

Legal Opinion on the Announcement by Japan and the Philippines  
on the Launch of Bilateral Maritime Delimitation

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## **Abstract**

Japan and the Philippines have recently announced their intention to initiate maritime delimitation in the waters east of China's Taiwan Island. In this region, China, Japan and the Philippines are neighboring States at sea. The proposed delimitation between Japan and the Philippines substantially overlaps with the exclusive economic zone (EEZ) and continental shelf to which China is entitled under international law. The announcement, undertaken without consultation with China and in disregard of the region's specific geographical circumstances, violates international law, including sovereign equality, the duties of cooperation and self-restraint, as well as the principle of good faith, which has constituted an internationally wrongful act. Based on their legal obligations and State responsibility, Japan and the Philippines should immediately cease their pursuit of bilateral delimitation and actively engage in negotiations with China.

## **I Introduction**

On 28 May 2026, during Philippine President Ferdinand R. Marcos Jr.'s visit to Japan, the two States issued a joint statement announcing that they will launch formal negotiations to delimit the maritime boundaries of their EEZs and continental shelves, in accordance with international law.<sup>1</sup> In response, the relevant Chinese authorities have explicitly expressed firm opposition, pointing out that the maritime areas in question are located east of China's Taiwan Island. Under international law including

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<sup>1</sup> MOFA of Japan, Japan-Philippines Joint Statement on the Comprehensive Strategic Partnership: "Weaving the Future Together: Peace, Prosperity, Possibilities", <https://www.mofa.go.jp/files/101035755.pdf>.

the United Nations Convention on the Law of the Sea (UNCLOS) and China's domestic law, China possesses an EEZ and continental shelf in this region. Any delimitation negotiations concerning the waters east of Taiwan Island must involve China's participation. Japan and the Philippines' attempt to bypass China and initiate the so-called maritime delimitation talks constitutes a severe violation of UNCLOS and other international laws and basic norms governing international relations. It also seriously infringes on China's maritime rights and interests. China will not allow this.<sup>2</sup>

## **II. Legal Analysis**

Japan and the Philippines have announced the launch of bilateral maritime delimitation in the waters east of Taiwan Island without prior consultation with China, which involves the extensive EEZ and continental shelf to which China is entitled under international law, including UNCLOS. The conduct of Japan and the Philippines contravenes the principle of good faith and the requirements of international cooperation under international law, violates the duty of self-restraint regarding maritime delimitation, constitutes internationally wrongful acts, and entails State responsibility.

### **2.1 Legal Background**

In terms of general geographical situations, the delimitation areas referred to are situated in the waters east of Taiwan Island, which are relevant to China, Japan and the Philippines. Both Japan and the

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<sup>2</sup> MFA of the PRC, Foreign Ministry Spokesperson Mao Ning's Regular Press Conference on June 2, 2026, [https://www.fmprc.gov.cn/eng/xw/fyrbt/lxjzh/202606/t20260602\\_11923474.html](https://www.fmprc.gov.cn/eng/xw/fyrbt/lxjzh/202606/t20260602_11923474.html); MFA of the PRC, Foreign Ministry Spokesperson Mao Ning's Regular Press Conference on May 29, 2026, [https://www.fmprc.gov.cn/eng/xw/fyrbt/lxjzh/202605/t20260529\\_11921368.html](https://www.fmprc.gov.cn/eng/xw/fyrbt/lxjzh/202605/t20260529_11921368.html).

Philippines claim that under UNCLOS, they are entitled to an EEZ and continental shelf extending to a certain distance from their respective relevant baselines. Simultaneously, China is entitled to an EEZ and continental shelf in this region based on its land territory, including Taiwan Island.

In these circumstances, the EEZ and continental shelf claims of China, Japan and the Philippines substantially overlap in the waters east of Taiwan Island, with the majority of the area involving tripartite overlapping claims. None of the three States have established the EEZ and continental shelf boundaries in this region, and the delimitation “shall be effected by agreement on the basis of international law ... in order to achieve an equitable solution”.<sup>3</sup>

## 2.2 Legal Assessment of the Announcement by Japan and the Philippines to Launch Delimitation

Japan and the Philippines initiated the delimitation of their EEZs and continental shelves without sufficient consultation with China, which is inconsistent with international law and infringes upon China’s legitimate rights and interests.

**First, it violates the principle of sovereign equality in international law.** The UNCLOS states that it aims to establish a legal order for the seas with due regard for the sovereignty of all States, indicating that maritime delimitation should be premised on respect for the sovereignty of States. By announcing bilateral delimitation in the waters east of Taiwan Island, Japan and the Philippines have essentially

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<sup>3</sup> UNCLOS, Arts. 74 & 83.

disregarded the fact that Taiwan Island and its affiliated islands are part of China's territory, infringing upon China's territorial sovereignty and contravening the fundamental principle of sovereign equality.

**Second, the act bypasses prior consultation and violates the duty of cooperation and the principle of good faith.** The adoption of cooperative and good-faith approaches to the performance of international obligations is a fundamental principle of contemporary international law. The UNCLOS clearly establishes international cooperation as one of the principles for addressing issues relating to the law of the sea. With respect to maritime delimitation, international cooperation among the States concerned is considered "compulsory".<sup>4</sup> Furthermore, UNCLOS explicitly requires States to fulfill their obligations in good faith and refrain from abusing the rights, jurisdiction and freedoms recognized therein.<sup>5</sup>

By virtue of its territorial sovereignty as well as maritime rights and interests, China is manifestly a State "concerned" in the delimitation of the waters east of Taiwan Island. Japan and the Philippines bear the duty of cooperation to resolve overlapping claims through consultation with China in the matter of delimitation. However, by initiating bilateral maritime delimitation without prior notification or consultation, and by excluding an essential party, the two States have clearly failed to discharge their duty of cooperation and have not met the requirements of good faith under UNCLOS and other international law.

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<sup>4</sup> UNCLOS, Art. 74.3. See also Tafsir Malick Ndiaye, *The Maritime Delimitation: Principles and Configurations*, *Journal of Law and Judicial System*, Vol. 2, 2019, pp. 30 & 44.

<sup>5</sup> UNCLOS, Art. 300.

**Third, the act disregards the specific geographical context and violates the duty of self-restraint, prejudicing the rights and interests of the third party.** UNCLOS provides that the EEZ and continental shelf boundaries between States shall be effected by agreement on the basis of international law in order to achieve an equitable solution.<sup>6</sup> It also requires States to refrain from any action that might jeopardize the reaching of a final agreement, and imposes a duty of self-restraint on States when dealing with matters relating to delimitation.<sup>7</sup> In scenarios involving delimitation among multiple parties, this duty of restraint operates among all States concerned with the reaching of a final agreement. Accordingly, Japan and the Philippines owe to China, as a party to the tripartite delimitation issue in the waters east of Taiwan Island, a duty of restraint and a duty not to cause prejudice.

Leaving aside the questions concerning the legal basis for Japan's maritime claims based on the Ryukyu Islands, the geographical context of the relevant waters east of Taiwan Island demonstrates that the potential maritime areas in which Japan and the Philippines have announced the initiation of bilateral delimitation largely overlap with the EEZ and continental shelf to which China is entitled. It distinguishes the situation from certain other multi-party maritime delimitation scenarios, rendering it technically impossible to confine the delimitation area so as to determine the maritime boundary between two of the parties without resulting in serious prejudice to the lawful rights and interests of a third

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<sup>6</sup> UNCLOS, Arts. 74 & 83.

<sup>7</sup> See S. N. Nandan and S. Rosenne, eds., *United Nations Convention on the Law of the Sea 1982: A Commentary* (Vol. III), The Hague: Martinus Nijhoff, 1993.

party. The actions of Japan and the Philippines, detached from the region's distinctive geographical context, demonstrate a failure to correctly comprehend the implications of international legal rules and constitute a breach of their international obligations.

**Finally, the act constitutes an internationally wrongful act and entails State responsibility.** A State's conduct attributable to it that constitutes a breach of its international obligations leads to an internationally wrongful act.<sup>8</sup> A State bears responsibility for its internationally wrongful acts, including cessation, reparation for injury, and restitution.<sup>9</sup> Through the launch of delimitation in the waters east of Taiwan Island without consultation with China, deliberately excluding a significantly concerned State, Japan and the Philippines have acted in a manner that, given the clear reality that the initiation of bilateral delimitation in an area of tripartite overlapping claims manifestly and inevitably prejudices the lawful rights and interests of a third party, violates their obligations.

It follows that Japan and the Philippines have breached the legal requirements of international cooperation and self-restraint to which they are subject under international law, including UNCLOS. They have failed to perform their obligations in good faith and have involved an abuse of rights, thereby constituting internationally wrongful acts. Even if Japan and the Philippines were to proceed unlawfully with bilateral negotiations and ultimately produce a delimitation outcome, such an outcome would

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<sup>8</sup> See Draft Articles on Responsibility of States for Internationally Wrongful Acts, Art. 2.

<sup>9</sup> See Draft Articles on Responsibility of States for Internationally Wrongful Acts, Arts. 34-39.

have no validity under international law and would, in any event, be without binding effect on any third party. Moreover, China, as the State whose rights and interests have been injured, is entitled to invoke the responsibility of Japan and the Philippines for their internationally wrongful acts.

### **III. Recommendations**

**Japan and the Philippines shall not proceed with bilateral delimitation and shall actively engage in consultations with China.**

Having breached international law, Japan and the Philippines should, as soon as possible, fulfill their State responsibility, cease advancing a delimitation process that excludes China, and proactively consult and cooperate with China on maritime delimitation and related issues.

**Japan and the Philippines shall not challenge the One-China Principle under the pretext of the “delimitation”.** There is but one China in the world, the Taiwan region is an inalienable part of China’s territory, and the Government of the People’s Republic of China is the sole legal government representing the whole of China. Japan and the Philippines shall not, in any form, involve the Taiwan authorities in the “delimitation” process. Otherwise, it would constitute a serious provocation against the One-China Principle.

**All other States shall refrain from providing assistance to Japan and the Philippines.** International law requires that all States shall not assist another State in the commission of an internationally wrongful act. The States concerned should comprehensively assess the legal

consequences as well as political risks of involving in or recognizing the legitimacy of such actions, and shall not intervene in, support, or recognize the illegal process initiated by Japan and the Philippines.