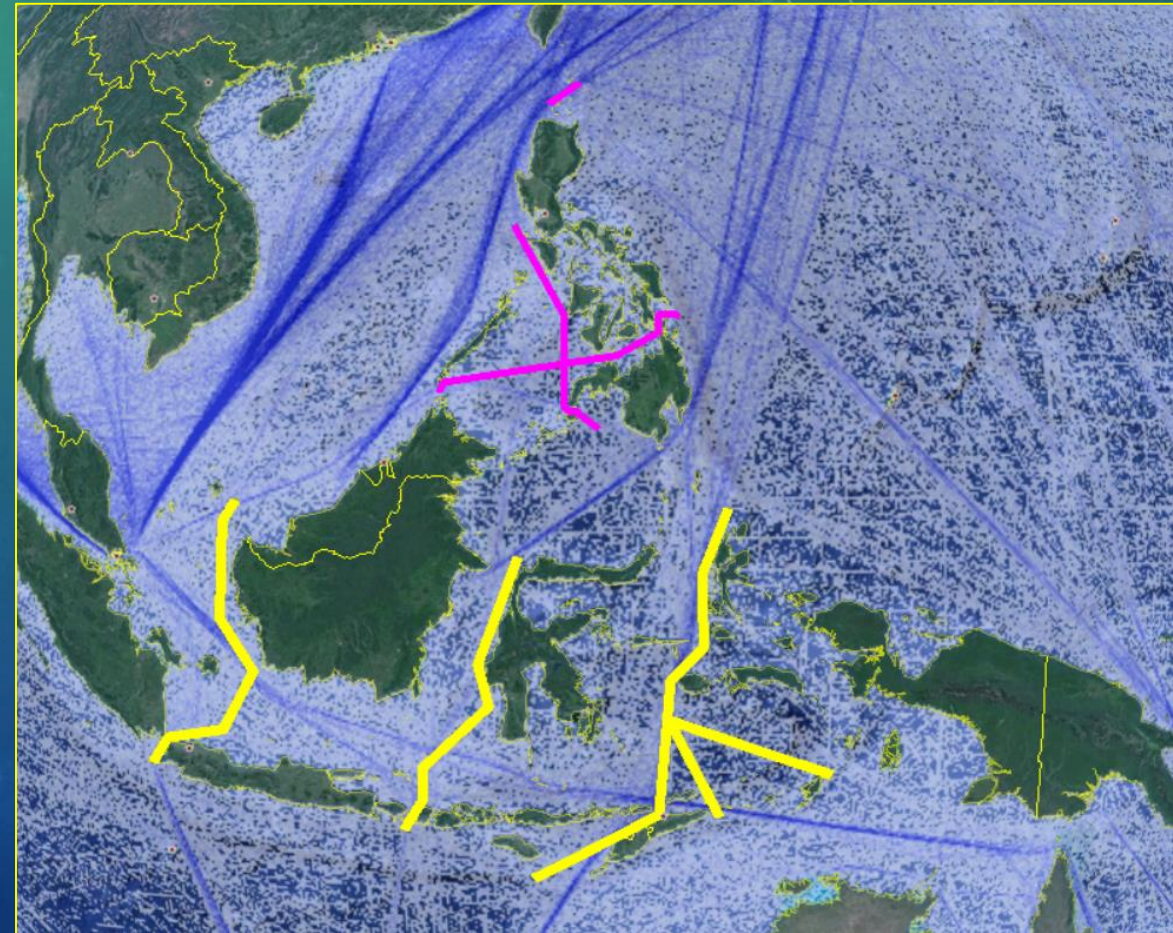
CURRENT ISSUES AND CONCERNS

- Resurgence of maritime crime along routes used for international navigation
 - Piracy and robbery at sea in maritime border areas (Sulu-Celebes Sea) per ReCAAP:
 - 3 abductions, 4 attempted abductions in 2017
 - As of Dec 2017:
 - 59 abducted
 - 43 released/rescued
 - 7 killed
 - 9 in captivity



FUTURE ISSUES AND CONCERNS

- Coordination of designated ASLs
- Other potential environmental issues
 - Air pollution in/around routes
 - Noise pollution due to increased maritime activity; important for sensitive areas
 - Marine biodiversity conservation commitments (esp. MPA targets) v. shipping needs
- Claims to traditional fishing rights
 - Neither Philippines nor Indonesia recognize traditional fishing rights within archipelagic waters; both regard foreign fishing in archipelagic waters as illegal
 - View that foreign fishing activities are connected with transnational maritime crime (e.g., drug trade, illegal wildlife trade)



FUTURE ISSUES AND CONCERNS

- Drone technology impacts on management of archipelagic waters
 - Autonomous Underwater Vehicle operations directed by AI; long-range, undetectable
 - Discards/lost “not-so-smart” drones; carried into archipelagic waters by ocean currents
- “Normal mode” military activities during ASL passage (e.g., launch/recovery of aircraft)
 - Airspace management over ASL

Suspected US drone found floating in Philippines

Discussion in 'Military News' started by kwflatbed, Jan 7, 2013.



kwflatbed
Subscribing Member
MC1+MC2 +MC3
116K+Poster
Staff Member

Suspected US drone found floating in Philippines

Published January 07, 2013

Associated Press



Jan. 6, 2013 - A suspected American drone is brought to a Central Philippines. Photo released by Office of the Deputy Southern Luzon. (AP)

US ‘marine drone’ found off Zambales

BY PATRICK ROXAS, TMT ON NOVEMBER 13, 2016 REGIONS, TODAY'S HEADLINE PH

MASINLOC, Zambales: Three fishermen from this town last Friday found another US “marine drone” off the South China Sea (West Philippine Sea) near the disputed Panatag Shoal.

It was the second drone recovered off the coast of Zambales this year.

Galley Godornes, 30, Reynaldo Mendoza, 30, and Joseph Asuque, 28, all residents of Sitio Balogo in Barangay Inholob, this town, said they found the yellow-colored oceanographic instrument, also called Slocum Glider, while fishing in the West Philippine Sea, dragged it home and later turned it over to the municipal police station.

Another U.S. drone found off Zambales – report

The yellow drone contains labels by the National Oceanographic Office of the United States

Rappler.com
Published 9:04 AM, November 13, 2016
Updated 9:31 AM, November 13, 2016

- Facebook
- Twitter
- Reddit



MANILA, Philippines – A sea drone from the United States (US) washed up on a beach at Masinloc, Zambales on

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Washington Howard Johnson by... from **¥685.62** Book now

Mystery as American drone is found floating off the coast of the Philippines... 1,000 miles away from the nearest U.S. base

- U.S. official insists vehicle did not carry weapons or surveillance cameras

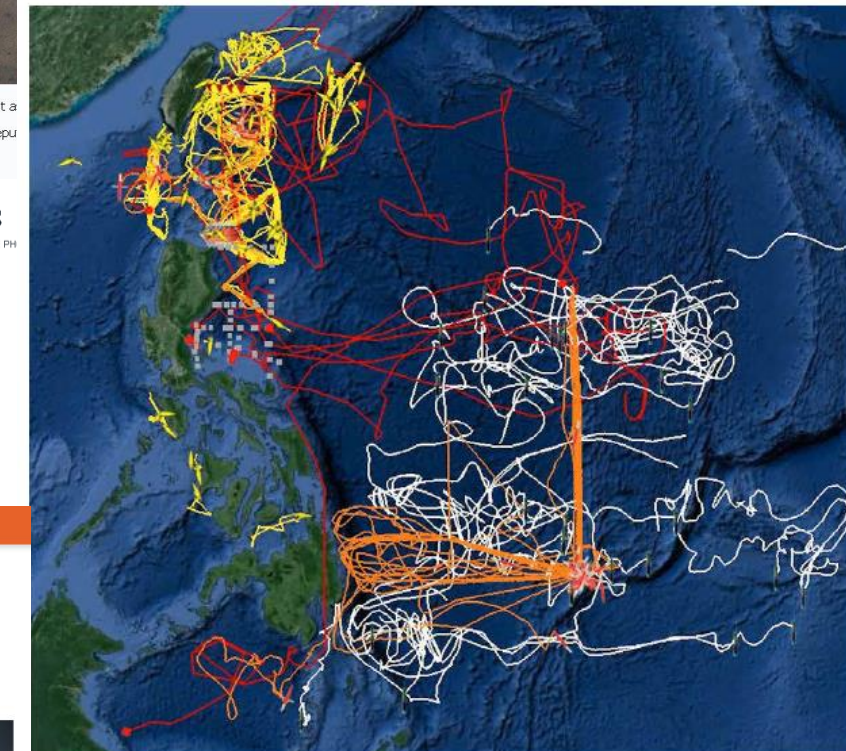
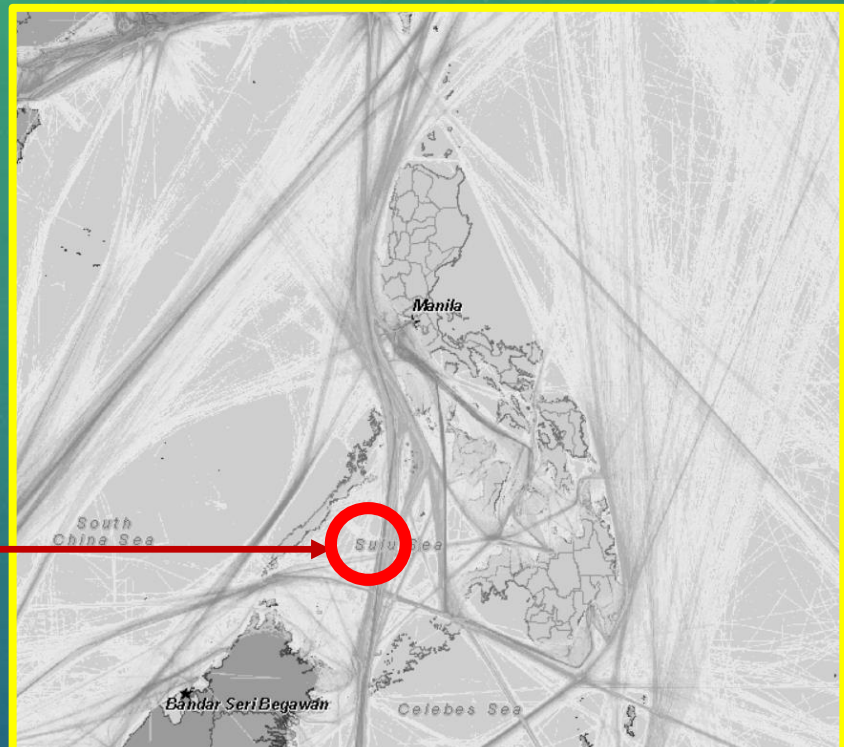


FIGURE 2. Tracks and locations of observational platforms during the Origins of the Kuroshio and Mindanao Current (OKMC) and Observations of Kuroshio Transport and Variability (OKTV) programs. The underwater gliders Spray (orange) and Seaglider (yellow) were deployed to observe the NEC, the MC, and the Kuroshio. The profiling floats SOLO-II (white) and EM-Apex (red) were broadly deployed throughout the region. Subsurface moorings, pressure inverted echo sounders (PIES), and ship stations (symbols) provided higher density observations at key locations.

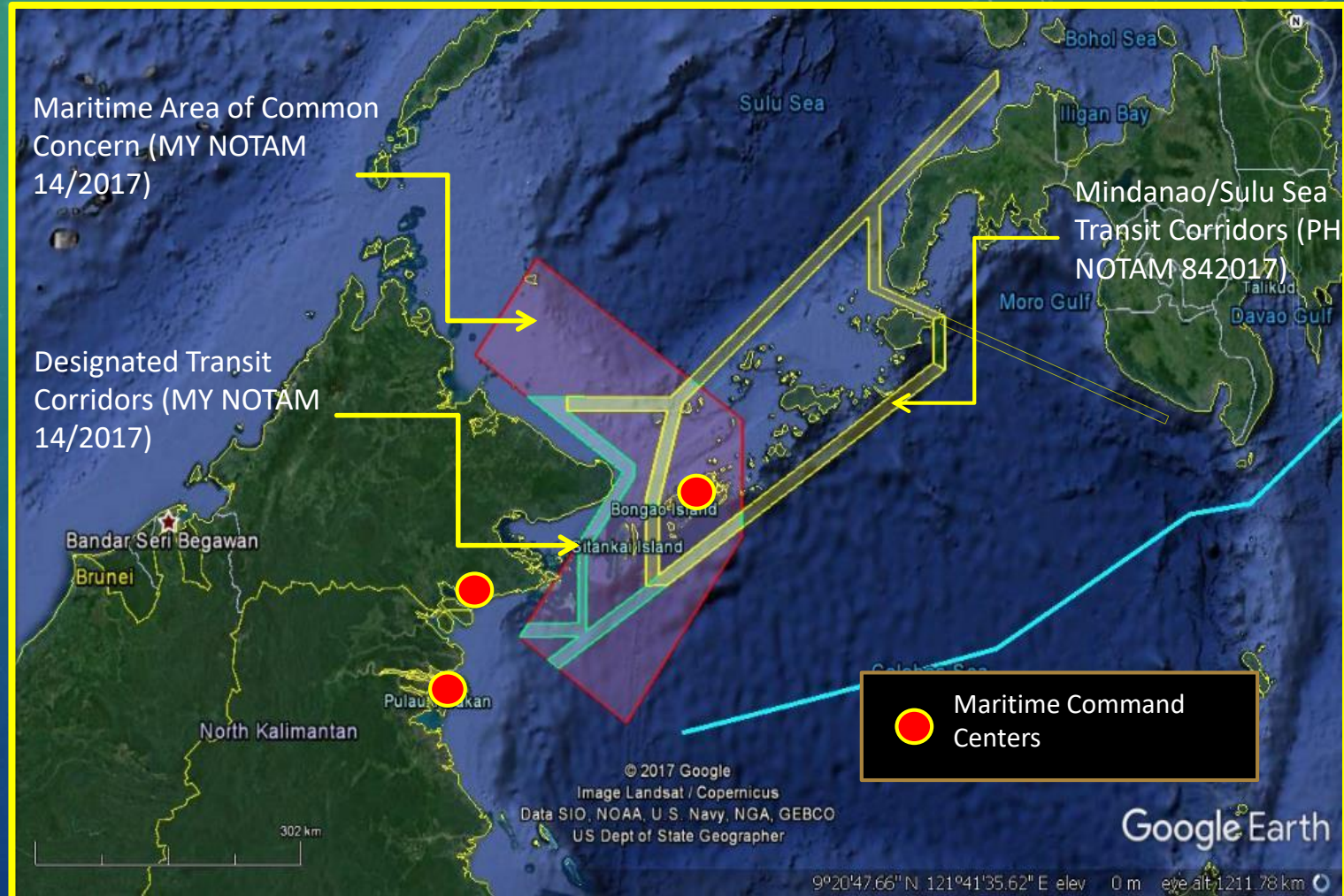
INITIAL RESPONSES

- Designation of PSSA in high-risk, environmentally sensitive areas
 - Philippines' Tubbataha Reef Natural Park PSSA designated in 2017, effective 01 Jan 2018
 - Indonesia's Lombok Strait designation, presently ongoing before IMO



INITIAL RESPONSES

- Trilateral Cooperative Arrangement
 - Designation of transit corridors
 - Joint patrol arrangements
 - Hotlines and info-sharing
- AIS monitoring



PROSPECTS FOR THE FUTURE

- Use of IMO regulatory framework to address marine environmental concerns
 - More PSSA designations possible
 - Resort to other IMO convention mechanisms possible (e.g., MARPOL Special Areas)
- Governments view sea lane designation as instruments of greater control
 - Future actions may not be completely consistent with UNCLOS ASL rules
 - Increasing domestic pressure for regulation of foreign vessel passage in response to maritime criminal activity
- Liability and compensation regimes will be of increasing interest to archipelagic States
- Continuing “negotiation” of passage regimes as incidents arise; archipelagic States will continue to push the envelop toward greater regulation



END OF PRESENTATION

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